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Tuesday 19 March 2019

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Tuesday 19 March 2019

CONTENTS

	Col.
TIME FOR REFLECTION	1
BUSINESS MOTION	3
<i>Motion moved—[Graeme Dey]—and agreed to.</i>	
TOPICAL QUESTION TIME	4
Christchurch Terrorist Attack	4
Job Creation (Annan)	8
UNITED KINGDOM SPRING STATEMENT (IMPLICATIONS FOR ECONOMY AND PUBLIC SPENDING)	12
<i>Statement—[Derek Mackay].</i>	
The Cabinet Secretary for Finance, Economy and Fair Work (Derek Mackay)	12
MENTAL HEALTH AND INCAPACITY LEGISLATION (REVIEW)	23
<i>Statement—[Clare Haughey].</i>	
The Minister for Mental Health (Clare Haughey)	23
DAMAGES (INVESTMENT RETURNS AND PERIODICAL PAYMENTS) (SCOTLAND) BILL: STAGE 3	35
DAMAGES (INVESTMENT RETURNS AND PERIODICAL PAYMENTS) (SCOTLAND) BILL	48
<i>Motion moved—[Ash Denham].</i>	
The Minister for Community Safety (Ash Denham)	48
Gordon Lindhurst (Lothian) (Con)	50
Daniel Johnson (Edinburgh Southern) (Lab)	52
Liam McArthur (Orkney Islands) (LD)	53
John Mason (Glasgow Shettleston) (SNP)	55
Jamie Halcro Johnston (Highlands and Islands) (Con)	57
Jackie Baillie (Dumbarton) (Lab)	58
Angela Constance (Almond Valley) (SNP)	60
Daniel Johnson	61
Dean Lockhart (Mid Scotland and Fife) (Con)	63
Ash Denham	65
DECISION TIME	68
SCOTTISH TOURISM MONTH 2019	71
<i>Motion debated—[Stuart McMillan].</i>	
Stuart McMillan (Greenock and Inverclyde) (SNP)	71
Emma Harper (South Scotland) (SNP)	74
Alexander Burnett (Aberdeenshire West) (Con)	76
Claire Baker (Mid Scotland and Fife) (Lab)	77
Patrick Harvie (Glasgow) (Green)	79
Liam McArthur (Orkney Islands) (LD)	81
Gillian Martin (Aberdeenshire East) (SNP)	83
Tom Mason (North East Scotland) (Con)	85
Jackie Baillie (Dumbarton) (Lab)	86
Fulton MacGregor (Coatbridge and Chryston) (SNP)	88
The Cabinet Secretary for Culture, Tourism and External Affairs (Fiona Hyslop)	89

Scottish Parliament

Tuesday 19 March 2019

[The Presiding Officer opened the meeting at 14:00]

Time for Reflection

The Presiding Officer (Ken Macintosh): Good afternoon. The first item of business today is time for reflection. Our time for reflection leader is the Rev Jim McNeil, who is the minister of Alva parish church.

The Rev Jim McNeil (Alva Parish Church): I know that when you look at me, all that you see is a minister, because I am wearing the garb. Before I became a minister, I was trained as a microbiologist. I know that you do not argue with each other, because you are far more esteemed than I am—I am nowhere near that esteemed.

One of the biggest rows that I ever had was with my mum. It was about microbiology. She had come back from the doctors and told me that she had got some antibiotics for her cold. Being a microbiologist, I said, “You don’t get antibiotics for a cold, because a cold is a virus, and antibiotics deal with bacteria.”

My mum felt that I was looking down on her. She was not going to put up with that, so she stood her ground and was not backing off. Because I was a microbiologist, and I was right, I was not backing off. By the time that my dad came in from his work, the two of us were not so much discussing as screaming at each other. He calmed us down, listened to the arguments and said, “It’s obvious—your mum’s right.” Off went mum, happy as Larry, into the kitchen. I looked at my dad and said, “She’s so wrong.” He said, “Yeah, of course.” I responded by asking, “How could you take her side when you know she’s wrong?” He said, “Jim, you don’t need to sleep with her.” *[Laughter.]*

My dad may have started as a sheet metal work apprentice for Upper Clyde Shipbuilders, but at that moment he was Yoda, a Jedi master—he was the wisest man on the earth. He saw that, in the end, it is not the winning or the losing of an argument that matters; in the end, it is relationships that matter. He saw that the community in our house would grow or wither on what we say and what we do.

Every faith and every philosophy have at their basis the importance of relationships—maybe with a higher being; definitely with other people. My simple words of advice to you this day are these: if you think that you are struggling—to be honest, in this climate who is not?—do not look towards your

rituals, your philosophies or your religious or political dogmas, but look to your relationships. Rely on them and trust in them. Maybe see our legacy as how we make this country a community, where everyone can call it home; a place where you can be listened to respectfully and know that you are loved and cared for.

I will say a wee word of prayer—if you want to regard that as a reflection, I am quite happy with that. May we do what we need to do this day to help grow our community, and may we consider how every decision that we make helps or hinders that community. Amen.

Business Motion

14:04

The Presiding Officer (Ken Macintosh): The next item of business is consideration of business motion S5M-16432, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out a change to today's business.

Motion moved,

That the Parliament agrees to the following revision to the programme of business for Tuesday 19 March 2019—

after

2.00 pm Topical Questions

insert

followed by Ministerial Statement: UK Spring Statement – implications for our economy and public spending

followed by Ministerial Statement: Review of Mental Health and Incapacity Legislation—
[*Graeme Dey.*]

Motion agreed to.

Topical Question Time

14:04

Christchurch Terrorist Attack

1. **Anas Sarwar (Glasgow) (Lab):** To ask the Scottish Government what action it is taking to provide reassurance to communities in the wake of the Christchurch terrorist attack. (S5T-01562)

The Cabinet Secretary for Communities and Local Government (Aileen Campbell): Our thoughts and condolences are with the victims, their families and the communities that have been affected by this dreadful act. The First Minister has sent condolences on behalf of Scotland to the Prime Minister of New Zealand.

We stand in solidarity with Muslim communities across the world. The First Minister, the Cabinet Secretary for Justice and I have visited and been in contact with Muslim communities in Scotland. That included a visit to Glasgow central mosque on Friday, to offer reassurance and our heartfelt support.

Police Scotland has stepped up reassurance patrols around mosques and has increased engagement with all faith communities, giving advice on how people and places can stay safe in these troubling times.

We must stand united against Islamophobia and all hate. Everyone should be able to feel safe as they go about their daily lives. Scotland's diversity is our strength. We value and appreciate our relationships with our diverse faith communities, and we welcome their contribution to our society.

Anas Sarwar: We send our deepest condolences to the family and friends of those who lost loved ones in Christchurch. We also send a message of solidarity to the millions of people who are hurting in New Zealand and across the world. This was a devastating and despicable attack. Let us be clear: it was the act of a terrorist.

In the aftermath of this latest tragedy, it is important that we unite and work together to confront hatred in all its forms. This is not someone else's fight, so we should not leave it to anyone else. It is a fight for all of us.

One of the issues that has been raised with me is the on-going security concerns at places of worship. No one should have to fear for their own lives, especially when in a mosque, a church, a synagogue, a mandir or a gurdwara. A places of worship security funding scheme is available in England and Wales, but no such scheme exists in Scotland. Will the cabinet secretary urgently consider that matter and commit the Government

and its agencies to work with all our faith communities to deliver such a scheme?

Aileen Campbell: I associate myself with the comments that Anas Sarwar has made about acts of solidarity, which are so necessary at this time of grief and vulnerability for so many. Following their recent visit to the Glasgow central mosque, the First Minister and Humza Yousaf committed to exploring what further actions the Scottish Government could take to provide reassurances to all faith communities and their places of worship. That includes exploring the issues around safety and security, and the funding that Anas Sarwar mentioned. We are doing that work, and we will continue to keep him and Parliament involved as those discussions develop, bearing in mind the pleas from communities that they need extra reassurance and support from their Parliament and Government at this incredibly stressful and vulnerable time.

Anas Sarwar: I thank the minister for that answer, but I stress that we cannot just consider this issue while it is still a hot topic—it needs to be considered urgently in the weeks and months that follow.

I am sad to say that the tragic attack did not surprise me, and it probably did not surprise Muslims across the United Kingdom and across the world. The “us versus them” rhetoric, the sowing the seeds of hate and the othering of our fellow citizens have become all too common. Security at our places of worship is one thing, but security and a sense of belonging in our homes and in our everyday lives are equally—if not more—important.

Although social media has opened up our world, and I believe that it is a force for good, it has also allowed people with extreme views to amplify, recruit, organise and fundraise. That simply cannot go on. What action will the Scottish Government take to engage with social media platforms and make them understand their responsibilities to help to create a fairer and more equal world?

Aileen Campbell: I thank Anas Sarwar for raising those points, particularly on the amplification of messages of hate on social media—those toxic messages that do so much damage. I chair an action group that tries to establish much more cohesive communities and to tackle the prejudice that he talks about. We look at those issues, and we will investigate what more we can do in relation to social media platforms.

As we are elected, we are in a privileged position to be listened to and to influence more generally. We can use that privilege in one of two ways. We can show the leadership, empathy and resolve to build tolerant, peaceful and respectful communities in our world, and to reach out to

those who feel threatened, vulnerable or fearful, by celebrating our diversity, or we can use our position to stoke up hate and use toxic language and the practice of othering. We have seen too much of that. We cannot remain immune from the toxicity of language that many choose to use and which will inevitably bring consequences such as those that we have seen in New Zealand.

I stand with Anas Sarwar. We should all resolve to call out hate, promote tolerance and respect, and show solidarity with our Muslim communities and friends. They need our support at this time and they need to know that we love and cherish what they contribute to our diverse Scotland. We should continue to explore ways in which we can call out hate, and we must ensure that we use every avenue open to us to have a peaceful, tolerant Scotland in which we cherish our diversity and preach tolerance and respect.

Liam Kerr (North East Scotland) (Con): I associate myself with the cabinet secretary’s comments on our abhorrence of the attack in Christchurch, and the comments made thus far. We, too, extend our deepest sympathies to all victims of this horrific act.

The cabinet secretary is right that Governments can and should take steps to reassure communities across Scotland, yet it is often by simple acts of unity and togetherness that we defeat such evil. Anas Sarwar is right—this is a job for all of us, together. What steps does the cabinet secretary suggest Scots can take to show minority communities that they are welcome neighbours, colleagues and friends?

Aileen Campbell: People can reach out to the Muslim communities in their areas. We saw a great strength in the solidarity of the gatherings in Glasgow. The Muslim leaders whom I spoke to were appreciative of the simple act of a phone call to reassure and stand in solidarity with them. More generally, we can call out the hate, we can call out the practice of othering and we can call out the toxicity of language that we see too often in political discourse and the media and on social media platforms.

That was one of the reasons why Humza Yousaf and I jointly launched the tackling hate campaign, which encouraged others to call out hate. People can use the police to call out hate, or third-party reporting centres if they want to do so anonymously. We underline that message—call it out and report it to the police or use the third-party reporting centres.

More generally, we can reach out not only at the point when something bad happens. We can reach out to build cohesive communities and show love and respect at all times, not just at the point when those things need to be most firmly

understood. Those are the ways by which I urge members to encourage their constituents to reach out and to ensure that we underline the message of calling out hate when it happens.

Patrick Harvie (Glasgow) (Green): I am grateful that Anas Sarwar's question gives us the opportunity to stand together with a message of love and solidarity for the people of New Zealand, with revulsion at not only the violence but the white supremacist values that underpinned the violence, and with inspiration—I have certainly felt that—from the responses that have been shown by the people of New Zealand who, it seems clear, are not going to cede ground to the ideology of hatred and fear but are going to affirm their embrace of diversity, multiculturalism and respect.

The comments that have been made about social media are accurate, but we also need to acknowledge and admit to ourselves that, as a society, we have permitted a situation to develop where our mainstream media is awash with anti-immigrant and anti-Muslim sentiment, a sentiment that is all too often taken up by those in positions of power who frankly should know better than to pander to such attitudes. We have seen that far too much.

What does the Scottish Government have to do, not only in relation to the security and the policing aspects of the far-right threat that has been so deliberately cultivated but in relation to our education system? What are the opportunities to affirm positively the values of the society that we want to be? It is surely essential not just to counter the far-right threat with security but to counter it by building the values that we wish to express.

Aileen Campbell: I thank Patrick Harvie for raising those points. I absolutely agree—we have reached a moment when people must admit that the toxicity of the language that is used far too often in not just the mainstream media but many parliamentary chambers across Europe has created a culture in which, unfortunately, events such as those in Christchurch will inevitably happen. I encourage members to read Dani Garavelli's article in *The Scotsman*, which called out that behaviour and the crocodile tears that are often shed when such traumatic events take place.

Patrick Harvie made some good points. On education, the capacities in curriculum for excellence ensure that young people gain an understanding of the need for tolerance and respect and of the need to be effective contributors to our society when they reach adulthood, but there is always more that we can do. One of the actions of the tackling prejudice action group is about what more we can do to link to other areas of education, such as youth work, to ensure that our young people go on to make a positive contribution to our society.

On this issue, as on any other, I am happy to engage with members on what more we can and should do or other ways in which we could work, because the issue is not owned by just one political party or the Government; it transcends party politics. It is about the type of country that we want to create—the type of Scotland that we want to be. It is about respecting diversity and other cultures and appreciating what they bring to our country. We must continue to promote that, to reject hate and to ensure that everyone who contributes to our country feels valued.

Fulton MacGregor (Coatbridge and Chryston) (SNP): As the convener of the cross-party group on racial equality, I associate myself with the words of Anas Sarwar, the cabinet secretary and the First Minister, who spoke about the Christchurch attack earlier in the week.

It is clear that we all agree that no form of hate crime can be tolerated. How can the Scottish Government promote the sense of collective responsibility that has been talked about and the idea that it is everyone's job to stand in solidarity to call out hate in all its forms? How can people in communities be encouraged and made to feel confident enough to report hate crime when they encounter it?

Aileen Campbell: I will use the opportunity provided by Fulton MacGregor's question to underline some of the points that I made to Liam Kerr. In September last year, Humza Yousaf and I, in partnership with Police Scotland, launched a campaign to encourage witnesses to report hate crime. We encourage people who have experienced or witnessed hate crime to call it out and to report it to the police or to use one of the many third-party reporting centres across the country. Community cohesion is important in allowing us to have strong, resilient and supportive communities and in ensuring that there is one Scotland where people live in peace and everyone has the opportunity to flourish and to feel valued and supported.

The Presiding Officer (Ken Macintosh): Thank you for those contributions.

Job Creation (Annan)

2. **Joan McAlpine (South Scotland) (SNP):** To ask the Scottish Government what support it has given to create jobs at the former Pinneys plant in Annan. (S5T-01567)

The Cabinet Secretary for the Rural Economy (Fergus Ewing): The Scottish Government has provided a £1.7 million regional selective assistance grant to support the creation of up to 120 jobs at the former Pinneys plant in Annan.

Working with Scottish Enterprise, Scottish Development International and Dumfries and Galloway Council, the Scottish Government sought to find a new investor. Together, we have been successful. On Friday 15 March, Atlantis-Pak purchased the site from Young's Seafood and announced a £9 million investment plan, which is fantastic news for the people of Annan and the south of Scotland, following a difficult 12 months since the decision to close Pinneys.

Attracting a new international investor to the site sends a strong message that Scotland is open for business and that we are determined to work collaboratively at national and local level to secure investment and jobs for the people of Scotland.

Joan McAlpine: I agree—it certainly is fantastic news for the people of Annan. How will the venture contribute to inclusive growth in the local economy? What part, if any, did the United Kingdom Government play in securing that success?

Fergus Ewing: The UK Government was not involved in the work. The work was carried out in Scotland and was driven by our public agencies. I pay particular tribute to all the public servants involved, who did a superlative, first-rate job. They do not often enough get credit for their hard work, which in this case resulted quite directly in securing desperately needed investment in Annan.

On 13 March, we announced a proposed investment of £85 million in the Borderlands inclusive growth deal over the next 10 years, which will help to drive forward improvements in skills, digital connectivity, tourism and infrastructure development. We are slightly disappointed that the UK Government has not matched the level of our investment; it is putting in a lower sum of £65 million compared with our £85 million.

Joan McAlpine: I associate myself with the cabinet secretary's remarks about the hard work of the officials and share his disappointment at the lack of equivalent investment in the Borderlands deal by the UK Government.

The cabinet secretary will be aware that the factory has been closed for some time and that the workforce has, to an extent, dispersed. Can he provide an update on what has happened to the workforce and on how successful the Scottish Government has been in finding those employees alternative employment?

Fergus Ewing: Ms McAlpine is absolutely right to raise that point because, sadly, there were over 400 redundancies at the site last summer. Since then, the public sector, working as team Scotland, has worked tirelessly to help individuals get the support that they need and deserve through partnership action for continuing employment—

PACE—and through holding two job opportunity fairs, with one in July and one in October. I attended one of the fairs, which was a very well-run event in Annan that provided 200 individuals the opportunity to meet 19 employers and recruitment agencies, exhibiting over 350 vacancies.

That is all solid and valuable work that has been done by public servants who are wholly committed to trying to help individuals who suffer the hammer blow of redundancy by providing other opportunities or employment. I am pleased that a substantial number—a majority—of those who were made redundant and who sought employment have found new employment, training, self-employment or other opportunities.

Oliver Mundell (Dumfriesshire) (Con): People living in Annan will be extremely disappointed that, in relation to what is a universally good news story, politicians are attempting to play petty politics and claim all the credit when they were not interested in stepping in immediately to provide the relief that families were looking for at the time.

That said, this is fantastic news for Annan. Can the minister tell me the current number of former Pinneys employees who are still looking for employment and what the Government will do to ensure that those individuals get first access to the vacancies?

Fergus Ewing: A huge amount of work has been done, as I have described already in my substantive answer to Ms McAlpine's question.

In July 2018, the south of Scotland economic partnership announced funding of up to £250,000—£140,000 in 2018-19 and £110,000 in 2019-20—to create the local solutions team. That team is developing projects and opportunities for economic development and identifying sites for business expansion. An example is the clearance of the site at Stapleton Road in Annan next to the Pinneys site. [*Interruption.*]

Mr Mundell is keeping up a constant barrage sotto voce but, if he wants to listen for a moment, I can assure him that a substantial number of those who were made redundant last year and who sought employment have found new employment, training, self-employment or other opportunities. I am delighted that that is the case.

The measures that were announced yesterday will provide the opportunity for up to 100 people to obtain employment over the coming year; it is hoped that production will restart at Pinneys in the autumn. That is a terrific good news story and we are working hard with the company to see whether there are opportunities to build on that further.

I was pleased to have an initial discussion with Mr Bhagat yesterday during my meeting with him

and his family in Annan, which was extremely cordial. In his short speech, Mr Bhagat mentioned the public servants by their Christian names and said that he is able to speak to any of those individuals at any time. He really appreciates what they have done. It is right to heap praise on the individuals working in the public service who helped to secure this terrific result.

Colin Smyth (South Scotland) (Lab): I echo the cabinet secretary's thanks to all the council and Government agency staff who have been involved in helping to secure a very welcome buyer for Pinneys. Like the cabinet secretary, I had the pleasure of meeting the new owner, Keshav Bhagat, yesterday, and I was encouraged by his desire to grow the workforce, hopefully beyond the initial plan of 120 posts.

Given the welcome financial support through Scottish Enterprise, will the cabinet secretary confirm that the workforce will benefit from the Scottish Government's fair work first criteria, including full trade union recognition and collective bargaining?

I hope that the number of posts will grow, but it is still currently below the number that were lost when Pinneys closed. What more will the Government do to support and grow the job prospects for the people of Annan and the surrounding area?

Fergus Ewing: Mr Smyth makes a series of very fair points. On his first question, I can confirm that the regional selective assistance grant funding that has been agreed and will be provided is one of the first under the Scottish Government's fair work first initiative, which is committed to fair work, job security, fair pay and a greater voice for workers. As part of the RSA application, the minimum salary at the plant will be in excess of £18,000, which is above the £9 an hour living wage. The majority of salaries will be well above that.

Mr Smyth is right that a greater number of people lost their jobs than the number of new jobs that are being provided at this stage, or at least in the autumn of this year. A huge amount of work is continuing, not only with Mr Bhagat and his team but with other potential employers in the Annan area. I am pleased that the local solutions team is playing an active part in that. I hope that Mr Smyth agrees that, if the UK Government was prepared to match the Scottish Government's level of commitment of £85 million, instead of the UK's £65 million, that would mean an additional £20 million that could be invested in the south of Scotland, which would help Annan and the rest of the area.

United Kingdom Spring Statement (Implications for Economy and Public Spending)

The Presiding Officer (Ken Macintosh): The next item of business is a statement by Derek Mackay on the UK spring statement and the implications for the economy and public spending. The cabinet secretary will take questions following his statement.

14:27

The Cabinet Secretary for Finance, Economy and Fair Work (Derek Mackay): Last week, the UK Government delivered its 2019 spring statement, which provided us with the latest economic outlook for the UK. The Office for Budget Responsibility has downgraded its forecast of UK gross domestic product growth for 2019 from 1.6 to 1.2 per cent, which represents the slowest annual growth since the end of the financial crisis.

The OBR cites falling levels of business investment as underpinning much of the downgrade, noting that the UK has performed the worst on non-housing related investment, compared with other G7 nations, since the EU referendum in 2016. Its already downbeat forecasts assume that there will be an orderly withdrawal from the European Union on 29 March, with a transition period lasting until December 2020, which means that, in reality, the economic outlook could be even weaker.

The UK Government's chaotic approach to Brexit has already caused investment to fall and the next phase of uncertainty will mean further damage. The OBR has stated:

"Uncertainty related to the Brexit process sees business investment fall for a second calendar year in 2019—its weakest performance since the financial crisis."

I am clear that all forms of EU exit will harm Scotland's economy, but leaving the EU without a deal could lead to Scotland's economy shrinking by up to 7 per cent, exports dropping by up to 20 per cent and business investment reducing by £1 billion in 2019. Such profound economic impacts could result in an increase in unemployment of around 100,000 in Scotland, more than doubling the current record low unemployment rate, and could push the Scottish economy into a deep recession, similar in scale to that following the financial crash of 2008.

However, we do not need to await the final outcome on Brexit; we already know about the damage to our economy. The Institute for Fiscal Studies has said:

“There is a consensus that the economy would have been about 2% bigger had the Brexit vote not occurred”,

meaning that, without Brexit, the deficit would have been smaller, jobs and investment would have been higher and more funding would have been available for public services. Amid the deepening uncertainty, the Chancellor of the Exchequer should have used his spring statement to provide stimulus to the economy and clarity on future funding. Sadly, he did neither.

As we navigate a period of economic uncertainty, it is vital that we take bold action to support the growth of the Scottish economy. A significant milestone in the establishment of the Scottish national investment bank was reached three weeks ago, with the introduction of the legislation that will underpin it. The introduction of the bank will help to transform and grow Scotland’s economy and protect it from the consequences of the UK’s exit from the EU. However, I continue to await confirmation from Her Majesty’s Treasury that it will provide the bank with similar dispensations to those enjoyed by the British Business Bank and the Green Investment Bank, which would allow it to hold modest reserves and to operate at the level of ambition that we would expect.

It is equally disappointing that the chancellor failed to guarantee all future EU funding to Scotland, which would be worth over £5 billion in the current EU budget round. Due to the UK’s chosen route for exiting the EU, the UK will lose access to much of that funding and, to date, there is no certainty that such funding streams will be replaced, because commitments on agriculture, fisheries and structural funding all remain unclear. It is crucial that the UK Government urgently commits to replacing all EU funding streams in full and to ensuring that funding decisions that are currently taken by Scottish ministers continue to be taken by them in future. There must be no power grab from Westminster.

In 2018, the chancellor’s autumn budget promised an end to austerity, but last week’s spring statement confirmed that the UK Government has once again failed to deliver on that pledge and to invest properly in public services. Despite the chancellor’s boast that he had £26.6 billion-worth of fiscal headroom—up from £15.4 billion in the autumn budget in October—to increase spending and end austerity in 2020-21 while still meeting his fiscal rules, he has chosen not to invest any of that money in vital public services. Instead, he is holding the money back, wilfully depriving our public services of resources and compounding the economic harm of the UK Government’s self-inflicted mess that is Brexit.

The spring statement takes us no further forward in our understanding of the financial outlook for public spending in Scotland. The chancellor referenced his forthcoming 2019 spending review but committed to proceeding with it only if a deal on Brexit can be secured. He talked of an end to austerity but has offered only vague references to future real-terms growth in resource budgets that do no more than reiterate the same tired lines that we have heard before. He has offered nothing more than the funding that has already been committed to health and no expectation of real-terms growth in wider resource budgets to address the decade of almost 7 per cent real-terms cuts to the Scottish block grant. We know the scale of financial challenge that years of austerity have brought, that our public services seek additional investment and that the chancellor has headroom available; yet he still does not commit.

There is no doubt that the Scottish budget will face very challenging decisions as part of the spending review if there is no real growth in our budget beyond the health consequentials. Even where funding has been announced from which Scotland might benefit, there is scant regard for our right to expect clarity on the implications for us. An announcement of £1.6 billion of funding for stronger towns was made, with details of allocations by region across England, but I have been unable to ascertain how the proposal is to be funded and what—if anything—it will mean for Scotland.

We will continue to push for our share of funding and will resist in the strongest terms any attempts by the Tories to bypass the Scottish Parliament and undermine the devolved settlement. Last week, I received no clarity on the impact on the Scottish budget of the UK Government’s spending announcements from the spring statement.

Further, we continue to see decisions from the UK Government that undermine and discredit the existing UK funding framework. In 2017, the UK Government provided an additional £1 billion to Northern Ireland as part of the confidence-and-supply agreement between the Conservative Party and the Democratic Unionist Party; recently, it allocated another £140 million in Northern Ireland’s 2019-20 budget; and, this weekend, the chancellor indicated that he could not rule out more money for Northern Ireland as part of the Brexit negotiations.

Those funds were allocated directly to devolved matters, and it is completely unacceptable that those decisions did not result in additional consequentials for Scotland. The UK Government’s actions mean that Scotland has lost out on equivalent funding of more than £3.3 billion. Although I do not begrudge Northern Ireland the

exemption from austerity, it is not alone in facing fiscal challenges. Perhaps the Tories in this Parliament will explain why their party is exempting Northern Ireland from austerity, but not Scotland.

With only two weeks until the new financial year, we also still await confirmation from the UK Government of the detail and extent of the additional funding that we will receive to meet the increased employers' pension contribution costs across public sector pension schemes. That does not allow public sector employers in Scotland adequate time to plan and manage the implications of the changes effectively. The changes are a direct result of UK Government policy and any shortfall will be, in effect, a further cut to the Scottish budget.

There is uncertainty around the outlook for Scotland's public finances and economy, which remains no clearer following last week's spring statement. It is clear that the views and interests of the devolved Administrations are not a primary consideration in the UK Government's management of public finances or of Brexit. We cannot completely protect Scotland from the recklessness of the UK Government, but the decisions that the Scottish Government has taken and will continue to take will ensure that we protect what matters most to Scotland, and that is why the people of Scotland have entrusted us to focus on the delivery of our public services and the economy.

Murdo Fraser (Mid Scotland and Fife) (Con): I thank the finance secretary for advance sight of his statement. Despite the miserable picture that has just been painted, what the spring statement actually told us is that the UK public finances are in much better shape than anyone previously predicted, with tax receipts up and deficit reduction well ahead of target. For years, the Scottish National Party told us that the Government would fail in its financial strategy. Is it not about time that the finance secretary admitted that he got that wrong and congratulated the chancellor on the success of the UK public finances?

The finance secretary mentioned Brexit. Is not the way to remove uncertainty for the future for members of the House of Commons to vote for the withdrawal agreement? That is the advice that is coming from senior figures in the cabinet secretary's own party—its former deputy leader Jim Sillars and his former cabinet colleague Alex Neil, whom I do not see in the chamber this afternoon. Should not the finance secretary be listening to the good advice of those elder statesmen in his party and getting behind the Prime Minister?

The spring statement tells us that Barnett consequentials of £68.5 million are coming to the

Scottish budget, on top of £148 million in Barnett consequentials that came just in January. If the finance secretary cannot tell us today how that additional money will be allocated, when will he tell us?

Derek Mackay: First, I have had no confirmation of the Barnett consequentials, because they could be offset elsewhere; we are still waiting on the detail of that. Of course, I will inform Parliament by the usual channels.

On the UK Government's performance on the UK economy, does Murdo Fraser not realise that the economic forecasts on GDP have been downgraded for the UK economy—and that is before we get to the chaos of Brexit at the hands of the UK Government?

On his point about voting for the Prime Minister's deal, are MPs allowed to vote for it? Is it returning to the House of Commons? Has the Speaker changed his mind? As for supporting it, even the people sitting behind the Prime Minister do not support it, never mind anyone else.

In essence, the spring statement has led to clarity that the UK's economic performance is subdued, has been downgraded and is at extreme risk from a no-deal Brexit. Any Brexit will be damaging to Scotland's economy, but it is clear that the UK Government is damaging to Scotland overall: it is ignoring our voice, undermining us and giving other parts of the UK competitive advantage, all at the same time as it is short changing and ripping off Scotland. On that subject, the Scottish Tories are totally silent.

James Kelly (Glasgow) (Lab): I thank the cabinet secretary for advance sight of his statement. I agree with him about the prospect of a chaotic Brexit. It is a scandal of gigantic proportions—stemming from a failure of the Prime Minister's leadership—that, 10 days from exit day, there is absolutely no clarity about what is going to happen about Brexit.

Previously, the cabinet secretary has indicated that a no-deal Brexit would mean that the Scottish budget would have to be changed, which would have dramatic consequences for spending lines that have been agreed by the Scottish Parliament. Will the cabinet secretary publish Scottish Government analysis of the position in different Brexit scenarios, in order that people are fully aware of the potential impact on the Scottish budget?

Derek Mackay: Mr Kelly asks a very fair question. It is my understanding that we have published the position in a range of scenarios in respect of the long-term economic impacts of the Prime Minister's deal and the short, medium and long-term fiscal impacts of a no-deal Brexit. I am happy to look at what further information we have

that the Labour Party might find useful, but all forms of Brexit would harm our economy. We have expressed how the Prime Minister's deal would harm our economy and we have shown clearly how no deal would harm Scotland's economy. Given that we enjoy record low unemployment in Scotland—a record low of 3.4 per cent, which I am sure the Labour Party welcomes—is not the prospect of unemployment more than doubling as a result of a no-deal Brexit worth considering?

I will look at what further information the Labour Party might be interested in. I know that James Kelly is united with us in trying to ensure that the people have their say, that we avert Brexit and that we take the mishandling of Brexit out of the hands of the Conservatives—I am sure that he needs no further convincing on all of that.

Patrick Harvie (Glasgow) (Green): I am still struggling to figure out what the point of last week's spring statement was, buried as it was under the news of yet another cycle of Brexit chaos at Westminster. The cabinet secretary tells us that it takes us no further forward in understanding Scottish public finances, but even the chancellor himself did not have any clarity about how much fiscal headroom he is going to have, because he does not know what is going to happen in the coming weeks.

Given that the OBR has warned that the outcome of the next few weeks will determine whether there is a major or a catastrophic shock to the UK economy, are we not just going to be here again in a few weeks' time, once we know whether there is to be a revoked article 50, a delayed Brexit, a no-deal cliff edge or whatever the other options are? Will we not be back here in a few weeks' time, with the UK Government having to produce an emergency budget, or an update to its budget, and the Scottish Government having to respond to it?

Derek Mackay: Patrick Harvie's rather depressing analysis is probably correct and true. The UK Government is in a chaotic mode right now and will probably have to return with an emergency budget if there is a no-deal Brexit. The UK Government does not know where it is going to be. The clarity that we have from the spring statement is that the DUP is probably heading for another bung, the chancellor has fiscal headroom that he could use to invest in public services now, the fiscal and economic outlook is subdued and, while other parts of the UK are being bought off with regard to the Prime Minister's vote, Scotland is being sold out.

Willie Rennie (North East Fife) (LD): The finance secretary rightly complains that Scotland has not received funds to match the funds for English towns and Northern Ireland. However, with 35 MPs and the heft of the Scottish Government,

surely that begs a crucial question: why has the finance secretary been so ineffective at lobbying the UK Government on behalf of Scotland?

Derek Mackay: It is because of unionists such as Willie Rennie that our future is in the hands of the Conservatives in London, which we would rather was not the case. Instead of having to go with a begging bowl to Westminster, we would rather be making decisions here in relation to our finances, economic growth, a fairer social security system and staying in the European Union. I would rather not have to plead with a right-wing chancellor; I would prefer to make the decisions here, in Scotland. It is the unionists who have put us in that position, and nobody else.

Angela Constance (Almond Valley) (SNP): The cabinet secretary has outlined the various bungs that the DUP has received from an increasingly desperate Tory Government. Does he agree that it is utterly shameful for Ruth Davidson's Tory MPs to back money for Northern Ireland in order to keep themselves in office while they repeatedly vote to deprive Scotland's public services of the funding that they need?

Derek Mackay: I absolutely agree with that. For absolute clarity, the figure that Scotland would be entitled to if the formula had been used properly—the equivalent funding that we would gain—is around £3.3 billion. That is a substantial amount, and that is by how much Scotland is being ripped off.

Dean Lockhart (Mid Scotland and Fife) (Con): In his statement, the cabinet secretary mentioned cuts to public services and an uncertain future for Scotland's economy. However, if he gets his wish of independence, he will have to cut spending in Scotland by £13 billion a year. For the sake of certainty, can he confirm where those spending cuts of £13 billion will be made?

Derek Mackay: The growth commission, of which I was a member, has shown how we could stimulate and grow our economy if we had all the levers of an independent country. There would be reductions in spending in certain areas, such as on Trident nuclear missiles—yes, this Government would choose not to spend resources in that fashion.

We set out a comprehensive paper detailing how, with the powers of independence, we can grow our economy and enjoy the benefits that other independent countries have. The Tories do not even know how they are going to get through next week, never mind the prospect of an independent Scotland.

We can deliver those advantages for Scotland, and, even within the devolved settlement, try to stimulate our economy and provide stability and certainty, too. However, all of that has been

undermined by the UK Government mismanaging the finances and putting our economy at risk through the way that it has handled Brexit. It has led us up the garden path and it is short-changing and ripping off Scotland while deploying bungs for everyone else.

Stuart McMillan (Greenock and Inverclyde) (SNP): According to the OBR, the UK Government is deliberately delaying moving people on to universal credit through managed migration in order to avoid costs that are associated with transitional protection. Does the cabinet secretary therefore think that forcing people to move over to universal credit through natural migration is a Department for Work and Pensions cost-saving exercise at the expense of low-income families?

Derek Mackay: That analysis is correct. I understand that it will save the UK Government around £200 million over the next five years, while clearly harming many of the most vulnerable in our society. Of course, that money should have been invested in supporting low-income families in the fashion that Stuart McMillan has suggested.

Pauline McNeill (Glasgow) (Lab): The Equality and Human Rights Commission has published new research showing that, by 2021, the combined impact of changes to tax, social security and local authority services will result in 80,000 more children living in poverty. With only 0.1 per cent of the budget being targeted at low-income families, what is the Scottish Government's big idea to prevent that further rise in child poverty?

Derek Mackay: We are using the tax system in a more progressive way. Actually, the report that Pauline McNeill refers to acknowledges that the Scottish Government and the Parliament have been trying to mitigate the decisions coming from Westminster. There has been mitigation in tax policy and in social security policy. My point is that we could go further towards building a better society if we were not beholden to the UK Conservatives, who, as I have just pointed out, are not giving us the necessary extra resources but are, in essence, deploying the resources to buy off others in relation to the vote in the House of Commons.

We have a range of policies that are tackling child poverty, including expanding childcare, investing in housing, bringing about a real-terms increase in funding for local government, building a new social security system and implementing a fairer and progressive tax system that does not involve passing on tax cuts for the richest in society. There are a range of specific measures around low-income families, as well.

That package of support shows that we can mitigate so far but that we cannot mitigate completely the UK Government's ravages of the

most vulnerable in our society, because we have neither the resources nor the competences, in some areas, to do it. We need full competence over tax and social security so that we can protect the most vulnerable in our society.

Emma Harper (South Scotland) (SNP): I have written to the people who are involved in discussions on the Borderlands growth deal, the funding for which was announced in the spring statement, to ensure that the Galloway and West Dumfries area of my South Scotland region is not left behind and benefits from the inclusive growth deal. Will the Scottish Government confirm that Galloway and West Dumfries has been part of the discussions for projects outwith the principal five projects, such as the waterfront redevelopment in Stranraer?

Derek Mackay: As I said earlier, it would certainly be welcome if the UK Government allocated more for the Scottish end of the Borderlands growth deal. The Cabinet Secretary for Transport, Infrastructure and Connectivity leads on the issue. I understand that there are on-going discussions with local partners about taking forward specific proposals and signing heads of terms by late June or early July. Therefore, I think that there is still room for further discussion, to ensure that projects are included.

Bill Bowman (North East Scotland) (Con): The cabinet secretary said that the spring statement offered

"no expected real-terms growth in wider resource budgets to address the decade of near-7 per cent real-terms cuts to the Scottish block grant."

Is that correct? The Scottish Parliament information centre has confirmed that the UK block grant for Scotland has gone up by £1 billion since 2010, not including non-block grant funding such as the Tay cities deal funding. Does the cabinet secretary accept that his figures are wrong and acknowledge that the block grant for Scotland has been increasing over the past decade?

Derek Mackay: It might not surprise Bill Bowman when I say that my figures are absolutely accurate and correct. It is true to say that Scotland's resource discretionary block grant has been reduced by around £2 billion. There has been that rip-off for Scotland, which has been expressed time and time again.

I recently welcomed the increase in Barnett consequential for the national health service, but the truth is that that increase has been offset by reductions in other portfolios, which gives us a challenge in funding other services.

My figures are absolutely correct and I ask Bill Bowman not just to revisit the figures but to start to lobby his masters in London to ensure that Scotland gets a fair deal.

Kenneth Gibson (Cunninghame North) (SNP): Will the cabinet secretary say what Barnett consequentialists the UK Government should deliver and will deliver in relation to the stronger towns fund? Will he also say how much comparable EU funding—which the Tories are desperately trying to end—is invested in Scotland?

Derek Mackay: It is important to say, first, that the UK commitment to the towns that are beneficiaries is somehow to compensate for leaving the European Union and losing the structural funds that they would have enjoyed, which I have to say are substantially more than the sums that the UK Government is committing to those areas.

I confirm that we have had no detail of any consequentialists coming to Scotland from the stronger towns fund. We want to see the detail, to ensure that Barnett has not been bypassed and that we get our fair share. As things stand, I have confirmation of nothing in relation to the stronger towns fund.

As I said, when we look at the UK context, we see that the sums are far less than the sums that areas would have enjoyed through the structural funding that came from the EU. I will continue to press the UK Government for clarity on the matter and on the need to ensure that Scotland gets a fair share of resources.

Neil Bibby (West Scotland) (Lab): In “Scotland in 2050: Realising Our Global Potential—Final Report”, which was published today, the Fraser of Allander institute points to positives in the economy but warns that Scotland will continue to lag behind competitors unless we focus more on exports and infrastructure investment.

The institute also, rightly, identifies that action is required to address the low level of productivity and the skills gap. It wants to see a national strategy that focuses resource and investment on activities with growth potential, and it calls for

“policy”—

at all levels—

“that is longer-term in its objectives.”

Does the cabinet secretary agree with the Fraser of Allander institute? What will the Scottish Government do to address the issues that it has raised?

Derek Mackay: I agree with the themes that the member mentioned, which is exactly why we are focusing on them.

On exports, we are about to launch our exports strategy. On infrastructure, we have made a commitment to raising levels of infrastructure spend. In the budget, of course, we committed to record sums of infrastructure spend in the context

of housing, transportation and connectivity, for example.

On productivity, I have set out a range of actions that will support progress on productivity, such as working in a productivity club if it is the private sector. Many of those are features of the economic action plan that I want to get on with, which is why there is dedicated funding in the budget that was agreed to recently.

John Mason (Glasgow Shettleston) (SNP): Does the cabinet secretary agree with the Joseph Rowntree Foundation that the spring statement has failed in the area of continuing the benefits freeze? It is leaving children and families £560 worse off, on average—the equivalent of three months’ food shopping for an average low-income family.

Derek Mackay: It is unfair that the most vulnerable in society are again paying the price of the economic mismanagement by the UK Government. The benefits cap and the freeze are unnecessary when we know, as was announced in the spring statement, that the chancellor has the financial headroom to lift the cap. It is a pernicious policy to continue with it; it is damaging communities and is very hurtful to those who are facing the household pressures of having their benefits frozen. It is now a wilful choice in the hands of the chancellor rather than a fiscal necessity. He can change course.

Mental Health and Incapacity Legislation (Review)

The Deputy Presiding Officer (Christine Grahame): I call Clare Haughey to make a statement on the review of mental health and incapacity legislation.

14:56

The Minister for Mental Health (Clare Haughey): I know that, across the chamber, there is commitment to creating a modern, inclusive Scotland that protects, respects and realises internationally recognised human rights.

To help to deliver that, I am pleased to set out today that we will undertake a review of the Mental Health (Care and Treatment) (Scotland) Act 2003. Along with on-going work on incapacity and adult support and protection legislation, this overarching review will examine the full legislative framework that supports and protects people with a mental disorder. People who are affected by profound mental health issues must have the same rights as everyone else, which includes respecting their rights to have a private and family life, to protection from discrimination and to participate in the decisions that involve them.

The overwhelming majority of people who access mental health care and treatment do so voluntarily. Very few people are ever treated for a mental disorder against their will. Where they are, it must be because that is necessary to protect them or to protect other people. We need to be mindful, as a Parliament and as a society, that such treatment comes at a time when they are very unwell and very vulnerable.

People with a mental disorder may also be subject to the provisions of the Adults with Incapacity (Scotland) Act 2000 or the Adult Support and Protection (Scotland) Act 2007 if they are at risk of harm or neglect. Depending on their needs, a person may be subject to one, two or all three of these acts, which may be confusing for the individual and their carers and create barriers for them and for those who care for their health and welfare. Although huge advances have taken place with regard to mental health, in treatment and in changing social attitudes, we have always been clear that we will continue to keep the changing context under review to ensure that our laws are fit for purpose and, importantly, that we put people at the heart of our legislation.

In recent years, there has been an increasing focus in all areas of public life on the importance of protecting and promoting human rights, and on recognising the rights of people with disabilities. The European convention on human rights and

the United Nations Convention on the Rights of Persons with Disabilities have provided us with an opportunity to look again at our legislation to ensure that the rights and protections of those with a mental disorder are fully respected.

Our legislation is already firmly based on rights and contains principles that reflect that ethos, and it has never been found, in part or in whole, by the European Court of Human Rights to be incompatible with the European convention on human rights. However, that does not mean that we cannot go further.

At the time of its introduction, the Mental Health (Care and Treatment) (Scotland) Act 2003 was groundbreaking legislation. It provided safeguards for those who become unwell and require compulsory care and treatment for a mental disorder. It also addressed wider issues, such as the rights of service users and carers and protection from abuse and ill treatment.

The 2003 act focuses on what is most appropriate and least restrictive for the individual patient, enabling them, in some cases, to be cared for and treated in the community, rather than being admitted to hospital. It contains significant safeguards, such as the right to independent advocacy and an efficient and independent Mental Health Tribunal for Scotland, which grants and reviews orders for compulsory treatment. An independent body, the Mental Welfare Commission for Scotland, monitors the use of Scottish mental health law, including compulsory treatment, and has the power to intervene if there is evidence of improper care, treatment or practices.

I believe that, 14 years on from the act's coming into force in 2005, the time is now right to look again at the law to ensure that it fully reflects our ambitions and the needs of those whom it is intended to support when they most need it.

The principal aim of the review of the Mental Health (Care and Treatment) (Scotland) Act 2003 is to improve the rights and protections of persons with a mental disorder and to remove barriers to those who care for their health and welfare. The review will do that by reviewing the developments that have taken place in mental health law and practice in compulsory detention and care and treatment since the act came into force. The review will also make recommendations that give effect to the rights, will and preferences of the individual, ensuring that mental health, incapacity and adult support and protection legislation reflects people's social, economic and cultural rights, including the requirements of the UNCRPD and the ECHR. It will also consider the need for a convergence of incapacity, mental health and adult support and protection legislation.

We are not starting this work from scratch. We have already started to take action. Work has already begun on a review of incapacity law and practice and on a review of learning disability and autism in the 2003 act. We will also shortly be undertaking work on the Adult Support and Protection (Scotland) Act 2007, which provides a framework for decision making that balances human rights and risk.

To date, work on a review of adults with incapacity legislation and practice has not yet considered in any detail matters relating to the crossover between adults with incapacity legislation and mental health legislation, how those laws converge, the definition of mental disorder or its use as the gateway to intervention under the two bodies of legislation. Those matters could not be considered in isolation from wider mental health legislation. The wider review that I am announcing today gives us the opportunity to consider all these matters together.

Work on reforming incapacity legislation will be carried out around improvements to practice that can be made without any legislative change, namely the development of a supported decision-making strategy, improvements in training, support and supervision for guardians and attorneys, and training for professionals across health, social care and the law. Partners and stakeholders are vital to the success of that work, and we will ensure that their contributions are at the centre of it.

We are already conducting an independent review of learning disability and autism in mental health legislation. That independent review, which started last year, is considering the wider issue of whether the current legislation needs to change for people with learning disability and autism. The review is not examining individual cases but is reviewing the law, and it will be developing ideas on how to improve the legislation, if necessary, so that it can better support people's human rights. It will report to me by the end of this year.

That on-going work, taken together with the broader review of the 2003 act announced today, means that we now have a comprehensive programme of activity amounting to an overarching review of the legislative framework affecting people with mental disorder and those who care for them.

I want to be clear that the work will be stakeholder driven and evidence led. We want to gather views from as wide a range of people as possible. I am determined to ensure that, throughout the process, the views of patients, those with lived experience and those who care for them are front and centre of the work, so that they can help to shape the future direction of our legislation. We need to work together in

partnership to address issues that affect the lives of those with incapacity and mental disorder.

The third sector in particular will be key to making that happen. It has a wealth of knowledge about and understanding of the impact that our legislation has on people's lives. We must all recognise the role that we have to play and the importance of getting it right together.

The findings from each of the reviews that I have outlined will help to set the future direction of travel for our laws in the area. However, it is important that we wait for the findings from all the individual pieces of work before we draw any conclusions. The review of learning disability and autism is likely to recommend legislative change, and that has the potential to affect the overall legislative landscape.

I hope that the review of mental health legislation that I have set out will be a further significant step towards ensuring that Scotland's legislative framework continues to lead the world. It demonstrates the Government's on-going commitments to considering the challenging issues of human rights within mental health care settings and to ensuring that rights and protections for those who need them most are upheld.

The Deputy Presiding Officer: The minister will now take questions on the issues raised in her statement. I intend to allow around 20 minutes for questions. After that, we will move on to the next item of business.

Annie Wells (Glasgow) (Con): I thank the minister for the advance sight of her statement and welcome her announcement of an overarching review of mental health and incapacity legislation. It is imperative that individuals are not disempowered when it comes to their treatment. As far as possible, patients should be able to make decisions about their own lives.

Last year, someone came to me to discuss their experiences of compulsory detention and treatment many years ago. The lasting impact of that on their life and the considerable distress that it was still causing were clear. What consideration will the review give to a patient's aftercare should compulsory detention and treatment take place? What consideration will be given to guidance around guardianship, for which, as we know, the figures are on the increase. When will the review conclude, and when will we know the timetable for taking forward recommendations thereafter?

Clare Haughey: I am pleased to hear that Annie Wells welcomes the review of the legislation, which is really important. As I said at the start of my statement, the issue unites the chamber, and we should all work together on it.

Annie Wells asked several questions; she should forgive me if I miss any. I will deal with the last question first. It would be naive of me to put a timescale on the review at the outset, but we expect that it will take around a year.

Annie Wells made very important points about aftercare. It is important to remember that the vast majority of people who access mental health care do so voluntarily. We need to ensure that the rights of all people who access mental health care are respected. That theme certainly runs through our mental health legislation, and I expect that it will continue to do so.

On guardianship, it is really important that we ensure that, under our adults with incapacity legislation, we encourage people to think early about how to settle their affairs and how to ensure that what they want is respected when they are not in a position to be able to enact their wishes themselves. The review of adults with incapacity legislation and the comprehensive programme of non-legislative changes that will be taken forward will look at additional training programmes and at reviewing the guidance and codes of practice on the power of attorney.

David Stewart (Highlands and Islands) (Lab): I thank the minister for the early sight of her statement.

The Adults with Incapacity (Scotland) Act 2000 and the Mental Health (Care and Treatment) (Scotland) Act 2003 were groundbreaking at the time but, in light of current international human rights laws, they look increasingly dated. Does the minister share my view that the United Nations Convention on the Rights of Persons with Disabilities is a crucial touchstone?

Does the minister also share my view that the key question that needs to be asked about future policy and legislation is whether they will do more to support people to take decisions for themselves, even if they have a mental illness, dementia or an intellectual disability, and to give effect to their decisions?

The minister outlined that improvements in practice in relation to incapacity could be made without the need for legislative change. Will she give more detail on the proposed strategy and on the improvements in training and support for guardians?

Clare Haughey: Mr Stewart asked me several questions, so I ask him to forgive me if I do not answer them all. I will be happy to write to him if I miss out anything that he asked about.

A significant feature of the work on adults with incapacity practice is the development of a supported decision-making strategy. Supported decision making aims to give people more support

to make their own decisions about their lives and care, as is in keeping with the UNCRPD, which Mr Stewart mentioned. That review's findings will enhance the work that is going forward.

As I mentioned in response to Annie Wells, our first priority will be revising the codes of practice on the power of attorney. That work will highlight the need for every adult in Scotland to consider appointing an attorney while they have the capacity to do so. Information will be provided on the rights and responsibilities of attorneys, on safeguards that are in place to protect individuals and on the sanctions that can be imposed for misusing the power of attorney. Those changes should substantively improve the delivery of services and the wellbeing of people who are impacted by AWI legislation.

I absolutely agree with Mr Stewart that the UNCRPD should be the touchstone for all that we do in legislation.

I apologise—I think that I have missed out one of Mr Stewart's questions, but I will check the *Official Report* and write to him on that point.

The Deputy Presiding Officer: Mr Stewart can mention the question that the minister missed out—but if he does not know what it was, he need not bother.

David Stewart: I know which question was missed and, as always, I am happy to have two bites at the cherry.

The minister made it clear that we do not need legislation to make changes in, for example—

The Deputy Presiding Officer: That is fine—we know now.

Clare Haughey: I said that we believe that we can improve adults with incapacity practice without enacting further legislation. We can progress those improvements from now.

The Deputy Presiding Officer: That was flexibility.

Alison Johnstone (Lothian) (Green): The minister was right to say that people who are affected by profound mental health issues have the right to participate in decisions that affect them. I welcome her commitment to ensuring that partners and stakeholders are at the centre of the review. How will she engage with those who will be most directly affected by any legislative change, such as people who are classed as adults with incapacity?

Clare Haughey: I welcome Alison Johnstone's support for the review. We must have the voice of lived experience at the heart of the review. We need to involve partners and stakeholders, but we need to hear the voices of people who have been through mental health difficulties and accessed

mental health services and the voices of their carers.

We will shortly appoint a chair of the review. I do not want to pre-empt how they will carry out the review within the parameters that I have set out, but a key aspect will be ensuring that stakeholders sit round the table and that we tap into the wealth of knowledge of, and hear the voices of, third sector organisations, healthcare professionals and other organisations that support people with mental health difficulties.

Alex Cole-Hamilton (Edinburgh Western) (LD): I thank the minister for early sight of her statement and for the moves to improve supported decision making, although that will not necessarily improve our ability to hear the voices of people whom the legislation affects.

The United Nations Committee on the Rights of Persons with Disabilities has raised several concerns about the overuse of curators in mental health tribunals. Will the minister confirm that she will ask the review to look at that area, so that we improve the ability of people who come before the tribunals—

The Deputy Presiding Officer: I am going to have to—

Alex Cole-Hamilton: —to be heard in their own words.

The Deputy Presiding Officer: The question has been asked. I want to get everybody in, so we need to have shorter questions and, if possible, short answers, please, minister.

Clare Haughey: It is important to say, at the outset, that there already are a number of safeguards under mental health legislation—the right to appeal detention, independent advocacy and, of course, the review of compulsory treatment by a mental health review tribunal. The Mental Welfare Commission for Scotland also safeguards rights.

I do not disagree with Alex Cole-Hamilton that the area should be looked at. We are looking at mental health legislation across the piece—and not just at those who access services informally, but at those who are subject to detention. I expect the area to be looked at by the review.

James Dornan (Glasgow Cathcart) (SNP): As someone who has seen at first hand how people used to be treated when they were involuntarily treated, I am delighted to see that so much has changed for the better and that the Scottish Government is holding a review. Clearly, much more needs to be done to protect vulnerable individuals. Will the review consider the use of seclusion and restraint?

Clare Haughey: The review's terms of reference include considering the role of physical restraint, isolation and segregation. We are clear that everyone should feel safe while receiving treatment or working in our mental health services and that the use of physical restraint should only ever be a last resort.

As we work to improve our mental health services further, the experiences of patients, their families and staff are key to shaping treatment and support. The mental health strategy commits to funding 800 additional mental health workers in key settings. Importantly, over the past six years, the Scottish patient safety programme for mental health has led to reductions in self-harm, seclusion, violence and aggression and restraint across a number of areas, through collaboration and innovation among staff, service users and carers and from the use of quality improvement and improvement science.

Miles Briggs (Lothian) (Con): Two years ago, the Health and Sport Committee suggested to Scottish National Party ministers that a review could take place, which would give Parliament appropriate time to progress any legislative change. Given that ministers are only today announcing the review, any legislation will potentially be included only in the final programme for government ahead of 2021, which will lead to rushed legislation. Will the minister, at the earliest opportunity, set out to Parliament a timetable progressing the legislation through Parliament?

Clare Haughey: When the Mental Health (Care and Treatment) (Scotland) Act 2003 came into force, in 2005, it increased the rights and protections for people with mental disorders. Since then, huge advances have been made in mental health treatment and through the change in social attitudes.

As I said in my statement, 14 years after the introduction of that legislation, now is the time to review where we are. I answered a question about timescales and when I expect the review to report. I anticipate that that will be in 12 months' time, but I do not want to put a firm timeline on that—it would be very naive of me to do that. It is a very complex piece of legislation, and the review will possibly encompass several other pieces of legislation. It is important that we do the work correctly, as rushing it would not do the matter justice.

Emma Harper (South Scotland) (SNP): Will the minister confirm how the review will adopt a human rights-based approach to its engagement?

Clare Haughey: When the Mental Health (Care and Treatment) (Scotland) Act 2003 came into force, in 2005, it increased the rights and protections for people with mental disorders. Since

then, huge advances have been made in treatment and through changes in social attitudes. In addition, there has been an increasing focus in all areas of public life on the importance of protecting and promoting human rights.

Depending on their needs, a person could be subject to the Mental Health (Care and Treatment) (Scotland) Act 2003, the Adults with Incapacity (Scotland) Act 2000 or the Adult Support and Protection (Scotland) Act 2007. We have already begun work to reform incapacity law and practice, and we will begin work on the Adult Support and Protection (Scotland) Act 2007.

A human rights-based approach is about empowering people to know about and to claim their rights as well as increasing the ability and accountability of individuals and institutions that are responsible for respecting, protecting and fulfilling rights. Our approach to progressing the review will ensure that service users are involved in ways that make sure that their voices are heard on decisions that impact on them.

Mary Fee (West Scotland) (Lab): The scale of the review means that it crosses many portfolios. It is a massive task, given the importance of the existing legislation. I welcome the minister's response to Alison Johnstone, but can she give further details of which stakeholders and other agencies will be involved in the review process? Who will oversee the work that they do?

Clare Haughey: A chair for the review will be appointed shortly. Given the interest in the legislation and, as Mary Fee says, the number of portfolios in the Parliament that the review crosses, a wide range of stakeholders will be involved in the work. I anticipate that the review will be quite a large piece of work, so, as I said to Miles Briggs, we need to get it right. I am unable to give firm timescales, because that would do an injustice to the work that the review body will do.

Angela Constance (Almond Valley) (SNP): I declare an interest as a former mental health officer. I very much welcome the overarching review. Given the role of mental health officers in ensuring that people's rights are protected and respected, particularly when compulsory care or treatment is being considered, will the minister take on board the fact that, despite the increase in the number of mental health officers, 22 local authorities still report a shortage of MHOs? Will the minister commit to specific engagement with mental health officers as a group of professionals?

Clare Haughey: As a former mental health nurse, I concur with Angela Constance's view that mental health officers are invaluable in helping the national health service to provide the care and treatment that people with mental distress and mental illness need.

Local authorities are responsible for ensuring that they have a sufficient number of mental health officers to meet their statutory responsibilities and to make plans for their mental health workforce. The Scottish Government has engaged with key stakeholders to consider possible approaches to increasing MHO training and capacity, which links to action 35 of the mental health strategy. Work is being taken forward under the national health and social care workforce plan.

Brian Whittle (South Scotland) (Con): Following on from Angela Constance's question, I think that it is important that there is the capacity to implement the review findings and subsequent legislation. With that in mind, will the review look at the considerable time pressures that our general practitioners and other healthcare professionals are under during their patient consultations, which might prohibit their exploring all potential treatment options and implementing any review findings?

Clare Haughey: I was not quite sure where Mr Whittle was going with his question. I am not sure whether he is implying that people are detained under the 2003 act because of a lack of other treatment options. I am unclear about what he is asking.

The Cabinet Secretary for Health and Sport has assured the chamber that mental health is a priority, and the Government has shown that that is the case. We have invested heavily in growing the workforce across all the different professions in mental health. We have also made substantial investment in primary care services and in expanding the primary care team. I expect that, when the review comes back to us with its findings, it will have taken account of the changing landscape of staffing across the health service and social care.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Will the minister outline what will happen to the adults with incapacity reform work that is being taken forward?

Clare Haughey: We are proceeding with a comprehensive programme of non-legislative changes to practice and guidance. We are developing a strategy for supported decision making to enable people with impaired capacity to have the support that they need to make their own decisions about their life and care. We will provide a comprehensive training programme for professionals in health, social care and the law. We are improving the provision of support for guardians and attorneys, and we are revising the current codes of practice and guidance to provide clarity on the existing law.

As I have said, our first priority will be the revision of the codes of practice on powers of attorney. That work will highlight the need for

every adult in Scotland to consider appointing an attorney while they have the capacity to do so. It will provide information on the rights and responsibilities of attorneys, the safeguards that are in place to protect individuals and the sanctions that can be imposed for the misuse of power of attorney. I take the opportunity to encourage all MSPs in the chamber to consider conferring power of attorney while they have the capacity to do so.

The Deputy Presiding Officer: I do not know whether the minister is looking at me. I certainly hope not. I have no intention of doing that at the moment, if that is the inquiry.

Daniel Johnson (Edinburgh Southern) (Lab): I remind the chamber that I am currently an out-patient with adult mental health services and have a diagnosed neurodevelopmental disorder.

There may be some concern among the autistic community today, given that the review work on autism is being linked with incapacity, especially when many within that community are seeking a move away from the deficit model. Can the minister explain how the scope of the review will be managed between acute and chronic conditions and, importantly, on the point about the stakeholder-led nature of the review, confirm whether the review group for the review into learning disability and autism will include people with autism?

Clare Haughey: I assure Daniel Johnson that I want the voice of people with lived experiences to be at the heart of the review. I understand his concern, as there is often a crossover between mental health legislation and adults with incapacity legislation. Although it does not affect everyone who comes into contact with mental health services, there is sometimes a crossover in the legislation and sometimes also a crossover with adult support and protection legislation. We are trying to make the system easier to navigate both for people who are subject to the legislation and for the health and social care professionals who look after them. I take on board what Mr Johnson has said and hope that he will take my reassurance that I want the voice of lived experience to be at the heart of the review.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Does the minister agree that this overarching review will give both patients and their families more support and protection with regard to their human rights?

Clare Haughey: The review will be stakeholder driven and evidence led. It is crucial that people have an opportunity to make their views known; therefore, there will be a full public consultation. Each stage of the process will have to create an engagement strategy that not only is transparent

but affords the opportunity to gather as wide-ranging views as possible. The aim will be to engage people with real experiences—service users, carers and professionals—as well as those with a more academic interest. The third sector, in particular, will be key to making this happen, as it has a wealth of knowledge and understanding concerning the impact of the legislation on people's lives.

Damages (Investment Returns and Periodical Payments) (Scotland) Bill: Stage 3

15:29

The Deputy Presiding Officer (Christine Grahame): The next item of business is stage 3 proceedings on the Damages (Investment Returns and Periodical Payments) (Scotland) Bill. In dealing with the amendments, members should have the bill as amended at stage 2, the marshalled list and the groupings of amendments.

The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate.

Members who wish to speak in the debate on any group of amendments should press their request-to-speak buttons as soon as possible after I call the group. Members should now refer to the marshalled list.

Section 3—Award, continuity and index-linking

15:30

The Deputy Presiding Officer: Group 1 is on periodical payments: pursuer's wishes. Amendment 1, in the name of Jackie Baillie, is the only amendment in the group.

Jackie Baillie (Dumbarton) (Lab): I am pleased to speak to amendment 1 in the first group of amendments at stage 3 of the Damages (Investment Returns and Periodical Payments) (Scotland) Bill—that is a mouthful.

Amendment 1 reflects the Economy, Energy and Fair Work Committee's scrutiny of an area in which it made a recommendation for change to the Scottish Government and on which I lodged an amendment at stage 2, which I was asked to withdraw by the Minister for Community Safety to allow for further discussion. That discussion has resulted in the amendment that is before the chamber today.

In essence, amendment 1 will require the court to have special regard to not just a pursuer's needs, but their preferences. Many pursuers will have been through a lengthy process in an effort to obtain recompense for personal injury that might well have been severe and catastrophic. In my view, it is essential that the pursuer's voice is heard throughout the process. Amendment 1 is designed to ensure that at the final stage of the

process, a pursuer's views will have been listened to and given full consideration by the judge. The pursuer's preference as to whether to receive a lump sum or a periodical payment must be a principal factor at the forefront of the court's mind.

The language of amendment 1 is careful to avoid creating a presumption, as it does not give the pursuer the right of veto, but I would be very surprised if it were not a key factor in a judge's decision. I certainly expect that the requirement on the court to treat the pursuer's preference, as well as their needs, as a principal factor will have a real impact on the court's decision-making process in every case.

I am grateful to the minister and her officials for working with me to give effect to the committee's recommendation.

I move amendment 1.

Liam McArthur (Orkney Islands) (LD): I am grateful to Jackie Baillie for setting out clearly the background to amendment 1. I did not sit through the evidence that the Economy, Energy and Fair Work Committee sat through. However, earlier in the session, the Justice Committee dealt with the Civil Litigation (Expenses and Group Proceedings) (Scotland) Bill, which touched on many of the same issues. We wrestled with the fact that, in relation to what are often very significant payments, individuals could come under pressure from members of their family or their wider friend group to opt for a large lump sum, which might not necessarily be invested in their best interests. There was also the issue that, with a lump sum as opposed to a periodical payment, the pursuer would be liable to pay a legal fee to their solicitor, over and above the normal costs.

Jackie Baillie's setting out of the rationale for the approach is very helpful. Nobody would wish the pursuer's interests to be ridden roughshod over. For the benefit of me and other Justice Committee members who wrestled with these matters during our consideration of a different piece of legislation, it would be helpful if Jackie Baillie or, indeed, the minister could clarify how safeguards could help avoid situations arising that are clearly not in the interests of the individual concerned.

John Mason (Glasgow Shettleston) (SNP): I am happy to support amendment 1.

Many members of the Economy, Energy and Fair Work Committee felt that a move towards more periodical payment orders would be a good idea. For those of us looking in from the outside, they are often a good answer, because they take away the risk and the need to make decisions about investments and other such issues, which many people are not comfortable with. However, the point was also made that some people might not trust the defender to keep on paying the

money and that some people might just want to break the relationship with the defender and receive a standalone amount.

It is fair to say that the courts might have considered such matters anyway, but it does no harm to re-emphasise that the courts should take into account what the pursuer is looking for.

The Minister for Community Safety (Ash Denham): It was very helpful to meet Jackie Baillie to discuss the amendment that she lodged at stage 2, which was intended to allow the pursuer's voice to be heard in respect of their preference for a periodical payment order or a lump sum.

Jackie Baillie and other members have spoken about their desire to address the sense of powerlessness that people who have suffered a catastrophic injury might well feel in the event that an order for periodical payments is imposed. Although that is a very difficult thing to capture, it does not mean that it cannot be done.

We have had a productive discussion since stage 2, and we have come away with a better understanding of each other's position on the issue. I have always indicated that I had some sympathy with the principle underlying the stage 2 amendment. My concerns lay in the way in which the stage 2 amendment would have been given effect, which I believe would have gone too far and could have created some legal difficulties.

In highlighting the pursuer's preferences as a key consideration, it is important for balance to be struck so that the pursuer's position is not treated as paramount, an overly rigid presumption is not created and the pursuer is not given a unilateral veto. In addition, the defender should not be put at a substantial disadvantage compared with the pursuer, which would put at risk the defender's right to a fair hearing.

I am pleased to say that I do not have any difficulties along those lines with amendment 1. The amendment refers not just to the pursuer's needs but to the pursuer's preferences. This addresses the very human aspect of the pursuer's position, about which a number of members have spoken.

However, amendment 1 goes beyond simply ensuring that the court takes into account the views of the pursuer, as it could do anyway. The amendment expressly highlights the needs and preferences of the pursuer as something for the court to "have special regard to".

From the particular language used, it may be expected that the things highlighted will weigh heavily as key considerations at the forefront of the court's mind when it is deciding between the options for the form of the award. Indeed, all

things being equal, it may be expected that the pursuer's needs and preferences will be given priority by the court.

I believe that amendment 1 strikes the appropriate balance while ensuring that the pursuer's preferences as well as needs are specifically recognised in the bill. Accordingly, I am happy to support amendment 1.

Jackie Baillie: I welcome the minister's contribution and the contributions of members across the chamber. I was not the only one who raised the matter at stage 1. My colleague Angela Constance did likewise and it is something that the committee considered to be important.

John Mason was right to reference the use of periodical payment orders as the mechanism to reduce risk and ensure that awards are made over the lifetime of a pursuer. The reality is that we will see a combination of lump sums and periodical payments in play but ultimately—I reassure Liam McArthur about this in particular—we want the pursuer's voice to be heard at the end of a lengthy court process and to ensure not only that their needs are met but that their preferences are taken into consideration. I am sure that the court would be alive to some of the external pressures that pursuers may face.

I ask the chamber to support amendment 1 because it is the right thing to do. I press my amendment.

Amendment 1 agreed to.

The Deputy Presiding Officer: Group 2 is on periodical payments: drafting amendments. Amendment 2 is grouped with amendments 3 to 8.

Ash Denham: All the amendments in the group fall into the category of minor and tidying in nature.

Amendments 2, 4 and 5 relate to an amendment moved by Stewart Stevenson and agreed to by the committee at stage 2 to place a requirement on the court to set out its reasons for being satisfied that the continuity of payments is reasonably secure.

At the time, I reserved the possibility of lodging Government amendments to make any necessary technical changes at stage 3, so as to ensure that the wording of the provision added by Stewart Stevenson fully dovetailed with the related provisions. Amendments 2, 4 and 5 therefore make some minor adjustments to the text in order to do that. I think that they speak for themselves. The substance of Stewart Stevenson's addition at stage 2 is not affected.

Amendments 3 and 6 to 8 have come about as a result of a change suggested by the Association of British Insurers. The ABI expressed the view that, in new section 2(1A) of the Damages Act

1996, which would be introduced by section 3(1)(c) of the bill, in the reference to a court not making

“an order for periodical payments unless it is satisfied that the continuity of payment under such an order would be reasonably secure”,

“would be” should be changed to “is”.

As well as making the wording chime more closely with the introduction of the assumptions that follow in new section 2C(1) of the 1996 act, the change would bring the drafting more in line with the equivalent provision that applies in England and Wales. Importantly, the conditional element of the matter is not lost altogether, as new section 2C(1) continues to refer as necessary to what “would be” the case.

Although we are satisfied that no difference could arise in practice under the wording used, we are content to make the change. The same point arises elsewhere in section 3 and once in section 4, so similar changes are made for consistency in those places.

I move amendment 2.

Amendment 2 agreed to.

Amendments 3 to 7 moved—[Ash Denham]—and agreed to.

Section 4—Variation or suspension of settlement

Amendment 8 moved—[Ash Denham]—and agreed to.

Schedule—Investments: setting rate of return

The Deputy Presiding Officer: Group 3 is on rate of return: standard adjustments. Amendment 9, in the name of the minister, is the only amendment in the group.

Ash Denham: I explained at stage 2 that the approach taken in the bill on how the discount rate should be calculated is based on a portfolio that meets the needs of the hypothetical investor as described in the bill. The asset classes and percentage holdings contained in the notional portfolio have been balanced in such a way as to support an approach, in terms of investment choices, that is capable of limiting volatility and uncertainty.

The bill also includes two standard adjustments that the rate assessor must deduct when arriving at the rate. Amendment 9 deals with the first of those. It is intended to take account of investment advice, management costs and taxation. The adjustment is set out in the bill, with regulation-making powers for the Scottish ministers to change the adjustment if required. The Scottish

Government accepts that there will be a need to take investment advice, and indeed one of the characteristics of the hypothetical investor is that they are properly advised.

Prior to the introduction of the bill, Scottish ministers sought views from the Government Actuary’s Department on the appropriate level for the adjustment for tax and passive investment management costs. Although GAD considered that the reasonable allowance for expenses and tax might fall into the range of 0.5 to 2 per cent, it was also of the view that an allowance at the lower end was

“likely to be more appropriate”.

That is because it is reasonable to assume that pursuers will shop around for competitive fees and will directly invest in passive funds; because, in the current economic environment, income yields, particularly on bonds, are low, which eases the possible pressure of higher tax charges; and because further prudence deductions are included elsewhere in the discount rate.

At stage 2, Jackie Baillie lodged an amendment that sought to increase the standard adjustment for tax and investment management costs from 0.5 to 1.5 per cent. I pointed out that the composition of the portfolio and the level of adjustments that are set out in the bill are the result of analysis, actuarial advice and available evidence. The methodology and adjustments have been carefully calibrated with a view to ensuring that, in so far as possible, the principle of 100 per cent compensation is adhered to. They are a complete package of measures, with the further adjustment ensuring that the possibility of undercompensation is at an acceptable level.

I was also clear that, from the Government’s point of view, Jackie Baillie’s proposed increase would tip the balance too far in favour of pursuers. Too high a percentage for the deduction under consideration would increase significantly the chances of pursuers being overcompensated, which would go against the principle of achieving the right levels of compensation and would pass an undue burden on to defenders, including public services such as the national health service.

During stage 2, Jackie Baillie withdrew her amendment on the basis that we would have an opportunity to discuss the issue further. It was helpful, after stage 2, to meet Jackie Baillie and exchange our views. I was able to advise that we would be working with the Ministry of Justice to get early access to any relevant evidence on tasks and investment management costs arising from its very recent call for evidence ahead of the review in England and Wales, and we have done that.

With that information to hand, we sought further advice from the Government Actuary’s

Department. I have considered its advice, which points to a small uplift in the adjustment being required. Its advice is given in the context of the portfolio contained in the bill, and its view is that there have been small increases in the fees that would apply. Specifically, in GAD's view, there is a small increase in appropriate passive fund manager fees, reflecting evidence from the call and further consideration of the charges that might apply for the Scottish portfolio. It is also GAD's view that, based on the evidence from the call, it would be appropriate to include a small allowance for charges for platform fees in order to access the funds and for obtaining advice.

15:45

Amendment 9 would therefore increase the standard adjustment from 0.5 to 0.75 per cent to allow for such increases. I am content that, based on impartial and professional advice, that is the appropriate change to make—and, indeed, that not to make it would be to ignore such advice. The change would ensure that, as far as possible, pursuers would be properly compensated through the application of the discount rate that would be arrived at through the application of the new methodology. The percentage in amendment 9 represents an important aspect of getting that right.

I move amendment 9.

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

As we have heard, amendment 9, in the name of the minister, would increase the standard adjustment to the discount rate for investment charges and taxation to 0.75 per cent from the 0.5 per cent that was originally set out in the bill.

The Economy, Energy and Fair Work Committee's stage 1 report on the bill considered that adjustment to the discount rate and, after considering evidence from those on all sides of the argument, concluded that, on balance, it was content with the adjustment rate being set at 0.5 per cent.

At stage 2, the minister told the committee that a 0.5 per cent standard adjustment recognised that investors would shop around to get the best possible rate for investment charges, and that the notional investment portfolio would largely comprise passive funds that would not require active management and would not incur significant investment charges. As she set out in her opening remarks, the minister also told the committee that she accepted the advice of the Government Actuary's Department on the adjustment level being set at around 0.5 per cent.

Given that background, increasing the standard adjustment to 0.75 per cent runs the risk of departing from the fundamental Scottish legal

principle of fair compensation. Although Scottish Conservatives understand the Government's approach of legislating in favour of overcompensation rather than risking undercompensation, we have to recognise that that would come at a cost. The costs that are associated with paying more than 100 per cent compensation would fall on public bodies in Scotland, such as the national health service and other public bodies that self-insure.

John Mason: Does Dean Lockhart accept that it is not possible to get to a position in which everyone is correctly compensated by 100 per cent? It is inevitable that some will be undercompensated while others will be overcompensated.

Dean Lockhart: That is a fair comment. The figure has to lie somewhere on a spectrum. However, based on the evidence that the committee heard, increasing the adjustment to 0.75 per cent would take us quite far on that, and towards the risk of overcompensation. As I said, the reality is that the cost of paying more than 100 per cent compensation will fall on public bodies in Scotland.

For the reasons that I have set out, Scottish Conservatives will not support amendment 9.

Jackie Baillie: I welcome the opportunity to speak on amendment 9 in the name of the minister.

At stage 1, the Economy, Energy and Fair Work Committee took evidence about standard adjustments. As the minister has referenced, at stage 2, I lodged an amendment on the amount that should be allowed for the impact of taxation and the cost of investment advice. As we have heard, the Scottish Government's position was to allow for 0.5 per cent, which was considered by some commentators to be just too low to reflect the actual cost of advice and taxation.

The Association of Personal Injury Lawyers provided expert evidence from a range of independent financial advisers, all of whom suggested that 0.5 per cent was too low and that the real costs were likely to be between 1.5 and 2 per cent, based on their experience of dealing with personal injury cases. My amendment was duly cautious in seeking to set the rate at 1.5 per cent.

I pray in aid the Government Actuary's Department's analysis of the personal injury discount rate, which it published. The minister rightly suggested that its recommendation on a rate that would reflect tax liability and fees for advice was likely to be anywhere in the range of 0.5 to 2 per cent. The minister and the Scottish Government chose to place the rate at the lower end of the scale. However, I point out that the

Government Actuary's Department also said that it would be appropriate for the rate to be set higher.

The minister referenced the fact that there is a review south of the border by the Ministry of Justice, and she has helpfully considered that in her further deliberations. Again, I welcome the helpful discussion with the minister and her officials. They reflected further and have lodged an amendment to adjust the rate upwards to 0.75 per cent. That is not as much as I would have liked and not as much as the evidence suggests we may require, but I recognise that it is a step in the right direction. I will therefore support amendment 9, but I ask the minister to assure the Parliament that she and her officials will keep the rate under review and change it in the light of experience to avoid any suggestion of undercompensation.

Liam McArthur: I am conscious that I do not have the background on the bill that Dean Lockhart, Jackie Baillie and the minister have. I was reassured to an extent by what the minister said about her engagement with the Government Actuary's Department. There is clearly a balance to be struck here, and the committee came to the conclusion that it is not an exact science.

I was struck by the response that the minister gave recently in a written answer to a parliamentary question from my colleague Alex Cole-Hamilton. She wrote:

"The Scottish Government expects that the UK Government will continue to cover the costs arising from the change in the discount rate to the extent that the rate in Scotland is in line with the rate in England and Wales. The Scottish Government will continue to pass this funding to the NHS in Scotland."—[*Written Answers*, 13 March 2019; S5W-21903.]

That is helpful, but it rests heavily on the rate in Scotland being in line with that in England and Wales. As I understand it, that may not be the case in this instance, and I wonder how the shortfall will be met. Has the minister had discussions with not just the Government Actuary's Department but health colleagues about the potential implications for any financial liability to the NHS?

Also, will a revised financial memorandum be published? As I understand it, there was not one ahead of stage 3, which was rather unhelpful for those of us who were trying to get our heads round the implications of the change that the minister is proposing.

Daniel Johnson (Edinburgh Southern) (Lab): I echo Jackie Baillie's comments. The discount rate was the subject of some debate and discussion at stage 1, and rightly so. We are talking about the money that is made available to people for them to get their affairs in order having been awarded compensation. Although much of the talk is of what might be reasonable or what

people might typically obtain, we must also consider people whose compensation falls outside the range of reasonable expectations. As John Mason rightly said, some people may be overcompensated and some may be undercompensated, but we need to ensure that we protect the most vulnerable, because the people who we are talking about are undoubtedly vulnerable.

The range of values that the Government Actuary's Department arrived at was 0.5 to 2 per cent. Although it said that the appropriate rate would be in the lower end of the range, 0.75 per cent is well within the lower end. Like Jackie Baillie, I would like to hear from the minister how the rate will be kept under review and how, if it is found to be insufficient, it might be revised in future.

The increase is welcome, albeit that it does not go as far as we on the Labour benches would like.

The Deputy Presiding Officer: I call on the minister to wind up.

Ash Denham: I will address a number of points. First, on the point that Dean Lockhart raised, I expect the new rate to save defenders money when it comes in in September, and that includes the NHS.

The MOJ's call for evidence on matters relating to investments was extremely timely, and amendment 9 is based on the most recent evidence. GAD analysed the evidence from that call by the MOJ with reference to the portfolio in the bill, and it revised its advice. It would not be appropriate not to act on the advice that I was given. I want the adjustment in the bill to reflect the most up-to-date evidence that is available, and that is what the amendment will do.

Of course the adjustments will be kept under review, and I note that that is in the bill as well, just to reassure Daniel Johnson on that point.

I press amendment 9.

The Deputy Presiding Officer: The question is, that amendment 9 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. As this is the first division at stage 3, the Parliament will be suspended for five minutes.

15:54

Meeting suspended.

15:59

On resuming—

The Deputy Presiding Officer: We will now proceed with the division on amendment 9.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)

McNeill, Pauline (Glasgow) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Abstentions

Ballantyne, Michelle (South Scotland) (Con)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Corry, Maurice (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Harris, Alison (Central Scotland) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 84, Against 0, Abstentions 26.

Amendment 9 agreed to.

The Deputy Presiding Officer: Group 4 is on rate of return: drafting amendments. Amendment 10, in the name of the minister, is grouped with amendments 11 to 14. [*Interruption.*] Please—I am trying to say something and I cannot even hear myself.

I call the minister to move amendment 10 and speak to all of the amendments in the group.

Ash Denham: All the amendments in this group relate to an amendment that was moved by Dean Lockhart at stage 2 and that was agreed to by the committee. That amendment reworked the duty of the Scottish ministers in relation to the notional

portfolio. The duty previously involved having regard to the need to ensure that the notional portfolio remains suitable for the hypothetical investor. After the amendment was accepted, it involved including the conduct of a review on suitability, incorporating a requirement to consult appropriate persons.

At the time, I reserved the possibility of bringing forward Government amendments to make any necessary drafting changes at stage 3, not only to ensure that the provisions would work properly, given the possibility of interim rate reviews, but to ensure that the overall wording and structure of the provisions reaches the desired result in the best and clearest way possible.

Amendments 10, 11, 12 and 14 make modest adjustments to the text in connection with the review of the portfolio. They align the wording of the text with the provisions cross-referred to; reflect the fact that the on-going assessment of the portfolio, and the making of regulations if necessary, are really just parts of a single process; directly tie the necessity of regulation making to the suitability of the portfolio for the notional investor; tidy the structure and wording of the provisions; and give a useful signpost for the reader to the description of the notional investor. However, the substance of what Dean Lockhart added at stage 2 is not affected by those amendments. They preserve the need to assess the notional portfolio ahead of each five-year cycle of review, along with a duty to consider whether regulations are necessary.

Amendment 13 is different. Interim reviews, by their nature, are likely to be needed where there are urgent or extraordinary circumstances. Amendment 13 therefore excludes interim reviews from the scope of the provisions that were added by Dean Lockhart at stage 2.

I move amendment 10.

Amendment 10 agreed to.

Amendments 11 to 14 moved—[Ash Denham]—and agreed to.

The Deputy Presiding Officer: That ends consideration of amendments.

Damages (Investment Returns and Periodical Payments) (Scotland) Bill

The Deputy Presiding Officer (Linda Fabiani): As members are aware, at this point in the proceedings, the Presiding Officer is required under standing orders to decide whether, in his view, any provision of the bill relates to a protected subject matter: that is, whether it would modify the electoral system and franchise for Scottish parliamentary elections. In the Presiding Officer's view, no provision of the Damages (Investment Returns and Periodical Payments) (Scotland) Bill relates to a protected subject matter. Therefore, the bill does not require a supermajority in order to be passed at stage 3.

We move to the debate on motion S5M-16394, in the name of Ash Denham, on the Damages (Investment Returns and Periodical Payments) (Scotland) Bill.

16:05

The Minister for Community Safety (Ash Denham): I thank members of the Economy, Energy and Fair Work Committee for their careful and helpful consideration of the bill; I have very much welcomed the committee's thorough scrutiny of the bill. It is clear that members appreciated the importance of getting things right; they also appreciated that the process is not always straightforward. I thank the committee clerks, too, for their hard work.

I also thank the stakeholders who contributed views and opinions as part of parliamentary scrutiny of the bill. The Scottish Government has had useful engagement with stakeholders. At times, we heard differing and—dare I say it?—opposing views on some aspects of the bill, which is perhaps not surprising, given that there are pursuers on one side and defenders on the other.

Despite the differences, there is a commonly held view that the current process for setting the discount rate is flawed, and that the law needs to be changed to make it better. The context of the bill is therefore the widely held view, which is born of extensive consultation over the past seven years, that the law on how the discount rate is set needs to be changed.

I will briefly remind members of the key provisions in the bill, and what they are intended to achieve. Part 1 reforms the law on setting the personal injury discount rate. The provisions are intended to ensure that the method and process for setting the discount rate are—as far as is practical—clear, certain, fair, regular, transparent and credible. The fact that there have been seven

years of consultation on the matter serves to demonstrate that this is not an easy subject and that there are no easy answers.

The bill provides that the job of reviewing and assessing the rate will, in the first instance, fall to the Government Actuary's Department. We have adopted an approach whereby determination of the discount rate is regarded as an actuarial exercise that should be free from political interference. In any system for setting a personal injury discount rate, there must be an element of political judgment. The approach that the bill takes separates the actuarial exercise from political judgments, with the latter being set out transparently in the legislation. The scrutiny process for the bill has provided the necessary parliamentary accountability to ensure that we have a framework that is fit for purpose. It will be for the Government actuary to apply the methodology and arrive at the rate. We are of the view that his professionalism and expertise make him the best fit for that role.

The bill also establishes a timeline for review of the discount rate. That is important, because we are aware that the impact of no change having been made for more than 15 years was considerable. The bill, as introduced, provided for a review every three years, but we listened to stakeholders and the committee on that point and amended the bill at stage 2 to reduce the frequency from every three years to every five years, on the basis that the committee considered that such an approach would represent a

"balance between flexibility and certainty".

One of the most complex aspects of the bill is the methodology for calculating the discount rate. The bill provides a framework for doing that.

It is important to remember that at the heart of the bill are people who have suffered significant, if not catastrophic and life-changing injury, and their right to fair and full compensation. An award for damages is designed to compensate a wrongly injured person for the losses and harm that are caused by the injury—no more and no less.

That is easy to say, but hard to do. The most likely cause of a person's damages not being enough or being too much stands separate from calculations around the discount rate: it is the assessment of the person's life expectancy. There are no absolutes; we can only improve or diminish the chances of overcompensation or undercompensation happening.

When I talk about a framework, that terminology is important. The composition of the portfolio, the standard adjustment and the assumption about the award duration are fully integrated and operate together to produce the discount rate. They are a package. For example, a riskier portfolio would

attract a different adjustment for tax and investment management costs.

The courts will now have the ability to impose orders for periodical payment, which is provided for in part 2. It is worth noting that the intention behind the bill's provisions that require a court to consider whether an award should take the form of a periodical payment order, and whether to make such an order without the consent of the parties, is to address effectively the current scenario, which has sometimes been described as the defender holding the trump card, because the defender can, in effect, overrule the pursuer by simply not agreeing to their preferred method of award. I am sure that we all agree that there are good reasons for remedying that position. Where there is disagreement, it is considered that the best independent arbiter is the court—not one or other of the parties that are involved.

I am convinced that the provisions in the bill will result in methods and processes that are clear, certain, fair, regular, transparent and credible.

I move,

That the Parliament agrees that the Damages (Investment Returns and Periodical Payments) (Scotland) Bill be passed.

16:11

Gordon Lindhurst (Lothian) (Con): I, too, thank my colleagues on the Economy, Energy and Fair Work Committee for their work on the bill, and I thank the minister for her work on the bill, including her timely response to the committee's stage 1 report. Not least, I also thank the clerks and legislation team who have assisted me and all the members who have been involved at all stages of the bill's passage.

Throughout our consideration, there has been genuine recognition, by everyone, of a number of principles. The first is the importance of the proposed legislation, which will add clarity and transparency by providing a statutory framework for calculating the personal injury discount rate. Clarity and transparency are hugely important to a person who has undergone life-changing events. A number of colleagues laid that out unambiguously during the stage 1 debate, when they described how a person's life might never be the same again following a life-changing incident, if they become unable to earn and will be reliant on care for the rest of their life. Although they might be few in number, cases that involve the discount rate for future losses will benefit from the bill.

The second principle is 100 per cent compensation and the overarching goal of working out a system that would limit undercompensation or overcompensation as much as possible, while

recognising that, of course, there can be no exact science for that—as the minister said—and acknowledging the effects of not getting it right for pursuer or defender. Defenders include not just insurers to whom we might have to pay higher premiums. They also include public bodies that we, as taxpayers, fund—for example, the national health service, which could, as we heard during stage 1, be at risk in both overcompensation and undercompensation scenarios. Broadly speaking, the bill has tried to strike the right balance, and I hope that it has been largely successful in that.

Some of the committee's concerns at stage 1 have been ironed out during subsequent stages. During stage 1, and in my role as convener of the committee, I raised in our report members' concerns about gaming, a term that relates to cases in which a settlement might be delayed if one or other party anticipates a more favourable rate coming into force. It was welcome that the minister changed the review period of the discount rate to five years. Keeping up to date with market changes is essential in ensuring that the legislation stays relevant, unlike the current process for setting the discount rate, under which a review that was held in 2017 was the first in 15 years.

A number of members from across the chamber have raised the importance of the pursuer's views in determining periodical payment orders or lump-sum awards. PPOs can be preferable for some people because they give the certainty of a regular income over time. Others prefer a lump sum in order, for example, to pay for accommodation at the outset.

Amendment 1 at stage 3 set a slightly different tone from amendments at stage 2, by asking that the court

“have special regard to the pursuer's needs and preferences”,

rather than making a presumption in favour of the pursuer's preferences.

As the minister said in responding to the committee at stage 1, it is important not to undermine or limit the courts' ability to make the best decision based on all the facts and circumstances of a particular case. Amendment 1 should not prevent courts from making the best decisions, but I would welcome further comment from the minister on how she envisages a court approaching the matter.

Concerns remain about amendment 9, as outlined earlier by my colleague, Dean Lockhart. The goal of the bill is to stick to the 100 per cent compensation principle as far as possible. Witnesses at stage 1 told the committee that:

“The award of damages is not an investment pot—it is not a reward. It is a sum of damages that is awarded to

look after somebody's needs for the rest of their life.”—*[Official Report, Economy, Energy and Fair Work Committee, 23 October 2018; c 26.]*

There is a risk that amendment 9 will take us beyond the 100 per cent principle and could have significant knock-on effects on insurance premiums and public bodies.

The committee was content with the 0.5 per cent standard adjustments, as, it appeared, the minister was—at least at that stage. Although the change to that is, on the face of it, only a small change, in practical terms it could make a huge difference. That late change by the Government will need to be carefully reviewed, as appropriate, with measures being taken by the Scottish ministers by way of regulation, where appropriate.

16:16

Daniel Johnson (Edinburgh Southern) (Lab):

I, too, thank the clerks and members of the Economy, Energy and Fair Work Committee for their excellent work on the bill. Speaking on the bill, I feel something of an interloper, given the substantial work and the very difficult subject matter that the committee has been dealing with.

I acknowledge and give my thanks to the many organisations and individuals who participated in the drafting and consultation process. Undoubtedly, their work means that we have a stronger bill in front of us.

Labour supports the bill and welcomes its aim of creating a fair, transparent and credible personal injury discount rate and damages regime. The bill seeks to protect people who have suffered significantly and who, in many cases, will undoubtedly be vulnerable, and to provide greater clarity, transparency and security to those who have been injured through wrongful behaviour.

Ultimately, the bill will ensure that the damages system in place is fair and equitable. It is about creating a system that empowers those who seek compensation, rather than taking away more of their control. As the minister correctly set out in her opening remarks, there are no easy answers. The bill represents a series of balances that have been struck. Through consideration at stages 1 and 2, most of those balances have been struck well.

Let me address some of the amendments that have been agreed to. The bill undoubtedly represents progress. As I said, there is a debate about where the balances have been struck, and we were pleased that progress has been made. Amendment 1 will ensure that the court awarding damages will be required to have special regard to the pursuer's needs and preferences when deciding whether to impose a periodical payment order. As we have heard, there is a balance to be

struck between the preferences of the individual and the ability of the court to decide on the best outcome, given all the facts before it. Amendment 1 strikes that balance, and the bill is stronger for it. It is an important change, which will provide greater security, protection and reassurance for those who pursue damages through the courts.

I turn to amendment 9. Throughout the passage of the bill, Labour has put forward arguments about how we can make the process fairer for pursuers. We welcome the Government doing likewise in some areas, but we have concerns about amendment 9—we feel that it could have gone further. When the bill was drafted, the Government underestimated the cost to the pursuer of inflation, taxation and investment advice. We are pleased that the Government has raised the level of standard adjustment from 0.5 to 0.75 per cent so as to take into account the impact of taxation and the costs of investment advice and management. People will need that advice and support, because they will undoubtedly be facing decisions that they have never had to make before, and speaking to professionals with whom they do not regularly or normally have contact. It is important that people are provided with that level of support.

As I said, it is disappointing that the Government chose to set a rate at the lower end of the range and one that is lower than many would have wanted. Although we support amendment 9, it is important that the matter is kept under review. I welcome the minister's remarks on that point in debating the amendment.

The bill is an important step forward in providing security to those who have suffered what will often have been traumatic and life-altering events. There is, of course, more that could have been done to provide greater protection to the most vulnerable people who find themselves seeking damages, but the bill is an important step forward.

We urge the Government to keep the measures under review and to be willing to revise and reform the bill's provisions when it has been enacted, not least with regard to the standard adjustments, as I have outlined.

Labour supports the bill, because it will help to protect vulnerable people who have been injured. Although we recognise its flaws, we welcome its passage and the fact that it will create a fairer, more transparent and more credible personal injury and damages awards regime.

16:21

Liam McArthur (Orkney Islands) (LD): I welcome the opportunity to make a few brief remarks although, like Daniel Johnson, I feel like a bit of an interloper in the debate.

Like others, I pay tribute to the members of the Economy, Energy and Fair Work Committee and its clerks for all the work that they have done on a bill that is technical but hugely important, particularly for people who find themselves having to make a compensation claim. Those people are often vulnerable, and they will possibly be at a low point in their life.

The committee was absolutely right to observe in its stage 1 report:

“The number of people affected by personal injury cases where the discount rate applies may be small but the means of calculating their compensation is of vast importance to them and their families, as well as to pursuer and defender interests (the NHS included) and the insurance industry.”

That encapsulates what we are trying to wrestle with.

As I observed during the earlier proceedings, I have had some engagement with the issues through the Justice Committee's work on the Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018. During that process, the importance of clarity and transparency, which Gordon Lindhurst and Daniel Johnson have made points on, were at the forefront of our thoughts. They are absolutely key. There is a need to try to avoid the risk of undercompensation and, indeed, overcompensation. As the committee observed, that is “not an exact science”. A balance has to be struck.

I will make a couple of observations that follow on from the earlier exchanges, when the amendments were discussed.

I am very grateful to Jackie Baillie for setting out the background to her amendment. I realised that the process was iterative. I am also grateful to John Mason for his observations on that. As I said during the Civil Litigation (Expenses and Group Proceedings) (Scotland) Bill scrutiny process, we were concerned then about lump sums being awarded and then not necessarily being used in the best interests of the individual concerned. There was also the risk of some of the lump sum being assigned to legal representatives, and the issue of the compensation that was needed to manage the costs over a lifetime was very much at the heart of what we sought to achieve. A balance has been struck through Jackie Baillie's amendment to ensure that the pursuer's needs, interests and wishes are properly respected and reflected in any judgment that the court comes to as a result of the process.

The other concern related to amendment 9. I will not rehearse that, but I was slightly concerned about what the minister set out in response to a recent parliamentary question from Alex Cole-Hamilton, which bears repeating. She said:

“The Scottish Government expects that the UK Government will continue to cover the costs arising from the change in the discount rate to the extent that the rate in Scotland is in line with the rate in England and Wales. The Scottish Government will continue to pass this funding to the NHS in Scotland.”—[*Written Answers*, 13 March 2019; S5W-21903.]

It is not entirely clear to me how the shortfall will be made up where those rates diverge.

I know that the minister is acting on actuarial advice, but I am interested to know what conversations have taken place with her health colleagues. It would also be interesting to know why an updated financial memorandum was not published ahead of stage 3.

I recognise that there is an opportunity to review the process. Some colleagues wish the rate to be somewhat higher than the minister proposed and others are concerned that it has increased since stage 1. There is a balance to strike and it is impossible to get the approach absolutely right in every instance, but there are concerns about the process that led to this point.

The bill is welcome. Like the Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018, it appears to strike the best balance. The bill ensures that people who pursue personal injury cases have the clarity, transparency and security that they need, and it has fairness very much at its heart. On that basis, Scottish Liberal Democrats will support the motion at decision time.

16:25

John Mason (Glasgow Shettleston) (SNP): I very much welcome the fact that the bill has got to stage 3. It seems that we have not had many major disputes over amendments this afternoon.

A lot of the bill is about getting the right balance between pursuers and defenders. We do not want to overcompensate or undercompensate but, to be frank, it is impossible to get every case exactly 100 per cent compensated. In fact, it can be argued that every case is inevitably overcompensated or undercompensated. We then have the question whether it is acceptable to have 50 per cent of people overcompensated and 50 per cent of people undercompensated. The Government feels that that is unacceptable and that we should reduce the numbers who are undercompensated, and I tend to agree.

Two contentious issues have been the further margin adjustment and the adjustment to cover tax and financial advice. The Economy, Energy and Fair Work Committee had conflicting evidence on both. The further margin adjustment is to be 0.5 per cent. The Association of British Insurers and others argued fairly persistently for a reduction to 0.25 per cent, and we also heard arguments for an

increase, as even 0.5 per cent will leave substantial numbers undercompensated if they live longer or if inflation is higher, for example. On balance, I feel that 0.5 per cent is reasonable and gets the balance about right.

The figure on which the Government has moved is that for tax and financial advice. Again, the committee found it difficult to pin down witnesses, but the general feeling was that 0.5 per cent might not be sufficient. We particularly felt that, at the start of the process, immediately after a lump sum had been awarded, most recipients would be seriously beyond their comfort zone and would need substantial amounts of advice.

I am therefore comfortable that the Government has moved to 0.75 per cent. As Ash Denham said, she has acted on the most up-to-date advice. Gordon Lindhurst said that there was a risk of more than 100 per cent compensation, but some people—just fewer of them—will inevitably get less than 100 per cent. Labour and Daniel Johnson said the opposite—they feel that we should have gone further. There is a lack of information on what pursuers do with a lump sum, and maybe that needs to be looked at and studied more.

Part of me wonders how many such figures should be in primary legislation, which is more difficult to change, and how many could have been in regulations. However, we are at stage 3 now, so it is a bit late in the day to change that.

Another issue has been exactly where periodical payment orders sit in the scheme of things. They seem an attractive option to many of us, as they considerably reduce the risk—for example, from inflation or a longer life expectancy—that a pursuer is subject to. However, we heard evidence that some victims are against PPOs, perhaps because they do not trust the defender to pay or because they do not want any on-going relationship with the defender. We are not trying to tie the hands of the courts, but many of us did not feel that it would do any harm to give the courts a strong indication—as amendment 1 has done—of Parliament’s thinking that they should take seriously the pursuer’s wishes.

Today, at stage 3, we have a bill that will greatly modernise the previous system. Even though the committee’s witnesses did not agree on their detailed evidence, I think that they agreed that the proposal is a step in the right direction and that we should be legislating on this matter. In particular, the idea that investors would put all the money into gilts—traditionally, that has been the safer thing to do—has increasingly seemed unlikely in practice.

It is good that the Government has engaged on the points about which the committee had concerns, and that we have been able to reach a fair degree of consensus today. The Economy,

Energy and Fair Work Committee does not deal with a lot of legislation, but I think that we have given the bill very thorough and fair scrutiny, and I am sure that we would be open to handling more legislation in future.

16:30

Jamie Halcro Johnston (Highlands and Islands) (Con): I welcome the opportunity to speak in this final stage of the bill. As members will be aware, I have been involved with the bill in each of its stages: I spoke at stage 1, I was involved in the committee at stage 2, and I am speaking in the stage 3 debate today.

The bill's principles have remained constant. It is right that we make provision to compensate in full those who have suffered injuries, while recognising that overcompensation brings its own problems.

There has been a long wait for a fairer method of setting the discount rate for personal injury cases. Prior to the bill's introduction, the existing method had simply not been reviewed for an extended period. As a consequence, the changes that we now see are significant.

When I spoke in the stage 1 debate, I highlighted the importance of the subject that we are dealing with, which bears some brief repetition. Although they seem technical, ultimately the rules that we are laying out will ensure that individuals—many of whom have been grievously wronged—are compensated. That compensation can mean that the vital support that someone needs to lead a full life is in place, or it can save them the extensive additional costs that their injuries may incur.

As the bill has progressed, there have been several positives. The stage 2 amendments have been broadly welcomed. They have created a better bill. The extension of the review cycle from three to five years is certainly an improvement. As members have mentioned, that mitigates a number of the concerns that had existed about gaming the system, which threatened to drag legal action out, creating problems not only for the defender, but for the courts. The requirement to consult ahead of reviews of the discount rate and the recognition of the need to consider changed approaches will improve the reviews and make them more worthwhile exercises.

At stage 3, we have had a number of technical amendments. I will not dwell too long on them. Amendment 9, which is the main Government amendment of substance, relates to the change to the adjustment for investment charges and taxation, raising it by 0.25 per cent to 0.75 per cent. The minister will be aware that, in our stage 1 report, the Economy, Energy and Fair Work

Committee outlined that it was content with the approach previously presented in the bill relating to the two standard adjustments. The new change is not a minor one, and we do not have a full sense of the cost to businesses and the public sector of making it. In response to a written question to ministers that I submitted last year, it seemed as though they did not have a full picture of the cost of such damages claims to the public purse. In terms of its impact on local authorities, for example, we seem to have drawn a blank.

Much of the discussion on the bill was based on the previous 0.5 per cent adjustment and—as we might expect—that was the basis of the evidence that was taken by the committee. It is therefore disappointing that such an amendment was lodged at this time.

Jackie Baillie's amendment 1 is the key change on periodical payments. I heard the discussion at stage 2 and appreciate that we have been presented with something quite different from earlier amendments. The amendment proposes that "special regard" be given to the pursuer's wishes when a court is considering its approach to a PPO. Ultimately, that leaves the decision to the court to make, in light of individual circumstances. The committee heard evidence that pursuers may be concerned about being seen to be forced into future relationships with the defender through a PPO. Ultimately, it ought to remain a decision for the courts in light of individual circumstances, but amendment 1 provides additional scope for the pursuer to be at the heart of the decision-making process.

The bill is worth supporting. In many ways, it is overdue. I appreciate that ministers have taken some cognisance of the committee's recommendations and the issues that have been raised in the chamber. That said, concerns remain—I think that they are legitimate—about how the changes will operate in practice, and questions remain, particularly on the substantive issue of the standard adjustment that I have spoken about.

16:34

Jackie Baillie (Dumbarton) (Lab): I am grateful for the opportunity to contribute to this stage 3 debate on the Damages (Investment Returns and Periodical Payments) (Scotland) Bill. I congratulate the bill team, the minister and the committee clerks. I thank them and the Association of Personal Injury Lawyers for assisting our consideration of the bill. I think that this is the second bill that the minister has taken through Parliament, which is an achievement of which she should feel proud.

Some might regard the bill as very dry and technical, but it will have a profound effect on those who need to seek compensation. That said, I hope that the provisions of the bill will not apply to many people, because we are talking about people who experience catastrophic and life-changing events. It is clearly desirable that few people experience such trauma and its consequences, but the bill does an important job in focusing on dealing with compensation—how it is calculated and how it is paid.

During the committee evidence-taking stage, it was clear that, although pursuers and defenders had very different views on whether there was likely to be overcompensation or undercompensation, there was agreement about the need for fairness and clarity. The Scottish Government is clear that the policy intention is to achieve 100 per cent compensation for people to whom a personal injury award is made, and I think that we all agree with that objective.

Those who are responsible for paying out compensation—the defenders—believe that the Government is being overgenerous and that its assumptions about investment are far too cautious. For example, defenders suggest that investors will invest in equities and not just in fixed assets, on which there is a lower return. Those who represent pursuers believe that any notional portfolio of investment should be on a no-risk basis and that there might be a danger of undercompensation.

Having listened to the evidence, I think that the Scottish Government's approach is right. It is not that there is no risk; it is that there is a low risk, which strikes an appropriate balance between defenders' and pursuers' interests. At the end of the day, most people with a personal injury award will not have considered an investment portfolio previously. They are likely, as most of us would be, to err on the side of caution.

There might still need to be further work on the standard adjustment for financial advice and tax, but I recognise that we have pushed the Government further than it was originally comfortable going. As I said in the stage 3 proceedings on amendment 9, I welcome the minister's move to a rate of 0.75 per cent. That is an increase of 0.25 per cent on the previous figure, but I will take it. The standard adjustment is under consideration by colleagues south of the border in the Ministry of Justice and the United Kingdom Government. I was therefore ever so slightly bemused by the Scottish Tories arguing against the position of the UK Tories, before they all decided to abstain after someone clearly phoned the front bench—but there we go.

There is no doubt that the change is a step in the right direction, but, after considering the

evidence that the committee heard, we should acknowledge that it might not be enough. A range of reputable financial advisers who are experts in personal damages pointed to a much higher level of costs for tax and advice. I will not rehearse the arguments again, other than to say that even the Government actuary suggested a range of costs, from 0.5 per cent—yes, that is at the lower end—up to 2 per cent. Therefore, I ask that the minister ensures that the issue is kept under close review and that the figure is adjusted with experience, should that become necessary.

I will touch very briefly on periodical payment orders. I welcome the Government's support for my amendment 1. Angela Constance and I pursued the matter in committee and during the stage 1 debate in the chamber. Quite simply, my amendment ensures that, at the end of a lengthy and often distressing court process, the views of the pursuer will be given due consideration by the judge, before they decide whether to make the award as a periodical payment or as a lump sum.

Overall, I hope that the bill will make a positive difference to the experience of people who have pursued a claim for personal injury. I will therefore be pleased to support the bill at decision time.

16:39

Angela Constance (Almond Valley) (SNP): Throughout the parliamentary process for the bill, it has been repeated, including by Jackie Baillie, that although the number of people who will be directly affected by it will—I hope—be small, the minister has brought before us a crucial bill. As I said during the stage 1 debate, the bill is crucial to those who have suffered the consequences of, for example, an accident at work, a birth that did not go to plan or a lack of care or negligence by an individual or organisation, leaving individuals to live with the tragedy of no longer being who they were meant to be or not being able to lead the life that they had worked for or dreamed of.

As Liam McArthur pointed out, while this is a discrete bill, it is also part of a wider package of reform.

I will focus principally on periodical payment orders. As we know, the committee heard a substantial amount of evidence about the risks that victims of personal injury bear in relation to compensation, particularly if it is received in a lump sum. We can be confident that the legislation that is now before the chamber is much improved—it was good to begin with but it is improved as a result of stages 2 and 3. However, no matter how good the bill is when it comes to calculating an award for damages, particularly for future loss, it is fair to say—as John Mason has often said—that that is not, and never will be, an

exact science. The risk of undercompensation can be minimised, but it can never be removed entirely.

It is important to remember that damages are not surplus funds. They are meant to replace loss of earnings and provide for future care costs. Professor Wass gave very powerful evidence, advising the committee of inflation-busting care costs, the unpredictability of life expectancy and the costs of specialist services and accommodation. All of that points to the advantages of a periodical payment order. The bill will, for the first time, give the courts the power to impose periodical payments—crucially, where the continuity of payments is secure.

However, the committee also heard evidence from Patrick McGuire from Thompsons Solicitors and others, who expressed concern about a victim potentially being forced to accept a PPO and how disempowering that could be for someone who has already suffered a catastrophic injury and had to endure a lengthy court process. The minister herself acknowledged that some pursuers will want a clean break from those responsible for their injury. Jackie Baillie rightly pointed out that, in the future, we will see PPOs combined with a smaller lump sum.

The committee recommended that the Government lodge amendments to give more weight to the views of the injured person. During stage 1, the minister gave a very clear commitment to take matters forward. I am pleased that she has done that, in collaboration with other members, particularly Jackie Baillie. It is apt that the matter was addressed in the first and subsequent amendments considered during today's stage 3 proceedings. The wording in amendment 1 that the court must have

“special regard to the pursuer’s needs”

is apt and somewhat poignant.

I welcome the fact that the minister found a way forward to ensure that the voice and preferences of those who have suffered injury are listened to and given appropriate weight, and that therefore we are not adding to the feeling of powerlessness that is felt too frequently in the lives of those with significant disabilities, illness or injury. As the minister highlighted, the bill's objectives are to be clear, transparent and fair. In my view, the bill meets those objectives, and I congratulate the minister and her bill team.

16:43

Daniel Johnson: I will try hard not to repeat the arguments I have already laid out and will touch on some of the points that have been usefully made in the debate.

John Mason set out a good analysis at the beginning of his remarks, asking what we want to achieve. There are two approaches—trying to get it right every time, which is an impossibility, and minimising the situations in which there is undercompensation. Ultimately, that is the approach that the Government has taken, and it is undoubtedly the right approach. If we seek to average off, there will be individuals who, through no fault of their own, are disadvantaged. We must have a regime that seeks to avoid that. The fact that some of those representing defenders say that the Government has been overgenerous is—dare I say it?—possibly a good sign. We cannot have a system whereby the net result is right; it has to be a system whereby we get it right more often than not. That is why, throughout the scrutiny of the bill, I have asked not just what a reasonable person might do, but what a more vulnerable person might do under such circumstances.

The most relevant question that John Mason posed was about what pursuers do with the money that they receive. We do not know. That will have to be monitored and reviewed, because, as Jackie Baillie pointed out, we cannot expect those who are awarded damages to suddenly become investment experts and to always make the right investment decisions. The bill involves a series of balances, and that might be the most important one. We must continue to view such people as vulnerable people. They cannot be expected to become investment experts overnight, which is why it was no surprise that amendment 9 was a matter of some debate. It is important that the issue is kept under review.

I turn to the point about public bodies and what happens when there is undercompensation or overcompensation. In both situations, our public bodies are the ultimate guarantors. We should be concerned about situations in which there could be overcompensation, with the result that public bodies such as the NHS might have to fork out higher payments. However, with undercompensation, there is a risk that those same bodies will have to meet the needs of people who are undercompensated. There is a risk that the shortfall that could arise would have to be met by social services and health services, which would have to support people in that position because they did not have enough money from the damages that were awarded. It is far from a one-sided situation; there are two sides, which need to be balanced.

Liam McArthur rightly highlighted two key interactions. We must be mindful of the changes that are being made by the UK Government—that is true of front-bench members of the UK Government in relation to the amendments that they seek to support or otherwise. To a degree, the Civil Litigation (Expenses and Group

Proceedings) (Scotland) Bill and the Damages (Investment Returns and Periodical Payments) (Scotland) Bill will work in consort. They both deal with how private individuals can seek redress through the courts for situations that are not their fault but which will have a significant impact on them.

We cannot have another regime like the one that we have had, whereby the world moves on and the legislation is unable to keep up. It is clear that, with the welcome five-year review provision, the Damages (Investment Returns and Periodical Payments) (Scotland) Bill has the necessary flexibility and the ability to keep up, but we must make sure that all aspects, including all the calculations of discounts, are reviewed, because the world moves on. Where those discounts are baked into the legislation, there will have to be careful consideration of how they are updated.

Ultimately, the bill will help those who have suffered a great deal, and we hope that it will be a great help to people who pursue compensation through the courts.

16:48

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

I am very pleased to contribute to this afternoon's stage 3 debate on the Damages (Investment Returns and Periodical Payments) (Scotland) Bill. I thank those who provided submissions to the Economy, Energy and Fair Work Committee, the witnesses who attended our meetings and the committee, the minister and her team for the constructive approach that has been taken.

As other members have said, although the bill is technical in nature, it is also very important. It provides for a new statutory regime to calculate the personal injury discount rate that applies to compensation awards in personal injury cases. The Scottish Conservatives welcome its passage. As Angela Constance said, although the discount rate will apply in only a relatively small number of cases, the impact on the individuals and families concerned will be life changing. The additional transparency and clarity that the bill will provide are to be welcomed.

Under Scots law, the role of compensation is to restore the injured party—to the extent that a financial award can—as closely as possible to the position that they were in before they were injured. When they assess the amount of a lump-sum award, courts take into account the net rate of investment return that the injured person might expect to receive from a reasonably prudent investment of that lump sum. That is what is referred to as the discount rate. As virtually every member has said, that calculation is not always a science. However, despite having some

reservations in relation to the investment charges adjustment, which was the basis of our discussion of amendment 9, the Scottish Conservatives will support the bill at decision time.

Before the bill's introduction, there was general consensus among defender and pursuer groups on the need to update the system, to increase the availability of periodical payment orders, to give courts further powers to introduce PPOs and to have regular discount rate reviews. I am pleased that, after revisions at stages 1 and 2, the bill now deals with those issues.

We are pleased that the minister lodged amendments at stage 2 to change the review cycle for the notional portfolio to every five years instead of every three years. It is also important that, in changing to a five-year cycle, the Scottish Government recognised the nature of fast-moving investment markets and changes to investment practice within that period, introducing a formal duty to consult stakeholders as part of that review cycle. I am grateful to the minister for supporting my amendment to that effect, as it has the advantage of making the legislation clearer and more transparent, which is one of the bill's objectives.

There are still some concerns that the notional portfolio that is set out in the bill is too cautious—that it is too highly invested in fixed assets, which offer a lower return than investments in equities. Likewise, some stakeholders still believe that the Scottish Government is being cautious in its approach to having a 0.75 per cent standard adjustment for investment charges and taxation. We have heard the arguments on that before, but it must be seen in the context of the further margin adjustment of 0.5 per cent, which acts as an additional buffer to avoid undercompensation. We understand the Government's approach to legislating in favour of a risk of overcompensation rather than undercompensation, but, as I mentioned, we have to recognise that that comes at a cost.

Some members—including Liam McArthur—have explored the implications of what those costs might be to the NHS in Scotland and other bodies that self-insure. Costs could also be borne by small businesses when claims exceed their insurance limit of indemnity.

It will be important for the Scottish Government to assess the bill's operation and to continuously assess the change to the standard adjustment and other mechanics of the bill to make sure that the bill and those changes do not have unintended consequences.

The Scottish Conservatives will vote for the bill at decision time. We welcome many aspects of it

and we hope that it will work in the interests of all stakeholders.

16:52

Ash Denham: I thank those members who have contributed to the debate and I would like to take a moment to address some of the points that have been raised.

Gordon Lindhurst asked for more detail on what “special regard” would mean for the courts in practice. Of course, it will be for the courts to interpret and apply that provision in the circumstances of a particular case. It is not appropriate for us to go too far in speculating on how that provision will be applied in practice. I hope that I have reassured the member on that point.

Gordon Lindhurst and Liam McArthur raised the point about the difference between the discount rate in Scotland and the rate in England and Wales and what effect that might have on funding for the NHS. Until the respective reviews are completed, we will not know whether there will be different rates. In the financial memorandum, which was specifically mentioned by Liam McArthur, we set out the position as clearly as we can at the moment.

We should remember that the impact of the discount rate can be mitigated by the use of periodical payments. The provisions in the bill that relate to PPOs will be helpful to bodies such as the NHS, which will be deemed a secure funder.

Daniel Johnson and Jackie Baillie mentioned amendment 9. I reiterate that the amendment was the result of advice given to the Scottish Government after analysis by GAD of the most up-to-date evidence available. The rate will be subject to review ahead of each regular rate review and—to reassure Daniel Johnson—it can be adjusted by regulations if the evidence points to the need to do so. In that way, the legislation is, in a sense, future proofed, because it can be updated by regulation.

I note John Mason’s comments on amendment 9 and welcome his general comment on the modernising effect of the bill.

Finally, in her contribution, Angela Constance reminded us of the crucial fact that damages are not surplus funds. That was a point well made.

The bill may seem dry and technical, but often it is a detailed and considered approach that is precisely what is needed to address the complexities and challenges that arise when developing a broad solution for what are all individual and unique cases. Although fair and full compensation is at its heart, nevertheless the bill aims to strike a balance, remembering that overcompensation is to the detriment of the

defender and their insurer. If the balance is tipped too far, ultimately it is the general public who pay, either through funding our public services, such as the NHS, or by paying more for their insurance premiums.

Equally, where their funds run out sooner than anticipated, the pursuer will usually have to fall back on the state for their care and possibly other needs. That point was raised by Daniel Johnson. I hope that it is clear that we have listened carefully to what has been said by stakeholders, the committee and other MSPs during stages 1 and 2. I have been pleased to support the committee’s amendments at stage 2; we have agreed some minor amendments to those today to ensure that they work as intended.

We know that there are many reasons why a pursuer may not want to have any part of their damages paid through an order for periodical payments. Those reasons might be very practical, for example if there is an element of contributory negligence involved, and therefore the damages award has been accordingly reduced. It may be that the investment of a lump sum is the most viable way of making up any shortfall, even if there are risks associated with that strategy. Members spoke eloquently about the powerlessness that a pursuer might feel should a PPO be imposed against their wishes. I have sympathy with that, so I was happy to meet Jackie Baillie on that point to discuss the issues and see whether we could reach an accommodation on what would be an appropriate amendment to the bill, bearing in mind that there were legal constraints around what could be done. I think that Jackie Baillie has got the right balance in her amendment in that regard.

Overall, the bill has picked a very careful path through the competing demands of pursuer and defender interests. It was defender interests, supported by the committee in its stage 1 report, who pressed for change in the frequency of review from three years to five years. I lodged some amendments of a minor nature that were agreed to today that respond to points raised by the Association of British Insurers after its scrutiny of the bill, and I was pleased to lodge amendments that were agreed to at stage 2 that ensure that where proceedings to vary an order for periodical payments are raised, the pursuer should continue to receive the protection of qualified one-way costs shifting, as that is in the spirit of the legislation as it relates to personal injury actions.

The amendment debated earlier that increased the standard adjustment for tax and investment management costs simply preserves the interdependencies and therefore the integrity of the methodology for reaching a new rate and ensures that it remains robust and fit for purpose.

On that note, it would be helpful to focus on one of those provisions in particular. I would like to talk about the hypothetical investor, because that is the constant in the bill. Any changes to the investment portfolio, whether they be of the asset type or the percentage allocation, can be made only where the end result is that the notional portfolio remains suitable for investment by the hypothetical investor. The characteristics of the hypothetical investor have been carefully formulated to capture the likely investment objectives of a pursuer.

Importantly, the bill has been future proofed so that the Scottish ministers have the tools and flexibility to ensure that all the components necessary to arrive at a rate, or rates, can be kept up to date. That will allow ministers to ensure that the legislative framework for setting the rate remains appropriate.

Finally, I repeat my thanks to all those who gave evidence to help to improve the bill during its parliamentary passage, and I commend the motion in my name.

The Presiding Officer (Ken Macintosh): That concludes proceedings on the Damages (Investment Returns and Periodical Payments) (Scotland) Bill at stage 3.

Decision Time

17:00

The Presiding Officer (Ken Macintosh): There is only one question to be put as a result of today's business. Because it is a question on a bill at stage 3, we will have a division. The question is, that motion S5M-16394, in the name of Ash Denham, on the Damages (Investment Returns and Periodical Payments) (Scotland) Bill at stage 3, be agreed to. Members should cast their votes now.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Corry, Maurice (West Scotland) (Con)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (West Scotland) (Con)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Harper, Emma (South Scotland) (SNP)
 Harris, Alison (Central Scotland) (Con)

Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mason, Tom (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wells, Annie (Glasgow) (Con)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The motion has been agreed to and therefore the Damages (Investment Returns and Periodical Payments) (Scotland) Bill is passed. [*Applause.*]

The Presiding Officer: The result of the division is: For 112, Against 0, Abstentions 0.

Motion agreed to,

That the Parliament agrees that the Damages (Investment Returns and Periodical Payments) (Scotland) Bill be passed.

Scottish Tourism Month 2019

The Deputy Presiding Officer (Christine Grahame): The final item of business is a members' business debate on motion S5M-16004, in the name of Stuart McMillan, on Scottish tourism month 2019. The debate will be concluded without any question being put.

Motion debated,

That the Parliament recognises that March is Scottish Tourism Month, which is coordinated by the Scottish Tourism Alliance (STA); understands that the aim of this is to engage, connect and inspire all of Scotland's tourism businesses and organisations, as well as celebrate the enormous contribution that tourism makes to the economy; believes that the industry will come together to host a variety of sectoral, destination and business events under the mantra, Tourism is Everyone's Business; understands that the month offers an opportunity for anyone and everyone to get involved in the networking events and tourism conversations all over the country, including Scotland's Marine Tourism Conference, which takes place at the Beacon Arts Centre in the Greenock and Inverclyde constituency on 6 March; considers Inverclyde to be the country's marine tourism capital; notes the calls for everyone to engage with the month, and hopes that the annual conference of the STA on 13-14 March is a success in bringing stakeholders together and proves to be impactful and inspiring.

17:02

Stuart McMillan (Greenock and Inverclyde) (SNP): I thank every member who signed the motion to allow the debate to take place. I am a member of the Parliament's Culture, Tourism, Europe and External Affairs Committee, as well as convener of the cross-party groups on tourism and on recreational boating and marine tourism, so I am delighted to lead the debate.

Members will have heard the phrase, "Tourism is everyone's business". That is not just a catchy soundbite—it is a fact. Tourism plays a huge part in the success of major events such as the Solheim cup, which will take place in Fife later this year, the European indoor athletics championships that recently took place in Glasgow, the rugby tourism that happens every year through the six nations tournament and the autumn tests, and the many local highland games that happen across the nation.

Across the nation, there are also a million and one tourism opportunities that entice people to see them—including, in your constituency, Presiding Officer, Thirlestane castle in Lauderdale and the Tempest Brewing Company in Galashiels. In Emma Harper's region is the Heads of Ayr farm park, which has something for children of all sizes and ages. In Gillian Martin's constituency is the Glen Garioch distillery—I hope that I have pronounced that properly—which is Scotland's most easterly distillery. I have mentioned the

areas of those two members because I know that they will speak on behalf of the Scottish National Party in the debate.

Then, of course, there is the wonderful constituency of the Cabinet Secretary for Culture, Tourism and External Affairs, where people can visit Linlithgow palace and the Linlithgow canal centre.

Members: Sook!

Stuart McMillan: Yes, I know.

Our country has tourism offers in abundance—it really has something for everyone. I particularly like a comment that was made by the chair of VisitScotland, Lord Thurso:

"Scotland for me is a land of innovation based on our glorious traditions. Both sides of that are important. We should celebrate our heritage of kilts, shortbread and heather along with our educational strengths and our inventiveness."

I could not agree more.

My motion highlights that March is Scottish tourism month, which is organised by the Scottish Tourism Alliance. I warmly welcome that excellent initiative because it highlights many things. First, it is a celebration of what tourism brings to the nation, and to local communities. Secondly, it makes more people in our nation and elsewhere appreciate what we have to offer. Scotland might be a nation that is small in size, but we more than make up for that in when it comes to the stature of our many unique selling propositions and what we have given the world. I thank the STA for its excellent efforts and the work that it does all year round to promote Scotland as a tourism destination.

I also highlight the recent Sail Scotland marine tourism conference at the wonderful Beacon arts centre in my Greenock and Inverclyde constituency. The conference was on a return visit to Inverclyde, and the location was fitting. Marine tourism plays a growing role in the tourism economy, and the work of our cross-party group in helping to deliver the first marine tourism strategy is something of which I am immensely proud. With only a small part of our country having a border and the rest being surrounded by water, there was a glaring opportunity to be worked on, and it is now bearing fruit.

The absolutely shameless plug that I am about to offer for my constituency could go on all night, but I will highlight just two examples. First, Inverclyde is Scotland's marine tourism capital. Whether it is recreational boating, with Kip marina being the home of Scotland's boat show in October, or the growing number of cruise liners that are arriving, we are delivering more every year. When the new cruise ship visitor centre

opens in Greenock, it will include some of the works of the late iconic George Wyllie, who lived in Gourrock. The even bigger opportunity for cruise tourism is for more ships to use Greenock as their departure point, thereby encouraging more hotels to open up in the Greenock and Inverclyde constituency. That was touched on in an article in yesterday's *Greenock Telegraph*, as an operator is looking to invest in Inverclyde.

Secondly, this is an important year for the history and legacy of one of Scotland's greatest sons: James Watt. The cabinet secretary will be aware of my efforts to create a James Watt festival to mark the bicentenary of his death. Watt is a gift from Greenock to the world. The McLean museum is to be renamed the Watt institution, and it will reopen this year after its refurbishment, which has been part funded by Historic Environment Scotland and by Inverclyde Council. I was delighted to hear today that the James Watt commemorative tartan has now been agreed by the Scottish register of tartans.

I have unashamedly focused on some of the positive elements of tourism in our nation, but I also want to touch on three of the challenges. There is no doubt but that some members will raise the issue of the transient visitor levy; it is important that that issue be debated sensibly. The cabinet secretary made it clear last week that it will not be introduced until 2021 at the earliest, and that local authorities will have the choice whether to use it. I understand the argument against it, with VAT being so high. That being the case, what would be the financial impact if VAT were to be reduced and the levy brought in? A strong and logical argument could well then be deployed that it should be a national levy and not a local power. That would, however, fly in the face of devolving more responsibilities to local authorities.

A second challenge is the environment. I have raised with the Scottish Government before the issue that some camper-van drivers dump their human waste at the roadside instead of at appropriate sites. A constituent who raised the issue with me came back to my office and spoke to me about it again yesterday. He has also raised his concerns with the Caravan Club. He has been a caravanner for more than 50 years and is angry that some people from Scotland and elsewhere think that it is fine to dump their human waste illegally instead of paying a nominal fee to keep Scotland clean.

The third challenge is Brexit. The respected travel writer and author, Simon Calder, has stated:

"The travel industry is in complete disarray - flights from Edinburgh to Germany for £13 on 1 April, or a week's package in Malta for £180. Westminster is committing criminal damage against Scottish tourism."

Politicians need to listen. Mr Calder made his comments last week at the STA signature sessions event.

I will conclude on a positive note—something on which we can all agree. VisitScotland does an excellent job and its helps to partner many organisations together. It has become a widely respected international body and has shown great leadership in tourism. The Scottish Government's themed years have certainly been a boost for VisitScotland: I am particularly looking forward to the 2020 year of Scotland's coast and waters.

I want to say happy 50th birthday to everyone at VisitScotland. Thank you for what you have done and for what you will continue to do. Here's to the next 50 years.

17:10

Emma Harper (South Scotland) (SNP): I congratulate my friend and colleague, Stuart McMillan, on securing the debate.

"The aim of Scottish tourism month is to engage, connect and inspire all Scotland's tourism businesses and organisations"

and to celebrate the enormous contribution of our tourism industry to Scotland's economy."

I commend Stuart McMillan for his in-depth contribution. It is clear that he has fantastic knowledge of the contribution that tourism, including marine tourism, makes to Scotland's economy.

"Tourism is everyone's business" is the driving message behind the month-long event, which is an opportunity for everyone to get involved in networking events and tourism conversations across our country.

On Saturday, I attended a Cycling UK Scotland networking event, which was held in Dalbeattie in my South Scotland region, as part of its national campaign to engage with community cycling groups across Scotland. The event was attended by Lee Craigie, who is Scotland's new active nation commissioner; Sally Hinchcliffe, who is a founder of Cycling Dumfries; and Jeff Frew, who is the local Cycling UK co-ordinator for Dumfries and Galloway. The main subject was how we can improve the cycling infrastructure across south-west Scotland in order to better connect communities and to attract more active travel and active tourism to the area. Active tourism would benefit the local economy—cycling and walking are key for our region.

As members might know, we have many of the world-class 7stanes mountain bike trails, numerous on-road cycle routes, and now a new regional BMX track in Newton Stewart for people to enjoy. However, there is a need for the road

routes, pathways and cycleways, and even the waterways for paddle sports, to be better connected. Following representations from constituents and local organisations, I have written to the Scottish Government, Borderlands growth deal officers, and Dumfries and Galloway Council about that.

Across Dumfries and Galloway, we have a rich selection of micro and small food and drink businesses, many of which are known across the region for their excellent quality. Many of those businesses are working together with partners including VisitScotland and DG Food and Drink, which is managed by Lorna Young.

In Dumfries, we have the Palmerston cafe, which opened in 1969. It offers a range of more than 50 flavours of award-winning ice cream, from traditional favourites such as old-fashioned vanilla, to more exotic flavours including Irn Bru, bubble gum and—my favourite—jaffa cake. I assure members that lots of insulin is needed for that one.

In Dalbeattie, the Galloway Soup Company cafe makes a wide range of soups using the finest local ingredients and has a shop that is loaded with other great food and drink from Dumfries and Galloway. In Castle Douglas, In House Chocolates by Design, which is an award-winning local shop that offers bespoke chocolate treats, is also doing great business. In Stranraer, Henrys Bay House restaurant serves Scotland's finest seafood, including the delicious local Loch Ryan oysters. We are also lucky to have the best produce in Scotland: Scotch beef, Scotch lamb, venison, gin, whisky and even Galloway-grown chillies, which are made into great hot sauces.

Although I do not have time to talk about all the fabulous work across Dumfries and Galloway, I will mention some of our world-renowned visitor attractions, which I encourage all to visit and enjoy. The Stranraer oyster festival, which is now in its third year, is attracting more visitors to Stranraer, with an economic input of about £1 million in 2018. The redevelopment of Stranraer waterfront is another exciting project that is getting under way.

We have the world-famous Wigtown book festival, which our First Minister spoke at last year, the luminaire festival in Kirkcudbright, Dumfries and Kirkcudbright farmers markets, the big Burns supper, the dark sky park and the Galloway and Southern Ayrshire Biosphere Partnership. The list is endless.

In conclusion, I pay tribute to all the businesses, people and organisations who are working hard to make the region as attractive as possible to visitors. I ask the Scottish Government, particularly in view of the formation of the south of Scotland economic partnership ahead of the new enterprise

agency, to make sure that our infrastructure—including roads, rail, ferries and, let us not forget, provision for active travel and our cyclists and walkers—is the best infrastructure, to ensure that people come to visit our most braw and bonnie corner of Scotland.

17:15

Alexander Burnett (Aberdeenshire West) (Con): I join my colleagues in thanking Stuart McMillan for bringing to the chamber this debate on Scottish tourism month, which is co-ordinated by the Scottish Tourism Alliance. I am sure that everyone in the chamber will agree that Scotland is one of the most beautiful countries in the world, and that we are lucky to call it home.

Earlier this month, I was delighted—and not unsurprised—to see that tourist numbers in the north of Scotland were up by more than 5 per cent. *The Press and Journal* reported that notable visitor increases were seen at various National Trust for Scotland properties, and that significant numbers were recorded at distilleries and whisky-related attractions, including the Royal Lochnagar distillery in my constituency.

Just this past weekend, I was in Orkney, and was lucky enough to visit Skara Brae. Catching a moment to read the local weekly paper, *The Orcadian*, I learned that Historic Environment Scotland has noted that that heritage site had a record-breaking year in 2018 and was the sixth most-visited heritage site in the country, with nearly 112,000 visitors.

At this point, I would like to note my entry in the register of members' interests in relation to a number of tourism businesses that I am involved in, from promoting local artisans to providing family-friendly accommodation.

Tourism is a necessary and welcome part of our sustainable future, as we diversify economically from oil and gas, and I am proud to play my part in it. I am also proud to be part of clan Burnett. Many relatives of the clan from all over the world have been encouraged to come and learn about its history. Ancestral tourism has played an important part in drawing visitors to Scotland, and our clan is no exception. There has been a Burnett gathering at Crathes every four years since 1992. Numbers have risen each year, with 2017 seeing more than 200 Burnetts visit Deeside from around the world. I am sure that such a volume of Burnetts might not appeal to everyone but—joking aside—clan gatherings have huge potential for Scottish tourism, and I have seen at first hand the benefit that they can bring to the local tourism industry. Those who flocked to our gathering from afar also attended the Aboyne games, took bus tours around Deeside, visited local National Trust

properties, and many went on to other places in Scotland—in particular, Edinburgh and the Highlands. All that resulted in a contribution to Scotland's economy of more than £250,000.

The north-east continues to build on its tourism successes, and 2020 will see the opening of the £350 million extension of Aberdeen harbour. Yvonne Cook from VisitAberdeenshire noted that that will be a game changer, because it will allow ships carrying several thousand people to dock. That can only result in boosting of local tourist attractions' visitor numbers, so businesses across Aberdeenshire are eagerly anticipating the harbour opening.

Maureen Watt (Aberdeen South and North Kincardine) (SNP): Does Alexander Burnett agree that not everyone wants to come off a ship and immediately get on a bus, and that it is important that there are attractions within walking distance of the new harbour at Nigg Bay, including in Torry, in my constituency?

Alexander Burnett: I very much agree. It is important to realise that, with so many visitors, not everybody is immediately going to jump on a bus and head up to Deeside, although we hope that many will. I am sure that people in Aberdeen will take every opportunity to do as much as they can to encourage those visitors into Aberdeen and elsewhere in Aberdeenshire.

The area is also about to see the opening of a brand-new exhibition centre at Dyce. I saw its impressive size as I flew back from Orkney yesterday, and I have no doubt that it will help to attract bigger events to the area and will offer even more opportunities for businesses to engage.

Scottish tourism month aims to bring together and inspire all Scotland's tourism businesses, and I am lucky to have seen the benefits that collaboration can bring to local communities and the economy.

I have no doubt that Scotland will continue to prosper and flourish, and I look forward to another successful year for Scottish tourism.

17:19

Claire Baker (Mid Scotland and Fife) (Lab): This evening's debate is a good opportunity for the Parliament to recognise and celebrate Scottish tourism month. I congratulate Stuart McMillan on securing the debate and on his speech. I recognise the huge amount of organisation and preparation that goes into Scottish tourism month and the benefits and opportunities that it brings to Scotland's tourism businesses and organisations.

Tourism is important to Scotland's economy. It involves many businesses and employs people directly and indirectly. Tourists in Scotland

generate around £12 billion of economic activity in the wider Scottish supply chain and contribute about £6 billion to Scottish gross domestic product. That represents about 5 per cent of total Scottish GDP. There has been growth in the number of people visiting Scotland from across the United Kingdom and internationally. There has been particularly strong growth in the number of visitors from Europe, and the sector is working hard to meet expectations and provide a quality experience.

The breadth of events that are taking place during Scottish tourism month demonstrates that the sector is working hard to play to Scotland's strengths and offer unique experiences for travellers. As Stuart McMillan said, the marine tourism conference is promoting a growth area and looking forward to the year of Scotland's coasts and waters in 2020. Showcasing events such as ScotHot and the Wild Scotland conference offer important opportunities for the sector to network, collaborate and ensure that businesses remain fresh and relevant. Scotland is doing well, but tourism is a competitive market and we need to work hard to demonstrate our value.

A couple of weeks ago, I went to a discussion about staycations entitled "Should I stay or should I go?" with Fife College travel and tourism students. More than 70 students from across the campus attended. The students represent the future of the sector, so it was great to hear their ideas about what makes Scotland attractive and how we can increase the number of people who choose to holiday at home. The weather is, of course, a factor in people choosing Scotland as opposed to travelling abroad, but the students also discussed improving infrastructure and transport links and promoting more tourist cards that offer multiple discounts for the home market. The young people are enthusiastic about the sector and will be an asset to our tourism businesses.

Tourism supports jobs across Scotland and is a significant employer in parts of the country. However, the future is unpredictable, and, until our relationship with the European Union is resolved, we will not know the impact on tourism in many areas. Whatever happens, we know that Scotland will still have a story to tell. Our natural environment, our historic buildings—which are having a renaissance in popularity, thanks to enthusiasm for "Outlander" among other things—our wildlife and our Scottish food and drink sector are strengths and will remain so. We need to find ways to support the tourism sector in whatever the changed landscape will be.

There will be pressure on workforce and skills, and any new migration system must reflect Scotland's needs. We also need to promote careers in the sector as being attractive.

Organisations such as the Springboard Charity work to support people who are unemployed or from disadvantaged groups to pursue a career in tourism and gain new skills. An important part of attracting people into the sector is ensuring good pay and conditions and not allowing exploitative work practices. Unite the union's fair hospitality campaign is doing great work on that. I also welcome the launch of the manifesto of chefs and cooks, which aims to put good practice at the heart of hospitality.

At the weekend, I was at Kirkcaldy's food and drink festival, which was organised by Kirkcaldy 4 All as part of the Adam Smith festival. It was a good example of businesses, charities and colleges working together to promote their town, showcase its strengths and celebrate its history. Such hard work helps to promote the area and deliver multiple benefits, including for the tourism and hospitality sectors.

Scottish tourism month gives a focus to such collaborative working, which is important to the sector as it increasingly serves tourists who choose to come to Scotland for an experience that they cannot get anywhere else. I wish Scottish tourism a successful month and look forward to a positive future.

17:23

Patrick Harvie (Glasgow) (Green): I congratulate Stuart McMillan on bringing the debate to the chamber. As he said, there are aspects of the subject on which there is complete consensus across the Parliament, such as our pride in the country in which we live and the joy that we experience when we share what is great about Scotland with people who come to visit, whether they have come to experience older traditions to do with heather, golf and whisky or some of the newer aspects—I am thinking of the aim in the food and drink strategy to grow our brewing tradition. There are people who will travel far and wide for excellent beer, and Scotland should be proud of what it is producing in that regard.

As Claire Baker said, if the sector has continued success, that will strip away any justification among some operators for continuing to pay below the living wage or for using exploitative terms in contracts. We should be proud of having a thriving and successful tourism sector that treats all its workforce with the respect that they deserve.

There are also challenges that we need to debate honestly, as Stuart McMillan was right to point out. In particular, my colleague Andy Wightman has been working hard to say that there are good and bad practices in accommodation, particularly in places like Edinburgh. His work on

short-term lets offers us the opportunity to distinguish between them. We can have great quality tourism, including the accommodation that is required, without the negative consequences that have been created in some communities.

An Edinburgh resident who wrote to Andy Wightman at the start of his campaign said:

"I live in a tenement block in Edinburgh. When I moved into my flat there was a mixture of residents—old and young, single people and families with kids. Many were owner occupiers while others rented ... Now on my floor the other two flats are run as short term lets. One is a short term let all year round—it's a residential flat purchased for purely commercial purposes."

If we see more and more residential accommodation—part of our community fabric in urban and rural Scotland—turned over to short-term letting businesses, it will come with consequences that are not good for the places where we live. We do not want to turn Scotland into a lowest-common-denominator tourism offering; we want to maintain strong, vibrant, enjoyable communities that are places that people will want to continue to visit and return to. I fear that, if people feel that they are visiting communities that are not being well looked after, they will not return.

Another issue that Stuart McMillan mentioned is taxation. I am not entirely sure what he meant by turning the transient visitor levy into a national proposal, because, to me, that would undermine its core purpose. For example, it would not go to fund our local councils, which invest in such things as streets, pavements, the urban environment, the built environment and even things as basic as toilet facilities—which Highland Council, in particular, has been keen to stress are really important to the quality of tourists' experiences when they come to visit. Giving councils the ability to raise revenue locally is critical to maintaining an attractive place that people will want to visit again.

Stuart McMillan: If Mr Harvie reads the *Official Report*, I am sure that he will see that that was not what I was arguing for. I was highlighting the fact that, if some people argue for a reduction in VAT—which I disagree with—others could argue that the scheme should become a national rather than a local scheme.

Patrick Harvie: I apologise if I misunderstood the point. We have a commitment that what will be consulted on will be a locally determined tax, and I look forward to the Government continuing to commit to that.

Other, longer-term challenges that Scotland will have to face include the diversification of our economy away from oil and gas, which Mr Burnett mentioned. Not just in Scotland but globally, we face a crisis of our very survival, and moving from oil and gas extraction to an economy that depends

on ever-greater levels of aviation is not a solution to that. We need to do what we can to make sure that people have good, affordable, accessible opportunities to visit Scotland by surface routes. At the moment, for example, a big tax cut through air passenger duty or the air departure tax would give a huge subsidy to local flights in the UK. A huge proportion of that tax cut would subsidise unnecessary short-haul aviation, which we cannot afford to see continue to grow.

I commend the work that we have done on the case for an aviation tax that limits environmental damage, because, unless we look after the environment, which is the foundation of what makes Scotland such an attractive place to visit, we may see short-term growth but long-term decline, which is not something that any of us should welcome.

17:29

Liam McArthur (Orkney Islands) (LD): I join other members in thanking Stuart McMillan and congratulating him on securing this debate on a sector that genuinely touches and has an impact on every corner of the country. Mr McMillan and I enjoy a good-natured rivalry over whose constituency attracts more cruise liners over the course of a season. Orkney is set to have 164 liners this year, so I am quietly confident that we may still have the upper hand. That is not without its challenges, and I will come to some of those shortly. Nevertheless, it is worth emphasising that Orkney is benefiting from the growth in tourism, as are communities across the country and Scotland as a whole.

After Alexander Burnett's spoiler alert, I can confirm that tourism in Orkney is on the up. The statistics from VisitScotland suggest a 22 per cent increase in visitor numbers between 2013 and 2017—up to about 340,000, with average spend up over the same period and an overall contribution to the Orkney economy of about £50 million by 2017. That is not bad at all for a community of 21,000 people. That is a success story, and it has not gone unnoticed. A decade ago, I referred in the Parliament to something that "Lonely Planet" had said, suggesting that Orkney is the

"glittering centrepiece in Scotland's treasure chest of attractions".

The shine has not come off that centrepiece in the intervening years. In the Halifax survey in 2019, Orkney was voted the best place to live. Kirkwall was voted top of the stops by passengers of the prestigious Viking Cruises for north Europe and Scandinavia. Orkney was also the runner-up in the "Countryfile" competition to find the best UK holiday destination for 2019—we have, of course, asked for a recount in that contest.

That all reflects the growing reputation of Orkney as a quality destination, which is important. It is not just a numbers game; it has to be about the quality and sustainability of what we offer. Orkney has natural assets, with its stunning landscapes and marine environment, with internationally renowned UNESCO sites, with world-class food and drink and with a hugely creative arts and crafts sector—the list goes on. We have found a way of harnessing all of that, and I pay tribute to the Orkney gateway project, which is a testament to the efforts, vision and collaboration of many partners including Destination Orkney, Orkney Islands Council and VisitScotland. There is the upcoming year of coasts and waters, in 2020, and the year of Scotland's stories, in 2022. Both of those celebrations play very much to Orkney's strengths. I am also delighted that Orkney is to host the international island games in 2023, which is a further opportunity to showcase what Orkney has to offer.

Stuart McMillan, Patrick Harvie and others have a right to enter a note of caution. We cannot be complacent or simply rest on a numbers game, and the success has come with many challenges. More active management of the tourists coming to Orkney will be required to take pressure off some of the busier sites and make better use of the wider assets that we have. Key to that will be our internal transport links—in particular, the replacement of our ageing ferry fleet that operates between the smaller isles. That is something on which the Scottish Government will need to step up to the plate.

Orkney and Shetland routes also require the road equivalent tariff to be implemented, not just in the interests of fairness but to remain competitive in tourism. VisitScotland has made real strides, but there is more that it could be doing to disperse tourists from the central belt by promoting the regions and the diversity of the product that Scotland has to offer. Furthermore, in Orkney we have world-class heritage sites, as I have said, but we still do not have the world-class infrastructure to support them. Historic Environment Scotland needs to keep working with local partners to deliver that infrastructure over the coming years.

It is right, in Scottish tourism month, to recognise and celebrate our successes and what we have to offer. However, given the importance of the sector not just to Orkney but to all parts of Scotland, we cannot be complacent and rest on our laurels. Tourism month is an opportunity to remind ourselves of that.

I thank Stuart McMillan once again, and I wish all those working in the sector a highly successful 2019 season.

The Deputy Presiding Officer: There are still four members who wish to take part in the debate, so I am minded to accept a motion without notice, under rule 8.14.3 of the standing orders, to extend the debate by up to 30 minutes.

Motion moved,

That, under Rule 8.14.3, the debate be extended by 30 minutes.—[*Stuart McMillan*]

Motion agreed to.

17:34

Gillian Martin (Aberdeenshire East) (SNP): I, too, thank Stuart McMillan for securing the debate. I also thank him for mentioning Scotland's most easterly distillery, which is in my constituency. I think that I might have to bring him another bottle down.

I have spoken quite a lot before about the part that Aberdeenshire plays in our tourism offer. Last year, I used a debate to highlight the literary and cultural tour that people can do in Aberdeenshire East if they are so minded. This year, I want to talk specifically about Aberdeenshire's long-standing environmental and nature tourism offer, which has the potential to really take off, given the right support.

First, I will go to my personal happy place: Newburgh beach and the Forvie national nature reserve. The reserve is home to a myriad of coastal bird species and has long been the twitcher destination of choice in the north-east. People go there from all over the UK to watch birds. However, in the past 10 years, the north side of the mouth of the River Ythan has become the resting point for the largest grey seal colony in the whole of the UK, and we have seen a great surge in the number of people who come to Newburgh just to see the seals.

I am working with residents of Newburgh to assist them in improving the visitor access to the beach and resurfacing the car park, which has been in a state for as long as I can remember. There is an infrastructure issue there, and I take on board what Liam McArthur said about infrastructure. The roads and tracks that lead to areas of natural beauty are often not managed by the council, so they fall into disrepair, and local community groups can find it quite difficult to maintain those routes. That is certainly the case in Newburgh, but we are hopeful. In particular, we want to make the beach more accessible to people in wheelchairs and people whose mobility is maybe not what it was when they were younger and who enjoyed that experience in their younger days. We should be able to continue to offer that.

We want to ensure that there is great access to the south shore, which is the best place to view

the grey seal colony. I have met people from all over the world who have made a detour from the more obvious tourist spots in the west of Aberdeenshire, which Alexander Burnett mentioned, such as Braemar and the royal Deeside trail, which people automatically associate with Aberdeenshire. People are drifting towards the east specifically to visit our seals.

Two summers ago, we gained more fans, as a humpback whale and her calf came into the estuary at low tide to feed over a period of two months. The area therefore became the whale destination of the north-east, as well.

I agree with Maureen Watt that there is much more to Aberdeenshire than the west, as beautiful as it is. That is a very well-known area.

I hope that the redevelopment of Peterhead harbour will accommodate cruise ships. That is a huge opportunity for ecotourism in my and Stewart Stevenson's areas.

Along the coast from Newburgh are Hackley Bay, Collieston and Whinnfold, where colonies of puffins nest around this time of year, to add to our many seabird populations. Sightings of dolphins there are not uncommon. Torry, which is in Maureen Watt's constituency, has the best place to view dolphins. I congratulate the RSPB on the work that it is doing there with dolphinwatch.

Lots of businesses have sprung up off the back of that coastal tourism offer. That leads me on to the theme of the tourism event that I led with VisitScotland in Fyvie castle last July. We spent a day talking about agritourism. There is a huge emerging market for agritourism and experience-type holidays. We heard from experts in the field, who, in effect, just talked about holidays literally in a field. We heard about farmers who offered farm holidays in which helping out at the farm is part of the experience. That is a great thing for young families to do. What can be better than the kids spending a weekend feeding lambs, collecting eggs and getting out and about in an environment that they may not have ready access to?

Before I sit down, I want to mention the Sime family, who have really grabbed the ecotourism experience. That family have set up one of the few gin distilleries that make gin from scratch. They make it using locally sourced materials, and they are going to expand their business to include glamping and tours around the many stone circles in Aberdeenshire. People are grabbing the idea of experience agritourism in my area.

I always used to say that Aberdeenshire East is the best-kept secret, but I will not be saying that for much longer if people continue at this pace.

17:39

Tom Mason (North East Scotland) (Con): I thank Stuart McMillan for giving us the opportunity to debate Scottish tourism month. The tourism industry is one of the most important sectors of our economy not just because of the jobs that it supports and the revenue that is raised but because it promotes Scotland overseas. With that in mind, I am pleased to join colleagues in welcoming Scottish tourism month.

Across the country, tourism's positive impact on our economy is clear to see. Of all Scottish businesses, 8 per cent are involved in tourism, which generates almost £4 billion in gross value added every year. We outperform the rest of the UK in attracting tourists, and Edinburgh is the top UK destination outside London. Not only that, but Scotland was voted the most beautiful and most welcoming country in the world in 2017 by Rough Guide readers. To be frank, it is easy to see why that is the case. Those remarkable feats are certainly worthy of celebration in the Parliament and beyond.

My region has a wide variety of tourist attractions that are great for bringing people to the north-east. VisitAberdeenshire points out that its area alone has five ski centres, eight distilleries, 55 golf courses and 263 castles, not to mention royal Deeside and the Cairngorm national park. No matter what takes people's fancy, we have got it all.

As an Aberdeen councillor, I must point to the new facilities there that have just been finished or are about to be finished, such as the refurbished music hall; the refurbished and extended art gallery; the brand-new 6,000-seat exhibition centre, which was achieved with little central Government support; and the harbour redevelopment, which will enable the largest cruise ships to dock and allow people from around the world to experience the best of our hospitality.

In speaking of excellent art exhibitions and festivals, I should mention Nuart, which is an international public street art festival that was recently voted the best cultural event at the Aberdeen city and shire tourism awards. For those who are quick, tickets are also available for the jazz festival next week.

However, I fear that our friends in Dundee might be able to top all that with the new V&A museum, which has been nothing short of transformational for the city. I urge colleagues who have not yet visited it to do so as a matter of haste.

All things considered, it is great that we have events such as Scottish tourism month, which is great for celebrating the successes that we have seen, assessing the challenges that are ahead and working on how best to support the industry.

In relation to the work that we do here, the main issue that tourism organisations raise with me is the prospect of the transient visitor levy—the tourist tax. I have doubts about whether it would be the correct approach for the north-east, but there is still some road to travel. I am sure that I will not be alone in keeping a close eye on progress here in the months to come.

With that said, we have a great deal to celebrate in our tourism industry, and I am delighted to celebrate it today. Scottish tourism month is a great venture that I hope will focus our minds on how to put our tourism organisations in the best circumstances to succeed in the months and years that are ahead. I wish everybody involved well and look forward to seeing the progress that they are working so hard to achieve.

17:43

Jackie Baillie (Dumbarton) (Lab): I join others in thanking Stuart McMillan for bringing the debate to the chamber. I have no whisky for him, but the debate gives me an excuse to talk about my beautiful constituency—not that I need much of an excuse.

As members know, my constituency includes Loch Lomond, Helensburgh—that well-known seaside town on the Clyde—the Arrochar alps, Dumbarton castle and much more. I invite all members, and particularly the cabinet secretary, to visit. Whether visitors seek nature, historic sites, cultural events or even thrill-seeking adventures, we punch above our weight. We have whisky, too, and award-winning breweries.

For those seeking history, Dumbarton castle has the longest recorded history of any stronghold in Scotland. Built on a volcanic plug that was formed hundreds of millions of years ago, and overlooking the River Clyde, the castle is a sight to see and dominates the vista. In fact, I always used to say to Stuart McMillan's predecessor Duncan McNeil that he had the better view, because he looked across at my constituency.

Dumbarton castle is, of course, home to several famous and important figures such as Mary, Queen of Scots, the wizard Merlin and Napoleon Bonaparte. I bet that members did not know that Napoleon narrowly avoided being exiled to Dumbarton castle, preferring Elba instead. I cannot imagine why, Presiding Officer.

Another major historical figure is Robert the Bruce. I commend the campaign that my local newspaper, the *Lennox Herald*, is running to recognise the contribution that Robert the Bruce made to shaping Scotland and, indeed, Dumbarton. Given that he lived some of his life in Renton and Cardross and that St Serf's church is one of the burial sites for his remains, it makes

sense for him to be commemorated in my constituency. I hope to engage the cabinet secretary in a discussion about how the Scottish Government could help that development in my local area.

Then there is Loch Lomond, which is the largest loch in the UK by surface area and the second largest by volume. It is such a tremendous, peaceful place, but, for anyone seeking excitement, boating and water sports are available, including kayaking, water-skiing and the great Scottish swim in August—it is a bit cold, Presiding Officer, but I recommend it. If members prefer something a bit more sedate, we have the restoration of the PS Maid of the Loch and award-winning cruises on the loch by Sweeney's Cruise Co and Cruise Loch Lomond. Loch Lomond is just tremendous.

For those who prefer climbing to the water, we have the Arrochar alps, and there are Highland games in Balloch, Helensburgh, Luss and Roseneath. You name it—we've got it.

For those who want to get away from it all, we have several high-quality hotels that I would recommend to my colleagues, including the award-winning Knockderry country house hotel. Built around 1846 as a summer retreat, it is now a picturesque hotel overlooking Loch Long and the Argyllshire hills. There are many others. Indeed, I am sure that Patrick Harvie, as a former local, would add to that list.

Patrick Harvie: Absolutely. Rather than recommending the caves round the back of Dumbarton rock as a favourite bunking-off spot when I was a kid, I express my surprise that Jackie Baillie has not mentioned one of my favourite tourist attractions: the Faslane blockades. So many people come to her constituency to go to the blockades from across Europe and far beyond. Will she join me in welcoming that continued, repeat tourism that her constituency gains from?

Jackie Baillie: Absolutely not—not least because those people come, they block the roads, they get arrested, they spend no money in the area and they cause disruption for the genuine tourists who want to experience the beauty of my constituency. I will press on.

Much of my area is covered by Loch Lomond and the Trossachs national park. The scenery is beautiful; it is breathtaking. If further proof was needed, the numbers of tourists are increasing—everybody from day-trippers to weekend visitors and those passing through on their journey up to the north. They come from Glasgow, Edinburgh and beyond; they come from all parts of Europe, including Spain, Portugal, France and Germany;

they come from America; and, increasingly, they come in huge coachloads from China.

We live in a beautiful country, and I am pleased that others come to enjoy and experience our culture and history. They spend money when they are doing so, contributing importantly to our economy. We should welcome them, and we should make sure that we keep them coming.

I thank the Scottish Tourism Alliance for its efforts in organising this month of tourism. I hope that we continue to see many more visitors.

17:49

Fulton MacGregor (Coatbridge and Chryston) (SNP): I, too, thank Stuart McMillan for bringing this debate on Scottish tourism to the chamber. I associate myself with Jackie Baillie's speech—well, most of it, although perhaps not her comments about Faslane. As a city boy from just outside Glasgow, Luss has always been a tourist spot for me. My brother got married there last year—it was a beautiful setting for his wedding.

However, I am here to talk about my constituency. I was not planning to speak. I know that folk across the chamber will be thinking that they would not naturally associate Coatbridge and Chryston with tourism but, as the local MSP, I feel that it is my job to change people's minds. I cannot give other MSPs the opportunity to shamelessly promote their constituencies without a reply.

When people think about Coatbridge, and Lanarkshire more generally, they think about the area's strong industrial past. If people are looking to learn about Scotland's industrial past, they should visit Summerlee museum of Scottish industrial life, which is run by CultureNL. It is an absolutely fabulous facility where people can go down a real mine, ride on a real tram from the past, take a walk on the Vulcan, which is docked on the old Monkland canal, and much, much more. It is a great visit for kids and adults alike.

We also have the Time Capsule, whose tag line is "half ice, half water—a whole lot of fun". My wee boy and I use the water park fairly regularly. Recently, there have been worries that its future might be in jeopardy, but a very strongly supported online petition has ensured that that speculation has been put to an end—at least for now. Although I would like the water park to go back to its glory days of being open throughout the week, which makes it more accessible, I am glad that it is still open at weekends and during school holidays. If anybody is planning to go along, I recommend going on Saturday or Sunday nights, when it is a bit quieter. However, if people like their whirlpools absolutely mobbed, it is best to go on weekends during the day.

If people want to go outdoors in the area, they can go to Drumpellier country park, which is part of the fabulous seven lochs wetland park project. A lot of work has been done through the project to involve a lot of youngsters and local schools, who benefit from outdoor learning and outdoor play. People can cycle or walk, there are running groups and there is boating on the loch in the summer months. There is a lot to do. It is great to have such a park in what is mainly a very urban constituency.

In the same vein, Gartcosh nature reserve is pretty nearby. It is an important site, because it holds the largest colony in Scotland of great crested newts—a protected species. The nature reserve is a very relaxing area, but groups and kids from the local school can learn about the great crested newt and what its existence means for the ecosystem and the environment.

Those are just a few of the attractions in Coatbridge and Chryston. It is a fabulous area to visit, and it probably does not get the credit that it deserves. We also have lots of good food places, including the Mad Batter bakery and coffee shop, the Inn on the Loch and the coffee shop at Coatbridge Sunnyside station. There is lots and lots to do—people can spend the whole day in the area.

I have just been to Skye with the Equalities and Human Rights Committee, so I know that we have absolutely fabulous attractions all over Scotland. Every MSP could talk for minutes and minutes about things to do in their constituencies or regions. The debate has been great. I did not plan on speaking, but I am glad that I have taken the opportunity to do so.

A couple of months ago, when my five-year-old and I were looking for a wee adventure, we went out and found Blawhorn Moss nature reserve, which is run by Scottish Natural Heritage—what a hidden wee gem that is, if anybody is looking for something to do outdoors. I thought that I would mention that, given that the Cabinet Secretary for Culture, Tourism and External Affairs, whose constituency is not too far from my own, is summing up.

The Deputy Presiding Officer: After a tour around most of Scotland, I ask the cabinet secretary to close for the Government.

17:53

The Cabinet Secretary for Culture, Tourism and External Affairs (Fiona Hyslop): I thank Stuart McMillan for securing the debate, and I thank members for their speeches. The debate and the many activities that are taking place throughout Scottish tourism month, which I and other ministers have attended, have highlighted to

me the passion that exists for the country's tourism sector. I am pleased to hear about members' activities in supporting Scottish tourism month. Tourism really is everyone's business and is everywhere, including, as we have just heard, in Fulton MacGregor's constituency in the central belt. The fact that his constituency borders mine shows that there are nature reserves to visit right in the centre of Scotland—people do not always need to go to the rural areas that we might recognise.

Today's debate very much reflects the themes that are at the forefront of the Scottish Government's approach to the visitor economy: delivering a successful tourism sector, enhancing Scotland's international reputation and looking to opportunities for the future.

Scottish tourism has been doing well. The number of international visitors is growing strongly at a time when numbers for the rest of the UK have been decreasing. To help cope with the increasing number of tourists across Scotland, we have allocated £3.6 million to the first 21 successful projects supported by our rural tourism infrastructure fund, improving facilities in communities throughout rural Scotland. As Tom Mason pointed out, we have also seen the opening of the world-class V&A Dundee, which has contributed to significant increases in footfall at other visitor attractions in Dundee and the surrounding region.

Last month, the First Minister announced our support for the Andrew Fairlie scholarships, which will provide a fabulous opportunity for two young chefs to further their careers—a further boost to our food and drink sector, following the publication last August of the food and drink tourism action plan.

A key component of our tourism sector is our brand, which is founded on provenance and heritage—including Robert the Bruce, as Jackie Baillie mentioned—and is increasingly recognised at home and abroad. Alexander Burnett should be aware of the Scottish clan fund to support the tourism opportunities from clan and historical societies. I announced the latest funding round last week, alongside the Hawick Reivers Association.

Gillian Martin talked of tourists visiting Aberdeenshire for nature and beauty, and of the Newburgh seals. Tomorrow morning, I am speaking at the Visit Aberdeenshire event as part of Scottish tourism month. I am not sure that I can get glamping with gin in, but I will see what I can do.

The global public's appetite for our fantastic produce is growing every year, and Scotland's food and drink is now worth £14 billion, which is

testament to the passion, dedication and entrepreneurship of the thousands of people who work across the industry. Emma Harper shone a spotlight on South Scotland's fantastic natural larder.

Although we welcome this success, the tourism sector is fragile and we cannot be complacent. The international market is incredibly competitive, and we must continue to work extremely hard to draw visitors to Scotland and ensure they have an outstanding experience when they are here.

Patrick Harvie referred to diversification of businesses to tourism, and we have heard about agricultural tourism and agritourism as part of that growing experiential drive.

Liam McArthur talked about the competitiveness of the cruise market and of the need for sustainability, which we are very conscious of.

Visitor spend may have grown by more than 3 per cent last year, but that is not at all commensurate with the growth in visitor numbers, which means that visitors are spending less when they are here. Trying to encourage tourists to spend in the appropriate places and in the appropriate ways is an important part of how we market and how we attract visitors to the country. Rising costs to businesses will have exceeded the 3 per cent growth in spend in some cases, so there is real pressure in the industry.

Remaining competitive is a challenge, and the impressive headline figures mask some of the underlying pressures that Scotland's businesses face. Perhaps the biggest issue facing Scotland is the need to continue to access labour under freedom of movement. It is estimated that, in the year to June 2018, the Scottish tourism sector employed 21,000 European Union nationals, who accounted for 11.6 per cent of those employed in the sector. The independent expert advisory group on migration and population has clearly outlined the harm that the UK Government's proposals would have on Scotland, potentially reducing net migration by up to 50 per cent in the coming decades, thereby jeopardising Scotland's economy, public services and future population growth. The Scottish Government has made it very clear that freedom of movement has enriched Scotland and must be allowed to continue. It is important for the tourism sector, in particular.

The sector needs our support. I am deeply committed to it and to enabling it to maximise its success, cope with the challenges and thrive in the future. As Claire Baker pointed out, it is vital that the sector continues to have the skills that are necessary to provide a high-quality tourism product that gives Scotland a competitive edge. The industry, in partnership with Skills Development Scotland, is already committed to

bridging the skills gap and encouraging new entrants through the tourism skills investment plan, through which over 2,700 modern apprenticeship new starts were delivered in the sector in 2017-18. We are encouraging those new entrants to see tourism as a career of choice with rewarding opportunities, and we are championing the plan as a commitment in our programme for government.

It is important that those careers are built on a culture of fair work, as Patrick Harvie said. We have therefore committed to increasing the number of workers who are being paid the living wage, and we welcome the support of the tourism sector in achieving that.

We have been sensitive to the needs of our regions—in particular, those of the south of Scotland, where we are establishing a new enterprise agency and supporting the region through a dedicated marketing campaign and investment in infrastructure.

Our themed years have been a great success in driving collaboration. Next year's year of coasts and waters will showcase the many and varied water-based opportunities that exist across the mainland and on our islands, and it represents a great opportunity for marine tourism, which is ably championed in the Parliament by Stuart McMillan.

The creation of the new national tourism strategy is well under way. It will look at the new and exciting tourism trends that are emerging and at what Scotland can offer the world by way of unique and world-class experiences.

Building on the incredible success of the European championships, the international island games will be held in Orkney in 2023. In the same year, we will bring the UCI cycling world championships to Scotland, which will be the first time ever that 13 cycling disciplines will have been brought together at the same time in one country. That will afford us the opportunity to use a prestigious major event to promote not just our country but sustainable transport, active lifestyles, our environment and our economy.

As we plan for the future of tourism in Scotland and the challenges that it will bring, it is vital that we continue to engage and to face those challenges together with the tourism industry. The coming year will bring opportunities. We need to grasp those and show the world that Scotland remains an open and welcoming nation. It is through the passion and dedication of the people who work in the sector that it thrives, but it is only by working together that we can ensure its future success. I commend the motion.

Meeting closed at 18:01.

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