



OFFICIAL REPORT
AITHISG OIFIGEIL

Economy, Energy and Fair Work Committee

Tuesday 17 September 2019

Session 5



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Pàrlamaid na h-Alba

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ECONOMY, ENERGY AND FAIR WORK COMMITTEE
25th Meeting 2019, Session 5

CONVENER

*Gordon Lindhurst (Lothian) (Con)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)
*Colin Beattie (Midlothian North and Musselburgh) (SNP)
*Jamie Halcro Johnston (Highlands and Islands) (Con)
*Dean Lockhart (Mid Scotland and Fife) (Con)
*Richard Lyle (Uddingston and Bellshill) (SNP)
*Gordon MacDonald (Edinburgh Pentlands) (SNP)
*Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

John Cook (Accountant in Bankruptcy)
Jamie Hepburn (Minister for Business, Fair Work and Skills)
Matt Lancashire (Scottish Council for Development and Industry)
Tony Mackay (Mackay Consultants)
Richard Marsh (4-Consulting)
Helen Martin (Scottish Trades Union Congress)
Victoria Morton (Scottish Government)

CLERK TO THE COMMITTEE

Alison Walker

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Economy, Energy and Fair Work Committee

Tuesday 17 September 2019

[The Convener opened the meeting at 09:47]

Decision on Taking Business in Private

The Convener (Gordon Lindhurst): Good morning and welcome to the 25th meeting in 2019 of the Economy, Energy and Fair Work Committee. I ask everyone to turn electrical devices to silent.

Agenda item 1 is a decision on whether to take items 5 and 6 in private. Does the committee agree to do so?

Members *indicated agreement.*

Subordinate Legislation

Debt Arrangement Scheme (Scotland) Amendment Regulations 2019 [Draft]

09:48

The Convener: I welcome Jamie Hepburn, the Minister for Business, Fair Work and Skills; Victoria Morton, who is a lawyer from the Scottish Government; and John Cook, who is the executive director of case operations for the Accountant in Bankruptcy. They are here to deal with the draft Debt Arrangement Scheme (Scotland) Amendment Regulations 2019. I invite the minister to make an opening statement on the instrument.

The Minister for Business, Fair Work and Skills (Jamie Hepburn): I thank the committee for taking the time to consider the draft regulations, which make a small number of welcome and important changes to the debt arrangement scheme—DAS—that are focused firmly on improving individuals' access to the scheme.

Virtually all the feedback that I have seen reinforces the strong support for the changes, but there are some different views on regulation 4. I know that the committee has heard some of those views, and I will return to them.

The proposals provide for greater flexibility and accessibility to DAS. They address issues of capacity by ensuring that organisations are able to offer the debt arrangement scheme only when that is the right solution for someone who is struggling with their debts.

Crucially, we are removing the fees that many DAS clients pay over and above their debt payments, which means that DAS will become free to access for every single client irrespective of who their money adviser is.

DAS is a first in the United Kingdom and a highly successful debt repayment programme, providing protection to those who wish to repay their debt but who need more time to do so. More than 6,000 people have used the scheme to pay off their debts. There has been a substantial return to creditors, with almost £230 million having been repaid since 2012.

Although the scheme is very successful, it is important that we listen to feedback and continue to improve it, which is something that I know the committee will agree with. I acknowledge the concerns that have been raised about some provisions in the regulations, as discussed in your previous evidence sessions. First, I appreciate the representations that have been made on the need for certainty on the funding arrangements for payments distribution and money advice activities.

I reaffirm at this stage that the role of money adviser is greatly valued by the Scottish Government. The sector is highly respected and the work that it undertakes is critical in helping the people of Scotland with problem debt. The aim of combining the fee was to create a flexibility in the arrangements and to allow money advice organisations and payments distributors to come to an agreement between themselves. It is also recognised that, in many cases, the same organisation will undertake both the money advice and payments distribution functions. That move was supported by 50 of the 65 responses to the consultation, which is just over three quarters of all respondents.

The regulations introduce the ability for the Accountant in Bankruptcy to undertake payments distribution functions as a fallback, with further information published on how it would provide for the split in fees for payments distribution and money advice services. There should be absolute clarity on the AIB's willingness to undertake payments distribution where that is the preferred option. That clarity will be extended to a structure that will guarantee a return of a minimum of 15 per cent to the advice sector. There is no intention to ensure that anything other than administrative costs for the AIB are recovered. Any surplus will be returned to the free advice sector to help sustain the essential work that it does.

I also want to acknowledge the concern, which was highlighted in particular by Citizens Advice Scotland, that the transition from the current payments distributor tendering process may increase the administrative burden for money advisers. As I think the committee would expect, the regulations have rightly focused on improving DAS from the debtor's standpoint, but they are also designed to reduce the administrative burden on money advisers. There will be streamlined processes for the approval of payment variations. There are also simple arrangements for all new emergency payment breaks, which will greatly enhance the scheme and promote sustainability and completion rates. The current tendering process allows for a limited number of companies to cover the payments distributor role. The removal of that limitation promotes flexibility and autonomy for the debtor, allowing them to access a wider range of organisations offering DAS, including the AIB, which, as Richard Dennis pointed out last week, will take on any case.

The legislation stipulates that the payments distributor undertakes its functions on behalf of the debtor. It also provides that an approved adviser is involved in identifying the right solution and providing advice on issues, which will include the payments distribution arrangements. I do not envisage any undue administrative burden or conflict arising here. There should be simple

procedures in place to assist money advisers to provide guidance on the appropriate payments distribution arrangements. I will take a personal interest in ensuring that that is the case.

In conclusion, I believe that the regulations provide a great opportunity to improve DAS and will help ensure that more people can access it when it is the right solution and that those who do enter it, complete it successfully. Along with John Cook and Victoria Morton, I am happy to take any questions that you may have.

The Convener: Thank you very much, minister. The other committee members and I, as well as the witnesses we have heard from, certainly welcome the good aspects that the regulations bring for the money advice sector and so forth.

As you have indicated, some issues were raised. I want to ask you about the response to the committee's letter that asked whether regulation 4 could be amended so that a minimum percentage of the increased 20 per cent fee could be allocated to funding the free money advice sector. I have a general question and a specific question about that. I appreciate that you have not written the letter as a lawyer and have done so on the basis of advice. However, your letter of 13 September states:

"It would ... be beyond our powers to use these regulations to specify that a minimum percentage of the increased 20% fee is allocated to ... the free money advice sector."

I think that you are referring to the secondary legislation, but no specifics are given in the letter explaining why, in terms the act and the regulations, you are putting that legal proposition to the committee. Could such explanations be given to the committee in future, to assist our understanding of your thinking in such cases? The explanation in the letter is very general.

Jamie Hepburn: I am very happy to undertake that last point. You will appreciate that you asked for a very quick turnaround on the letter, but you make a fair point. In future responses to the committee, we will provide as much explanatory information as possible.

You are right—I am not a lawyer. I have one sitting next to me in the shape of Victoria Morton, and I will perhaps ask her to say a bit more on the matter. In essence, we are not able to take the action that you propose because the primary legislation allows us to set out—in these or any other regulations that make in this area of activity—only the fees for those who are involved directly in a specific debt payment programme, which, in this case, is the money adviser or the payments distributor. We can set out those fees, but we cannot, through primary legislation and, in turn, through secondary legislation arising from

that primary legislation, have a mechanism in which there would be top slicing or, in effect, the de facto creation of a levy for the free advice sector.

On a simple matter of fact, we are not able to do that on the basis of the legislation that we have. That is why, with the best will in the world, I have not withdrawn the regulations, because the proposition is not one that we could fulfil. Even in circumstances in which we could do that, I would probably be loth to do so, because throughout the entire process—there has been a long, considered process in reaching this position—that proposition was not consulted on. When making a policy proposition, I think that it is important to engage with those who are involved in the sector and speak to people about it in order to consider their views.

I am not suggesting that what is proposed is a policy without merit. Perhaps it could be considered, although we would need to consider it in the round and in relation to what we could do on the basis of primary legislation. I do not know whether we could do it given how the primary legislation is drafted; we would also need to have wider considerations beyond the restrictions set out in primary legislation, to consider whether we could even do it on that basis.

I hope that that is a comprehensive reply. If you need a more legalistic response, I can invite Victoria Morton to add more to that.

The Convener: That is helpful in explaining your position, but I think that we will need to have a response from the lawyers on where that position comes from.

Jamie Hepburn: Says the lawyer.

The Convener: I suppose, but that is the purpose of Victoria Morton coming in.

Jamie Hepburn: Of course.

The Convener: Before turning to that explanation, I want to highlight another issue that was raised in evidence. The Debt Arrangement and Attachment (Scotland) Act 2002 has been in force for some time. There have been successive amendment regulations. Witnesses have said that there should be a more general overview and review of this whole area rather than continually tweaking the regulations, and that that should happen before we go further and put in place regulations such as the Debt Arrangement Scheme (Scotland) Amendment Regulations 2019. Do you have an answer to that before we come to Victoria Morton?

Jamie Hepburn: I do, convener. Yes, I think that there is merit in our reviewing things more widely. As you will be aware, we have already

committed to doing that in relation to the debt arrangement scheme.

10:00

In my letter to you of 9 September, which was a response to your letter of 6 September, I set out that we will have a wider-ranging review of all debt solutions. I see merit in that approach, and we have committed to doing it. I will be happy to come back to the committee to discuss the issue further. However, the committee will understand that that cannot be put in place overnight. It could require us to look at the primary legislation and that could require wider engagement. If we come to the conclusion that some form of primary legislation is required, we would then need to consult on the specifics.

That is some time off, and it is also incumbent on us to look at the here and now. We have an opportunity through the regulations, and perhaps through others that may come, to improve the current system for the benefit of vulnerable people who may find themselves in debt and who want to repay as much of that debt as they can in a sustainable fashion to their creditors. That is what the regulations allow us to do. I simply will not give a commitment that we will not bring forward other refinements to the system in the interim, as we are doing now. Absolutely, we should always be willing to consider in the round what we have. I have given a commitment to do so, and I would be happy to engage with the committee as we take forward that commitment.

The Convener: Perhaps we could turn to Victoria Morton.

Victoria Morton (Scottish Government): I confirm that, as the minister says, the powers underlying the regulations are set out in section 7 of the Debt Arrangement and Attachment (Scotland) Act 2002. Section 7(2)(ub) provides that the Scottish ministers can make provision for

“the remuneration of payments distributors and money advisers”.

Section 7(2)(y) says that ministers can make provision for

“the determination, and charging, by the Scottish Ministers of fees”—

that is, the 2 per cent administration fee.

In relation to regulation 4 and the fees for money advisers and payments distributors, we are bound by what is prescribed in section 7(2)(ub), which refers to

“the remuneration of payments distributors and money advisers”.

The Scottish Government’s view is that provision that would go as far as specifying that a minimum

percentage, or a top slice, if you like, of all debt payment programmes would be taken aside and put into a pot to be paid out to support the free advice sector—in essence, it would be a levy on all debt payment programmes—would go beyond the powers that we have to make provision for the remuneration of money advisers and payments distributors.

The Convener: I think that the draft regulations proceed under a number of sections in the 2002 act, and not just section 7, which you have referred to. However, section 7(1)(b), which sets out the circumstances in regard to which the Scottish ministers can make regulations, refers to

“the manner in which such programmes are to operate, including conditions with which debtors, creditors, payments distributors or money advisers must comply”.

The act sets out very general and fairly sweeping powers for the Scottish ministers to make regulations. Section 7(3)(a) states that the regulations may also

“make different provision in relation to such different types of debtors, debts or other matters as may be described by the Scottish Ministers”.

The act includes a fairly general power, which one often finds in that type of act.

Victoria Morton is right to point out that section 7(2) sets out a huge list of matters with regard to which regulations may be made, but there are also the general powers in sections 7(3) and 7(1), and that is without looking at any of the other sections of the act that the draft regulations proceed upon, or any other powers under other sections of the act. I am therefore not sure that I see the basis of saying that the proposal is not possible, although I realise that the minister has said that he does not consider it to be appropriate, for the reasons that he has given.

Jamie Hepburn: It is both, though, convener.

The Convener: I appreciate that, but I just wonder whether Victoria Morton has any comment on the more general powers that are set out in the act.

Victoria Morton: The convener is absolutely right to say that there are general powers. However, the Scottish Government’s view is that, on the specific point about remuneration and fee levels for payments distributors and money advisers, we are bound by the terms of the subsection that I mentioned. That provision was added in 2014, specifically to allow such provision to be made; the view was that, in order to make provision on fees, such a power was needed. We are bound by the terms of that power.

Jamie Hepburn: Convener, you asked my lawyer for her opinion, which she has given. That is the basis on which we move forward. We are

clear that what has been requested cannot be done.

You are correct, in that the fundamental point is about how we make good, effective public policy. I am not suggesting that what is proposed is not without merit and could not be explored; the proposition is legitimately advanced. However, I think that it is incumbent on us—and the Parliament would expect us—to engage with people and ascertain a wide range of views on the proposition, and we have not done that.

The Convener: It is perhaps unfortunate that that is the view that is being taken. You will appreciate—as I do, as a lawyer—that the law is not a black-and-white matter. To a certain extent, whether one has the power to do this, that or the next thing depends on the view that one takes of it.

Jamie Hepburn: Ultimately, we have to be confident that any legislative instrument that we agree to, whether it is in primary or secondary legislation, is robust and defensible, lest it fall subject to legal challenge.

The Convener: I am sure that there are arguments for and against. That is my point, and I am not entirely persuaded by what has been said on the point.

We will move on to questions from other committee members.

Jackie Baillie (Dumbarton) (Lab): I want to focus on the legal point. I would much prefer to discuss the substance of whether there is a legal barrier.

As I recollect it, section 7(2)(y) of the 2002 act was introduced to allow the AIB to charge. The AIB, quite properly, is involved in

“the consideration of applications for the approval, or the variation, of a debt payment programme”.

If we accept that that is the case—as you do, minister; I see that you are nodding your head—we could argue that, given that a money adviser makes applications to, and is responsible for, the variation of debt programmes, you could, under the provision under which the AIB makes its 2 per cent charge, provide for charges or fees to be set aside in relation to money advisers. It is exactly the same principle: a money adviser does the same job.

Jamie Hepburn: With respect, unless we had misinterpreted what the committee requested—

Jackie Baillie: I think that you did. In fairness, it was not a question—

Jamie Hepburn: I assure you that the committee’s request would not have been wilfully misinterpreted.

Jackie Baillie: Indeed. I accept that.

Jamie Hepburn: What the committee asked for in its letter—which I have in front of me and can refer to, if necessary—was, in effect, top slicing of the funding for the free money advice sector. That seems to be what was requested in your letter.

Jackie Baillie: In that case, I am sorry if the letter gave you the wrong impression. That was certainly not what the committee discussed and took evidence on. Rather, we asked about—if I may sum it up in this way—free payment advisers who are not payments distributors being entitled to payment, regardless of who the payments distributor is. That is different from the question that you have answered.

I am homing in on and asking a technical question about section 7(2)(y), given that that is the basis on which the AIB charges its 2 per cent. If we agree that money advisers are involved in “consideration of applications”—indeed, they make the applications as part of the process of consideration—and in “the variation” of debt payment programmes, could not that be a mechanism whereby money advisers could be paid, in the same way as the fee is set for the AIB?

Jamie Hepburn: I will invite Victoria Morton to talk about the specifics, but first I think that it is important to bottom out what the committee asked for. In its letter, it said:

“The Committee asks the Scottish Government to consider amending Regulation 4 (by withdrawing and relaying the instrument) so that, regardless of the choice of payment distributor, a minimum percentage of the increased 20% fee is allocated to funding the free money advice sector.”

I think that I have interpreted the question correctly, although I concede that Jackie Baillie’s question goes wider than that.

I invite Victoria Morton to talk about the legal specifics. Perhaps we can then talk about some of the policy issues.

The Convener: Before that, we should clarify that what you quoted was in a follow-up letter to a much more extensive letter. I am sure that, as the minister, you do not look at committee requests out of context, and that you try to be helpful in considering how it might be possible to meet a committee halfway in responding to a request. Perhaps if the specifics in the letter on the advice that you are given are not possible, there might be another way.

Jamie Hepburn: I am happy to discuss that—although, I say with due respect that I find it hard not to respond to a very specific question that I am asked in written form.

I am, of course, always willing to discuss our policy approach.

The Convener: We will let you pass on to Victoria Morton to respond to Jackie Baillie’s question.

Victoria Morton: On Ms Baillie’s specific point, members will appreciate that that is certainly not how the specific power has been used hitherto, and I have not been made aware of that proposal. I am sure that members will appreciate that we will need to go away and consider the suggestion carefully in the light of the boundaries of the power that ministers have.

Jackie Baillie: So, the approach would not be excluded. I am simply trying to work with the spirit and actuality of the regulations to find a way of doing what I suggest, if people were minded to do it. I think that I have used exactly the wording and phraseology in the regulations.

Victoria Morton: You will appreciate that I cannot confirm that without considering the point.

Jamie Hepburn: Will Ms Baillie clarify for me a bit more precisely, without necessarily referring to every specific aspect of primary legislation, what policy proposition she is advancing?

Jackie Baillie: You will hear from questions from the committee and in our debate what the policy proposition is. I simply note your very helpful comments about consultation, which I could not disagree with at all. However, consultation is exactly what was not done in relation to regulation 4 before the regulations were laid.

Jamie Hepburn: I am sorry, but that is fundamentally not the case. Everything—

Jackie Baillie: We will come to that in questioning. We will explore the substance of that.

Jamie Hepburn: This is questioning, is it not? I am answering your question. What you said is fundamentally not the case.

Jackie Baillie: I am exploring—

Jamie Hepburn: Every element of the regulations was consulted on.

Jackie Baillie: I am trying to ask about a very specific bit of the regulations. I am not moving to questions on the policy at this stage; I am trying to understand the legal basis on which the regulations have been made. The lawyer who is representing the Scottish Government said that she needs time to take the issue away and consider it. Are you content with that?

Jamie Hepburn: I am sorry, Ms Baillie, but you made the point that the regulations have not been consulted on. That is fundamentally not the case.

The regulations have been the subject of considerable work.

Jackie Baillie: Regulation 4 has not.

Jamie Hepburn: I am sorry, but I am bound to say that it is not the case that the regulations have not been consulted on. I accept and fully concede that there is a difference of opinion on elements of the regulations—that is very clear—but that does not mean that they have not been consulted on. That is simply not the case.

Jackie Baillie: They were not consulted on before they were laid.

The Convener: Minister, you have made your point.

Jackie Baillie: It is wrong.

Jamie Hepburn: I beg your pardon, but it is not wrong.

The Convener: We need to let Jackie Baillie make the point and then put a question, please.

Jackie Baillie: Regulation 4 was not consulted on before the regulations were laid. The consultation finished last week. Had the regulation been consulted on in the same fashion as the other regulations, which have been broadly welcomed, we probably would not be having this debate.

Jamie Hepburn: With the best will in the world, that is a fundamental misassumption about the nature of the regulations. The consultation that was done last week was on a very specific element, which was to utilise the opportunity that was afforded by the regulations for the AIB to act as a payments distributor. The AIB has made a very clear commitment, at my behest and instruction, that it will do no more than cover the costs of administration, and all the rest of the funding will return to the free advice sector. That was the only element of that consultation, and it is not a core part of the regulations. We are taking the opportunity that the regulations afford us to provide that limited funds be returned to the free advice sector. I think that Richard Dennis made that point last week. That opportunity is not fundamental to the regulations—it is a bonus.

The regulations in their entirety have been consulted on. They were developed on the basis of considerable work and engagement with stakeholders, and they have widespread support from across the sector. The idea that they have not been consulted on is fundamentally wrong; anyone who argues that does so on the basis of a misunderstanding.

10:15

The Convener: We will move on to Andy Wightman.

Andy Wightman (Lothian) (Green): I want clarification on that point. The minister misunderstands what the committee is looking for. It is not looking for top-slicing from fees to create a pot. I accept perfectly well that the regulations could not provide for that.

The proposition was put to us by the AIB that a free money adviser would be able to seek some remuneration for their services from a payments distributor in the private sector through negotiation with them, or—if they went with the AIB as a payments distributor—from the 15 per cent to which the AIB is committed. Therefore, there is competition in that the private sector payments distributor would have to match what the AIB was willing to do. As such, the proposition was that people in the free money advice sector would be able to achieve remuneration through the competition that existed between the AIB as a backstop, as it were, with the 15 per cent policy commitment, and negotiation with a payments distributor. The concern is that neither of those is given any statutory effect in the regulations, so there is no guarantee that those fees would be available.

Given that the committee is not asking for a general levy to create a pot, would not section 7(2)(ub) of the 2002 act—which talks about regulations being made for

“the remuneration of payments distributors and money advisers”—

allow the regulations to make a specified provision for free money advisers such that they would be guaranteed a certain proportion of the 20 per cent?

Jamie Hepburn: Do you mean in all cases?

Andy Wightman: No—I mean in cases where advisers acted for the debtor.

Jamie Hepburn: Potentially, yes. However, they will get payment by the process of—

Andy Wightman: That is the fundamental point—

Jamie Hepburn: There will not be any circumstances in which a payments distributor will take the full 20 per cent. That will just not happen.

Andy Wightman: How can you know that?

Jamie Hepburn: I know because the money advisers are involved in the process. The money adviser is the first point of contact with the individual; they facilitate the interaction with the payments distributor, and so they will form a

relationship with the payments distributor and will come to an agreement.

Although I do not think that we could limit it just to the free money advice sector—it would have to be across the board—Mr Wightman is correct that we could, in theory, say that there is a 5 per cent or a 15 per cent division in all cases. Of course, that could restrict cases in which the payments distributor says that they could do it for less and in which more could be returned to the money adviser. The basis on which the regulations have been designed is very much to move things forward. They are also designed to incentivise a greater range of organisations coming into the system, so that we can make the DAS more widely utilised.

Although that is the basis on which we have proceeded, clearly, we could do what Mr Wightman suggested. However, I repeat that we did not consult on that proposition, so it would be wrong for me to say that we will definitely do it without going back to the start of the process and consulting everyone on whether they would take that approach.

The approach that we have set out has widespread support. Of course, it is incumbent on us to monitor whether it is effective. The committee has my clear commitment that we will do that. The regulations have been introduced to improve the system. We will look into whether it is working as a policy proposition, which I hope we will legislate for. If it is not, we will—of course—return to the subject. However, I see no reason why it will not work, because it is very much designed to facilitate the opportunity for advisers and payments distributors to create relationships and work together in the best interests of the individual debtor—who is, after all, the person on whom we should absolutely focus.

As I set out in my letter before last to you, convener, I am quite relaxed about considering specific regulations for the AIB function, although I do not think that it is necessary. You have heard a very clear public commitment that information on all the funding that is gathered in and then disbursed will be publicly available through the normal accounting mechanism for the Accountant in Bankruptcy. The committee, or any individual who wants to look at the accounts, will be able to scrutinise them and find out whether the AIB is doing what it said it would.

I am open to the proposition that a supplementary statutory instrument could be introduced. That is not a reason not to pass the regulations that are before us here and now. Passing the regulations will provide many benefits for debtors and their creditors. Not to pass them today on the basis that there could be further

refinement on a very narrow area would be to throw the baby out with the bath water.

Andy Wightman: I have one question before I pass back to the convener. I will come to other questions later.

You talked about the possibility of separate regulations that would give a statutory underpinning to the AIB 15 per cent commitment. Under which primary legislation might such a power be introduced?

Jamie Hepburn: I suppose that such regulations would relate to the 2002 act, but I will hand over to Victoria Morton for specifics.

Victoria Morton: It would be the same legislation. We consider that it would fall to regulations on remuneration of payments distributors and money advisors to set out the element of the administration fee that would be gathered, and which would be assessed as a payments distributor fee.

Andy Wightman: Do you mean section 7(2)(ub) of the 2002 act, which we were just talking about?

Victoria Morton: That is correct.

Andy Wightman: So, by withdrawing and delaying the regulations, it would be possible to give that commitment statutory effect.

Jamie Hepburn: That would be possible, but I see absolutely no reason for us to do it.

It is entirely up to the committee what it wants to ask me. However, as far as I can see, in previous meetings the almost exclusive focus of questioning has been on how payments distributors and money advisors will be paid. I am not disputing that that is important—it is a necessary part of sustaining elements that allow the whole system to function—but members are forgetting that the regulations are designed primarily to ensure that vulnerable debtors can access a system that allows them to avoid becoming insolvent, and to repay their debts sustainably. All the evidence shows that that system offers a better return to creditors than other debt solutions. That is what the regulations are about, so I think that we should be focusing on that.

The Convener: Questions are put when the committee is unclear or unhappy about issues. Therefore, the reason for that focus might be that there are very few issues concerning the regulations. As was indicated at the outset, much of the content of the regulations is welcomed, including by people who have difficulty with regulation 4, as it is currently drafted.

Jamie Hepburn: I hope that that will be borne in mind, because the regulations are about that welcome content.

The Convener: The committee will make up its own mind on the regulations. Does Mr Wightman have any further questions?

Andy Wightman: I will come back later.

Richard Lyle (Uddingston and Bellshill) (SNP): I joined this committee only last week, minister, when I mentioned that I was in the debt trade for 30 years.

I welcome what the Government is doing and your comments. You hit the nail on the head: the regulations are to resolve problems for debtors, not to cover or make money for other people. The regulations will take away unfair charges from debtors in cases such as those in which unscrupulous companies have fleeced debtors for years. I was totally against that practice and, in my job at the Royal Bank of Scotland, I tried to ensure that it did not happen.

I see your point about the suggestion not having been consulted on. In your letter of 9 September you acknowledge calls for a general review of debt solutions. Based on the concerns and observations that were made by members today, could you explain in more detail what the Scottish Government plans to do in this area? Do you intend to consult more on issues that have been raised by committee members, in order to make the proposal better than it is?

Jamie Hepburn: Of course, it is incumbent on us to do that. We have made the high-level commitment to overarching and wide-ranging review. We have not worked through the specifics, but I intend to do that and to start the process as soon as possible. Inevitably, some of the issues that have been mentioned will arise. Through the on-going and regular interaction that we have with stakeholders, such issues will continue to be discussed. I have just had a meeting with a range of stakeholders that have an interest in debt solutions—it was the first of a regular series—at which we discussed some of the matters that have been raised.

It is important to state that were I to withdraw the regulations right now, we would not have time for me to engage in any form of meaningful—

Richard Lyle: I am not asking you to withdraw the regulations. I think that what we are doing is moving forward. For the past 20-odd years, people have been getting ripped off. Now is the time for fairness, and I think that what you are doing is fair. I will concentrate on the question that I want to ask, not on other people's questions.

You will remember that the committee has previously called on the Scottish Government to review options for calculating a debtor's available income to repay creditors. I asked a question about that last week. From your letter, I

understand that the intention is that any case in which the free advice sector wishes to use the agency's facilities will be taken up. Can I have the commitment that, if any case is put to you, you will take it up, regardless of whether it is at the low end, the middle or the high end of the market? Can you give us a commitment that anyone can apply to get free of debt by using the facility that you are now proposing?

Jamie Hepburn: Do you mean, will the Accountant in Bankruptcy take on any—

Richard Lyle: Yes.

Jamie Hepburn: The answer is yes.

Richard Lyle: That is excellent news. I will refer that answer to interested people. Quite a lot of cases will be referred to the Accountant in Bankruptcy by the money advice centres in my area.

Jamie Hepburn: I am not sure how John Cook feels about that proposition, but we will be dealing with those cases, anyway.

Richard Lyle: I will finish up with a question on my only concern, which relates to an issue that I raised last week. StepChange, which is a well-known facility, raised concerns—they were all over Twitter—saying that it is not happy with the software because it is not doing what it should be doing. I asked a question about that last week, too. Can you answer StepChange's concerns? Perhaps Mr Cook would like to confirm again what his boss said to me last week.

Jamie Hepburn: I can invite John Cook to say some more about that. However, in order to avoid any misunderstanding, it is important state on record that StepChange is, I believe, in favour of the regulations and urges that they be approved.

The DAS case management system—the enhanced DAS electronic network, or eDEN—is live, and the existing case load was migrated on 23 July. As is almost inevitably the case when a case load is migrated, some issues have been identified, and they are now being worked through and fixed. Essentially, the system is working. It continues to be refined, but it is in place. John Cook can say a bit more about the system, if Mr Lyle feels that that would be helpful.

Richard Lyle: I just want to confirm that it will cope. As I say, I am talking about what I saw on Twitter.

Jamie Hepburn: To confirm, it will cope.

The Convener: Mr Cook is nodding. Perhaps he would like to speak, for the record.

John Cook (Accountant in Bankruptcy): I am happy to. The system went live on 1 July—that was the plan, and it went live on time. It is true to

say that, after the migration, there were some issues with functionality, and the system has not worked as smoothly as we would have liked it to. In order to mitigate that issue, we agreed to carry out some of the work for the continuing money advisers—we are sort of doing stuff for them. We now have 90 per cent of the letters on the system, and we are working closely with payments distributors to make the process work.

It is worth saying that none of that stopped the debtors paying their payments distributors. DAS debt paying programmes have continued to run as they always would have. The issue was broadly about uploading information on to our new system. The new process will reduce the manual effort on the part of the payments distributors by a significant amount, so it is a much better solution.

We have made real progress. We have three releases planned by 8 October. By that date, we will be in a steady state, and the system will be delivering exactly what we said that it would from the outset.

10:30

Richard Lyle: How many cases are being handled just now?

John Cook: We have a live load of about 12,500 cases.

Richard Lyle: What would happen if you suddenly got 60,000 cases?

John Cook: We have done load testing, so we can take on loads more cases.

Richard Lyle: Having been involved in the business for 30-odd years, I am very pleased that you are doing what I have called for for many years. Thank you very much.

Jamie Hepburn: Although we have the capacity, we hope that we will not have 60,000 more cases.

The Convener: I suspect that none of us can speculate on the exact numbers.

Colin Beattie (Midlothian North and Musselburgh) (SNP): Last week, I asked some specific questions about payments distributors. I felt that the responses from Richard Dennis were a wee bit grey, so I hope that the minister will provide some clarification.

Citizens Advice Scotland anticipates that significant additional work will be required as a result of supporting clients to choose a payments distributor. The choice is with the client, but CAB advisers believe that they will need to set out all the options and be transparent about the advantages and disadvantages particular providers, especially if there would be an

advantage to their CAB, for example. What is your view on that?

Jamie Hepburn: I am aware that that concern has been raised with the committee. There is no intention to create an undue additional administrative burden. We do not intend that advisers will need to talk through every possible available payments distributor. We will provide further guidance, but we do not anticipate that that work will be a necessary part of the system.

I am not suggesting that the system does not work at the moment, but I urge the committee to consider that we have a system whereby payments distributors are tendered for and allocated on an individual basis for a specific debt payment programme by a computer algorithm. That goes back to my point about having a system that is designed to ensure that a specific individual who is in vulnerable circumstances and has debts that they cannot sustain can benefit from DAS and avoid going into full insolvency. We want to increase the autonomy that such people have, and there should be scope for them to have some form of say on the payments distributor, if they want that.

That said, there is a practical issue, as I am not sure how often such conversations will arise. I imagine that a person will come through the proverbial—or literal—door to speak to an adviser, who will talk them through their options and say, “Yes, DAS is a possibility. This is how it works, and this is the payments distributor that we recommend that you use.” In most circumstances, the individual will say, “That works for me. That sounds okay.” Surely we believe that an individual—the person who is at the core of the process—should be entitled to have some form of say in it. Nonetheless, I do not believe that the process will be overly burdensome.

Colin Beattie: In practice, do you think that the debtor, when they are sitting in front of the money adviser, will be well-equipped to make an informed choice? At that point, the debtor is usually fairly desperate and will probably just go for anything that is suggested to them. Do they have the capacity to make the evaluation?

Jamie Hepburn: It is very difficult to say, because we are talking about a wide range of individuals who have different life experiences. I suspect that you are right to say that, in many circumstances, the debtors will have limited information, which is why they will need to strike up a good accord with their adviser, who can talk through the options with them. However, we should not think that it will be impossible for an individual to say, “I am aware of the organisations, and I happen to have a particular view on the organisation that you are proffering as the payments distributor.” There is also autonomy for

the organisation offering advice, which could ultimately say, "That is who we use." At the end of the day, it is important to ensure that an individual in vulnerable circumstances has as much autonomy as possible in the process.

Colin Beattie: Could any concerns about that be addressed quite simply by automatically allocating free sector cases to the Accountant in Bankruptcy?

Jamie Hepburn: It could be done in that way, but I do not think that it needs to be done automatically as a point of law. It is very much down to individual organisations. I will not posit a specific example because it will then get out that I am suggesting that that particular organisation would want to do it in that way. However, let us say that a citizens advice bureau decides that it wants to use the Accountant in Bankruptcy—ultimately, it has to make a determination, so it could choose to do that. As was very clear from the response to Mr Lyle's question, the Accountant in Bankruptcy is very well equipped, but it is not necessary to say that that should be the automatic assumption in every case.

Colin Beattie: In the course of the committee's evidence taking, there have been many references to protected trust deeds. Is the minister considering taking some action on the frankly rip-off charges that protected trust deeds seem to attract?

Jamie Hepburn: I had better be careful about what I say in relation to that point because protected trust deeds are a legitimate part of the system. I can say that we have heard some concern that there is not the same incentive for organisations to offer the debt arrangement scheme as there is for them to offer the protected trust deeds element of the system—that might be why the regulations are before the committee. The regulations are one part of the response to the underlying assumption that is inherent in your question. Of course, we have also consulted recently on protected trust deeds. As a result of that consultation, we need to consider whether any other refinement of the system is necessary. What we are doing is not happening in isolation from our consideration of the wider system, but the regulations, in and of themselves, are a response to the concern that you have outlined.

I do not have the precise figures for the 2017-18 case load, but there were just over 2,000 new DAS cases and nearly 6,000 PTD cases. There is a bit of a disparity there. When we look at the creditor element, the disparity is brought into sharp focus. Just under £35 million was returned to creditors through the debt arrangement scheme, whereas a lesser sum of around £22 million was returned under protected trust deeds, despite there being nearly three times as many of them.

The regulations have significant potential to benefit not only debtors but creditors.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Thank you, minister, for the explanations that you and your legal adviser provided in response to the points raised by the committee in our letter. I for one am satisfied with those explanations.

The focus of the regulations is on debtors and how we look after them. If the regulations are approved, how do you plan to roll them out so that the public is made fully aware of the changes and debtors and creditors can benefit from them? It is a difficult subject and some of the technicalities are difficult to get across. How do you plan to do that?

Jamie Hepburn: We are more or less set to go in that respect. The sector is aware of the regulations; judging by the response to the consultation, it is overwhelmingly in favour of the changes. The sector will be ready for the regulations to come into effect—it will be ready to operate on that basis. It is better placed to tell people who come through the door that the debt arrangement scheme is the one that will benefit them more than one that involves them becoming insolvent and having to go through one of the other solutions that are available. We are ready to hit the ground running once the regulations are in place.

Willie Coffey: Could they be effective almost immediately?

Jamie Hepburn: There will probably be a bit of lead-in time. I ask John Cook to remind me what that will be.

John Cook: The regulations will come into force on 4 November. At that point, any new application will be dealt with under the regulations. It takes time for a debt payment programme to be proposed and agreed, but within five or six weeks we will start to see cases coming through under the regulations.

The Convener: Andy Wightman and Jackie Baillie have further questions on subjects that have not already been covered.

Andy Wightman: Some witnesses have suggested that the new fee structure should be applied to existing cases. Do you have a view on that?

Jamie Hepburn: Yes. Applying the fee structure retrospectively would be technically possible, but I am not convinced that it would be the right thing to do. I go back to the fundamental point that I have made a couple of times, which is that that specific policy proposition was not raised during the development of the regulations, so some of the consequences have probably not been fully

thought through, although I can touch on what some of them might be. Further, we have not consulted on the proposition, and I am not inclined to make policy on the hoof. We would need to consider the proposition and consult people on it before we introduced it as a serious proposition.

I will ask John Cook to speak to this because, given his professional experience, he can probably explain it in greater detail than I can, but one consequence would be the likely revocation of an individual's existing programme. Thereupon, creditors could demand some of the sums that they were hitherto not expecting to get back. In addition, there is no guarantee that the new programme would be agreed to, so the individual might fall out of the DAS system altogether, and of course their financial circumstances might have changed such that they would have to make a higher contribution, notwithstanding that the fees would fall by the wayside.

Those are some of the things that have probably not been fully thought through. On the face of it, it seems to be a straightforward proposition: we have a new system, so let us just apply it retrospectively and everyone will benefit from it. I am not convinced that it would be quite as straightforward as that, and I cannot emphasise enough that we have not consulted on it. I do not think that Parliament expects the Government to come forward with such a specific proposition without having spoken to people about it, and consulting on it would take a significant period, which, I suggest, would go quite a bit beyond 4 November, when we hope to have the regulations live and people benefiting from them.

John, do you want to talk about any of the specific elements of that?

John Cook: People have suggested that if the regulations are approved with the fee structure provision backdated, some would apply to have their debt payment programme revoked and would reapply. However, such a move would be fraught with risk because a person could be charged fees and charges by their creditors. Creditors might also refuse the new proposal. Essentially, it would move the goalposts for creditors and, as the minister said, we have not consulted on it.

10:45

Jackie Baillie: Minister, you have spoken about the wider review, which the committee is keen on. When is that likely to happen? My understanding is that you have said that you could not look at any regulations in respect of protected trust deeds until the next session of Parliament.

Jamie Hepburn: I do not have a specific timescale for the wider review. I recognise that that is not a helpful answer, but my commitment is

to do it as soon as possible. I am not sure about your point in relation to protected trust deeds. We could probably do things by secondary legislation and regulation. At this point in the parliamentary session, it is unlikely that we could do anything in primary legislation that arises out of any element of a review—we do not have the time.

Jackie Baillie: You are right that that is important context for what we are discussing.

You will be aware that early evidence to the committee talked about a funding crisis in the free money advice sector, which I think was described as unprecedented. I acknowledge that DAS is only one part of that, but can you outline what work the Scottish Government is doing to address that funding crisis and by when it will be addressed?

Jamie Hepburn: I can. I understand why the issue has become conflated with the regulations—in some ways, it is probably by virtue of our saying that that the AIB will give funding back to the free advice sector, which has become an unintended focus in relation to the regulations.

A wider piece of work is under way. In 2018, we established the tackling problem debt group, which brought together a range of stakeholders to look at issues around putting debt advice on a sustainable footing. It was important to do that, not just because those stakeholders are a critical element of the system that we are discussing, but because they provide assistance to a range of individuals who come through the door every day with issues that are much wider than those that can be tackled by the debt arrangement scheme or any form of debt solution that the AIB offers. Their issues could be nothing to do with that—they could just be seeking wider debt advice.

In my letter of 9 September, I set out that we will imminently publish a debt route map, based on the group's findings. The route map will be available shortly, and when it is published, I will be happy to discuss it with the committee. In my most recent letter, I suggested that the proposition that was expressed in the committee's most recent letter to me—as I understood it—could be part of our wider deliberations at that juncture.

Jackie Baillie: I do not want to push too hard on that point, but does your debt route map set out a resolution to the financial crisis that the money advice sector faces? To put it bluntly, will it be accompanied by an announcement of money?

Jamie Hepburn: The debt route map will be accompanied by an announcement of the publication of the debt route map.

Jackie Baillie: Oh.

Jamie Hepburn: At that juncture, Ms Baillie will see what is included in it.

Jackie Baillie: I was trying to invite you to resolve the problem for us.

Jamie Hepburn: God loves a trier.

Jackie Baillie: Let me keep trying.

Last week, you had a stakeholder meeting about the issue. StepChange, Citizens Advice Scotland and money advisers Carrington Dean said that they would support withdrawal of the regulations, in order to allow regulation 4 to be tweaked and brought back. Why will you not do that? In my view, that is where the evidence took people.

Jamie Hepburn: I concede that that is what the committee discussed. I can only go back to my fundamental point that, save for the point that Mr Wightman raised around what the AIB might be doing, which I will address in a second, we cannot address the various and specific elements of what people are asking for. I could withdraw the regulations, look at the matter and probably come to the conclusion that we cannot put what has been asked for in the regulations. That is why I refer to the wider consideration of funding the free advice sector. I see no benefit in withdrawing the regulations. I could withdraw them and be unable to accede to the request as I understood it—and I think that I have understood it correctly, in terms of the letter that I was sent and the other points that have been put to me.

We can look at the specific issue that Mr Wightman raised, but I am not convinced that that would merit the withdrawal of the regulations, given the very clear commitment that I and the Accountant in Bankruptcy have set out publicly on the record and which I have put in writing to the committee.

Information about the commitment will be fully available through the Accountant in Bankruptcy accounting process. Of the money that is ingathered by the Accountant of Bankruptcy, the only element that will be retained will be used for administrative purposes. At least 15 per cent of that 20 per cent—75 per cent of the funds that it ingathers—will go back to the free advice sector. That is on the record.

If, down the line, it were felt to be useful to put that on a statutory basis, I would be willing to do that, but that would not necessitate the withdrawal of the regulations now.

Jackie Baillie: Thank you. My final question is for John Cook. The minister and I have disagreed on consultation, but my understanding of the haste with which the regulations were brought forward—particularly regulation 4, in relation to which the sector has said there was insufficient consultation—is that it had to do with the tenders for the existing payments distributors. Is their

contract about to end? Are tenders due to go out again? Is that what is driving the regulations?

John Cook: The contract for the payments distributors ended on 30 June.

Jackie Baillie: Okay.

John Cook: A non-competitive action has been put in place that I hope will allow the regulations to be put in place. It would have been neat to have had the regulations in place for then.

Jackie Baillie: That is helpful to know.

The Convener: As there are no other questions from committee members, we will move to the formal debate. From his comments, I assume that the minister will wish to put his motion to the committee.

Motion moved,

That the Economy, Energy and Fair Work Committee recommends that the Debt Arrangement Scheme (Scotland) Amendment Regulations 2019 [draft] be approved.—[*Jamie Hepburn*]

The Convener: Thank you. Do members have questions to put to the minister in the debate?

Richard Lyle: As I have said, in any change, it is always suggested that we are not going far enough and have not done enough consultation. I joined this committee last week and have not had the full background, but what I have witnessed in the past couple of weeks is that unfair charges are being removed and debtors are being helped to repay their debt more quickly.

People who are in debt are in despair, but who do they go to? They will now be able to go to citizens advice bureaux, get advice, pay not a penny and get their debts paid more quickly. We are handing them a lifeline to repay sooner—I thank the minister for that.

I have been very impressed today by the comments made and the way in which the regulations are being handled. The minister can consult on other things, but that is for another day. To withdraw the regulations would be wrong. I totally support the proposals based on my previous employment experience; I have wished for fairness for people in debt for quite a long time. I support the motion.

The Convener: I take it that the minister agrees with Richard Lyle's comments.

Jamie Hepburn: Thus far.

The Convener: It is important to record the points that were highlighted. I and other committee members are equally pleased with the positive aspects of the regulations. Unfortunately, I am not persuaded on the issue that has been raised about regulation 4, which seemed to matter to those who are involved at the coalface. I accept

that the law is not always clear and there may be different ways to interpret it, but at this stage, I am not persuaded on that point.

There is also the point that was made about the regulations having been laid before the consultation concluded. It therefore does seem that a wider consultation needs to be carried out here.

I am happy for the minister to briefly repeat his responses to those points for the record if he wishes to; otherwise, we will move on to another committee member.

Jamie Hepburn: Okay. I cannot emphasise enough that what is being requested is not something that I think will be possible. If the regulations are to fall today, we would certainly take them away and look at them, but I just do not see them coming back in any substantially altered shape.

On the point that you make about the consultation not having been completed, I emphasise again that the consultation about the regulations was done in advance of the regulations being laid. The very limited consultation that was undertaken was merely and only about, and restricted entirely to, how the funds that are gathered—or ingathered, which is the technical term—by the Accountant in Bankruptcy, for the limited number of cases that it handles, would be redistributed back to the free advice sector. That is all it was about—it is the only thing it was about. We are being asked to believe that that fundamentally alters the nature of these regulations, which I think is wrong.

The regulations are designed to make the debt arrangement scheme more accessible for the debtor, and more transparent and clear. As Mr Lyle alluded to, there are charges that are often levied on individuals entering this scheme beyond those that they are obliged to repay under the assessment that is undertaken. I will not say that they are necessarily all unfair, but whether they are fair or unfair, those charges often exist. This scheme is designed around the individual. The consultation that you refer to happening after the regulations being laid was not about the regulations per se. It was about one very specific commitment that the Accountant in Bankruptcy has made, which incidentally we did not need to make. We could have said, “Actually, no. The Accountant in Bankruptcy is just going to keep all that funding and it will just be gathered up for the utilisation of the Accountant in Bankruptcy.” Would the committee rather that we had done that? Then there would not have been a consultation and there would have been no one saying, “There was not a consultation before.” I cannot see how that can be a major bone of contention in deciding whether the regulations should be passed.

The Convener: Do any other committee members wish to come in?

Jackie Baillie: It is important to set this in context. What I have heard today—this point was made perfectly reasonable but is nevertheless the case—is that a more fundamental review of not just the debt arrangement scheme but all of the debt system is some way off. On the money that is available—I tried to invite the minister to tell us about that—it is not necessarily the case that those problems will be resolved. That is why we are facing such an urgent situation; the witnesses are very concerned about the funding crisis that they described to us.

In that context, I have to say that I have also provided money advice in the past, so I know a little bit about the system. The changes in the schemes in terms of the rest of the regulations are very welcome indeed. I do not think that anybody has given evidence to the contrary.

Most of the evidence that we have taken has been about regulation 4. I will run the risk of sending the minister off the deep end again with regard to consultation. Regulation 4 talks about the 20 per cent split. The minister would be absolutely right to say that people were quite content with that figure, but time after time in discussions, money advisers and the free advice sector asked the Accountant in Bankruptcy how it would be distributed and how it would be paid, so that they understood the system. The regulations were laid before that was addressed and the consultation happened while the regulations were before the committee. That is the point that everybody would acknowledge is not ideal.

I acknowledge that the fact that the existing payments distributors were out of the contract period may have had something to do with it. However, it strikes me that, on every other issue on which you had detailed conversations with the sector, you have come to a great outcome in the regulations. It is a shame that you did not complete the conversation on the issue for the free advice sector because, if you had done so, we probably would not have been having this discussion.

11:00

The minister is absolutely right to say that he values the money advice sector. If you value it, you need to resource it. The regulations are a missed opportunity. As ever, I want to be pragmatic, so I acknowledge the problems that have been raised about the information technology system and John Cook’s response. However, functionality remains a problem. It is 90 per cent fixed—not 100 per cent fixed. There is time to withdraw the regulations and get the approach

right. The minister prides himself on listening to the sector, and the sector is saying that the Government should withdraw the regulations and fix the issue, because we can do better than the proposals that are currently before us.

I regret the fact that we have got to this point. I know that civil servants watch committee meetings and tell the minister and the AIB what is going on, so you could have picked up the issue earlier. It is a matter of regret for us all that you did not, because it could have been fixed earlier.

I think that you can make regulations in respect of the fees. Section 7(2)(y) of the 2002 act, which was inserted to allow the AIB to charge 2 per cent, could be used to make similar provision for the free money advice sector. The regulations are a lost opportunity.

Jamie Hepburn: On that latter point, I take an alternative view. I know that Victoria Morton cannot speak in the debate, but she has laid out clearly our interpretation of the regulations. Again, I go back to the fundamental point of the regulations. Ms Baillie talked about the concerns that the free money advice sector has about sustainability and the funding that it needs to continue its good work. I have heard that as well, and I have made the point that we are looking at that as a separate piece of work.

Last week, Richard Dennis made the point very well that we are not talking about huge sums that will be realised for the free advice sector, through what has been laid out by the Accountant in Bankruptcy, as a bonus—for want of a better term—arising out of the regulations. That is not a core part of the regulations. The estimate is that potentially £100,000 out of the first year of the operation will be available from the Accountant in Bankruptcy acting as a payments distributor to go back to the money advice sector. That is additionality. If Ms Baillie wants my announcement on the tackling debt route map to be, “There you go—there is £100,000 through the mechanism for the free advice sector,” I think that the free advice sector will have something to say about that.

The commitment has been laid out and made in good faith. It is on the public record, and information will be publicly available. As I have set out, I am willing to come back to the committee. I do not think that it is necessary but if, subsequent to the approval of the regulations, the committee wants to explore putting on a statutory footing the AIB element of the payments distributor function returning funds to the free advice sector, we can look at that. However, that does not necessitate the regulations falling today. If the regulations fall today, we will be delaying the implementation of a system that is designed to benefit vulnerable individuals across the country.

I urge the committee to think clearly about that point rather than some of the details that have been raised on the money that will be gathered by the Accountant in Bankruptcy being handed back to the free advice sector. We have said what we will do in that regard. That has been laid out, but that is not the core part of the regulations and it was never intended to be.

Gordon MacDonald (Edinburgh Pentlands) (SNP): Putting the funding issue to one side, I agree with Jackie Baillie that the regulations are very welcome indeed. We have talked about listening to the sector. I have looked through some of the comments on the regulations that were made in the evidence session on 3 September. The witness from Money Advice Scotland said:

“they are certainly a step in the right direction.”

The StepChange Debt Charity witness said:

“the regulations will benefit clients and help them when they are in difficulty.”

The witness from Citizens Advice Scotland said:

“They are a step in the right direction”.

In response to a question from the convener, Alan McIntosh of Inverclyde Council said:

“As I said in my submission, it is not my preference, but I will take anything I can get.”—[*Official Report, Economy, Energy and Fair Work Committee*, 3 September 2019; c 3, 15, 4, 17.]

Therefore, I think that, in the round, we should support the regulations. Dick Lyle has highlighted the benefits to creditors and the benefits to debtors. In the future, we should perhaps do a piece of work on the debt situation overall, but I do not think that we should hold up the regulations, for the reasons that have been given by the sector and by Dick Lyle.

Jamie Hepburn: I agree with Mr MacDonald. The idea that the sector does not support the regulations is not borne out by the significant weight of evidence that was gathered in response to the consultation that we undertook or by the evidence that was given to the committee. In my estimation, on balance, the witnesses who appeared before the committee favour the regulations and, on that basis, I hope that the committee will, too.

Andy Wightman: I will begin with a technical point. The committee will not vote on whether the recommendations should fall or be agreed to; it will vote on whether to make a recommendation to Parliament that they be agreed to. The Parliament will make clear its view.

Earlier in the debate—or it might have been in the evidence session—the deputy convener, Willie Coffey, said that he was satisfied with the explanation that the minister had given, but in

response to the convener, the minister took a meaning from what was being asked that I do not think was the meaning that we had ever intended to give. That is unfortunate. I realise that the process of secondary legislation involves a take it or leave it approach. Obviously, some misunderstandings might arise in correspondence at the last minute. However, I think that it is now clear to the minister where the concerns over regulation 4 have arisen from.

I am glad that the minister confirmed that any statutory provision for a fee to the money advice sector in general for any work that it does on DAS or, indeed, to provide a statutory underpinning to the 15 per cent from the AIB could be included in the regulations under section 7(2)(ub) of the 2002 act. The minister has made the argument that he is not enthusiastic about that and that he does not see any need for delay in securing the regulations. I remain concerned that the regulations do not provide for that when they could. It is quite clear that the free money advice sector is under some stress, so I am rather surprised that, in the deliberations and the consultation that took place on the regulations, that issue was not brought to the attention of the AIB or ministers in a more forceful way than it appears to have been. Perhaps that is because the focus of the consultation was on widening access to DAS and looking at incentives for the private sector and so on.

In all the circumstances, I am content to vote to recommend that the Parliament approves the regulations, but I will do so with some reluctance, because I think that an opportunity has been missed. It is a fine judgment as to whether we should vote to recommend that the Parliament should reject the regulations on the basis that the minister might withdraw them and reconsider the element of regulation 4 that I have discussed.

Given the assurances that the minister has given on the record about the AIB and the 15 per cent, and the arguments that were put to us by the AIB last week, which have also been made by the minister today, about the private sector payments distributors, I am content to wait and see how that will play out. However, I stress to the minister that the free money advice sector is under considerable stress. A new funding regime and a new source of funding have been put in place, and there are no guarantees that the free money advice sector will be able to obtain a portion of that. That remains a concern of mine, and I would be grateful if the minister could confirm that he shares that concern and is, as he said earlier, willing to look at the issue again if it proves necessary.

Jamie Hepburn: On the latter point, of course I will do that. I do not want to do anything other than

put in legislation that will work effectively. That is what I want to do, and that is what I think that we have in the regulations. Of course we must keep such matters under review and learn from practical experience, and I make a clear commitment to do so.

This issue goes back to the point that I have tried to make a couple of times. Obviously, there is and there has to be wider discussion about how we sustain and support the free advice sector. I have been explicit about our debt route map, which arises from the working group that is looking at those matters. That is the appropriate place for that work. Yes, this is an opportunity to realise additional funding for the free advice sector and that opportunity will be realised by the commitment that we have made, but that was never going to be the solution in its entirety. That requires a wider piece of work, which is under way.

I welcome Andy Wightman's comments, not least in reminding me that the committee will be making a recommendation to Parliament as a whole. I welcome the spirit in which he set out his questions. I am utterly sincere in making the point that we will keep these things under review. We will look at them, be informed by practical experience and return to them as necessary.

Richard Lyle: How many citizens advice bureaux are there in Scotland?

Jamie Hepburn: I have been told, but the figure is not coming to my immediate recollection.

Richard Lyle: I have previously been a councillor—I am a man of many talents. There are 32 councils. On average, some councils have two, three or even possibly four CABx in their area. They do not get big cheques of £100,000—on average, they might get £1,000 or £2,000 a year. If we allow this system to go through today, that could mean that people like me encourage the citizens advice bureaux to direct all the work to payments distributors, and that cheque will get bigger. Basically, as far as I am concerned, what we do today will help people tomorrow. If we do not pass the motion today, we will be letting debtors down.

The Convener: I think that Richard Lyle is making the same point by referring to his many talents and by confirming his support of the regulations. I think that you have already confirmed your agreement with both—or at least one—of those propositions, minister.

Jamie Hepburn: I agree that Richard Lyle is a man of many talents.

The Convener: We will move on. Are there any final questions?

Jackie Baillie: I appreciate that Victoria Morton cannot respond during the debate, but she agreed

to my request to look at section 7(2)(y) as a possible mechanism by which to make the payment. On that basis, I invite the minister to withdraw the motion, to allow that to happen. He should then find the vehicle to fix the regulations and bring them back to the committee. If he is not prepared to do that then, regrettably, I will not vote to recommend that Parliament passes the regulations.

Jamie Hepburn: I make it clear to the committee that I do not intend to withdraw the motion for the myriad reasons that I have set out, not least because I am not convinced that we can achieve what is being sought by withdrawing the motion and looking at the regulations again, and some of the very specific propositions have not been fully consulted on. I regret that we will clearly not be able to secure Jackie Baillie's support.

The Convener: The minister is not withdrawing the motion. The question is, that motion S5M-17827 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Lyle, Richard (Uddingston and Bellshill) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Wightman, Andy (Lothian) (Green)

Against

Baillie, Jackie (Dumbarton) (Lab)
Halcro Johnston, Jamie (North East Scotland) (Con)
Lindhurst, Gordon (Lothian) (Con)
Lockhart, Dean (Mid Scotland and Fife) (Con)

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

Motion agreed to

That the Economy, Energy and Fair Work Committee recommends that the Debt Arrangement Scheme (Scotland) Amendment Regulations 2019 [draft] be approved.

The Convener: I invite the committee to agree that the clerks and I should produce a short, factual report on the committee's decision and arrange for it to be published. Is that agreed?

Members indicated agreement.

The Convener: I thank the minister, Victoria Morton and John Cook for coming to the meeting today.

11:15

Meeting suspended.

11:18

On resuming—

Pre-Budget Scrutiny 2020-21

The Convener: Item 4 is pre-budget scrutiny. I welcome our witnesses: Matt Lancashire is director of policy and public affairs at the Scottish Council for Development and Industry, Helen Martin is assistant general secretary at the Scottish Trades Union Congress, Richard Marsh is director of 4-Consulting, and Tony Mackay is an economist from Mackay Consultants. For witnesses who have not appeared before, I should say that there is no need to press any buttons, because the microphones are operated from the sound desk. If you want to say something, please raise your hand and I will seek to bring you in.

I will start with a fairly general question before I bring in other committee members. The objective of regional selective assistance is to reduce regional labour market inequalities. What are the panel's views on whether that is being achieved? Who would like to speak on that first? Richard Marsh is not nodding, but at least he is smiling. Do you have a comment to make, Richard?

Richard Marsh (4-Consulting): I was actually looking to Helen Martin to go first on that question.

The general point, which has been made in the written submissions, is that we still have significant regional inequalities in Scotland. RSA is just one tool that we can use to try to tackle such inequality. We need to measure what RSA is doing far better than we do currently. We highlight where RSA is being used to help companies invest and we report the jobs that are going to be safeguarded and created, but we do not measure consistently over time the number of jobs that are sustained over the life of a company in different parts of Scotland.

The Convener: Does anyone else have a comment on that?

Matt Lancashire (Scottish Council for Development and Industry): I think what you are asking is whether addressing regional disparities is going fine. The evidence that we found is that the central belt dominates the funding, which continues to be focused there. There are fewer funding applications to the grant fund from businesses from regions in the south of Scotland and further afield. The evidence from our members also shows that there is a regional disparity in how the fund has been awarded in the past.

Jamie Halcro Johnston (Highlands and Islands) (Con): What can be done to address that regional bias—the focus on the central belt that Matt Lancashire mentioned? More generally, what

is business's awareness of RSA? Are there particular regions, sectors or sizes of business that are perhaps not as aware of RSA and are therefore not able to access it as they should?

Matt Lancashire: Awareness is sporadic depending on the type of business and where it is located. Raising awareness of any type of grant programme, but RSA in particular, would be beneficial, because it would give business leaders the option to suggest whether it is a useful fund to support their future capital expenditure.

There is a little bit of responsibility on the part of businesses to be aware of such things. It takes good leadership and management to understand that those options are available. It goes two ways. Perhaps there is more that we could do to support and educate our business leaders about making the right decisions, whether that is in respect of the grant fund or other aspects of their business, particularly when we are interested in securing jobs or increasing the gross domestic product of a certain region.

Richard Marsh: In the session that the committee had on RSA with the enterprise agencies, there was a bit of discussion about trying to stimulate the demand for RSA. Previously, the committee has been quite critical of investment funds that have had very low uptake. We have had similar conversations around stimulating demand for the products of the Scottish Investment Bank. Awareness of such products is one thing, but whether we have the right products to fit the needs of businesses is another. We need to give as much attention to that as we do to the question whether businesses are aware of what is available. Perhaps what is on offer is not what they need.

Jamie Halcro Johnston: That is a good point. I understand that one of my colleagues is going to cover demand stimulation.

We are looking at which regions and sectors have benefited so far. We have talked about the geographical side—the regions—but have particular sectors benefited from RSA? If we focus on which sectors are successful or will grow in the future—such as automation in manufacturing—can we see how and whether RSA can develop in order to accommodate those changing sectors? I am happy for anyone to answer.

Tony Mackay (Mackay Consultants): I think that the RSA system has been very successful in Scotland. It is important for the committee to distinguish between RSA and the other selective assistance that Scottish Enterprise and Highlands and Islands Enterprise are providing. From an economic point of view, you could regard the former as being reactive and the latter as being proactive. The biggest disappointment in the past

five years has been on the proactive side, rather than RSA. If the economy is doing well, businesses will go to SE and HIE to ask for assistance and they will get it through RSA. The economy has struggled in the past five years for various reasons and it is the proactive activities and expenditure of SE and HIE that I think have been disappointing, rather than the RSA expenditure.

Andy Wightman: Is RSA funding doing a great deal to support the Government's policy of fair work and inclusive growth? For example, there has been little change in the eight indicators of the national performance framework business and fair work outcomes over the past years. Maybe the RSA is too small a component of broad Government support to be expected to have any direct impact on those, or is too small to even be measured. Nevertheless, I am interested in the witnesses' views on that.

Helen Martin (Scottish Trades Union Congress): RSA has probably not been targeted along fair work lines until fairly recently. The change in approach from Scottish Enterprise, which only came in in April 2019, is welcome, but RSA was not necessarily targeted in a way that was designed to support fair work outcomes. It was perhaps designed to support employment, but there was not much focus on the type or quality of employment, or what the knock-on impacts of benefiting certain employers versus other employers might be on the wider economy.

The focus has changed, but saying whether it amounts to a substantive change that feeds through into the national performance indicators is quite a tall order. We need to focus on fair work in a range of business subsidies and across a range of our work in order to get those indicators moving in a positive fashion. At present, it is true that none of the national performance framework indicators around business and fair work is moving positively—they are either holding steady or declining. We have a lot of work to do and we are very much at the beginning of the journey, and every subsidy has to play its role in that.

Andy Wightman: Is it even possible that a funding stream such as regional selective assistance can substantially support fair work? Amazon is one of the companies that received RSA, and the arguments that were made to rebut accusations that that was not an appropriate use of RSA were that it is essentially a competitive process. In that process, companies such as Amazon would, in many instances, be looking at a variety of locations in which to expand their existing footprint or develop new facilities, and RSA could—from Scottish Enterprise's point of view—make the difference between that

happening in Scotland, as opposed to, for example, in the north of England.

In those circumstances, in which the dominant driver is essentially a competitive one to try to provide more of an incentive than might be available in other parts of the United Kingdom, it is hard to say how we could do much to promote fair work. Is that fair?

11:30

Helen Martin: The key question is: what values are we trying to promote? Is it appropriate to put Scottish Government funding or public money into bringing to Scotland a company that has unfair work outcomes? That is a challenging question, and there are difficult answers to be given.

A key example is Amazon, which was a company that was in receipt of Government funds, but was clearly not meeting the principles of fair work. However, it is possible to put those principles into funding such as RSA—it might simply mean that we have to change our mindset on what we want to see in our economy and the sorts of conversations that we are prepared to have with businesses. We might find that Amazon is willing to have those conversations.

The STUC has argued quite strongly that there needs to be a greater focus on collective bargaining in the structure, because we can sometimes see perverse outcomes in fair work discussions. Companies might say that they will pay the living wage, but they might then take other things from their employees. I think that Amazon did that in the end. It agreed to pay the living wage, but then removed subsidies for its workforce, so it was a zero-sum game. If there is collective bargaining coverage, the workforce will get more of a say in how the work is organised and run, and that will mean better long-term fair work outcomes.

We see the collective bargaining coverage element of the national performance framework indicators as a key indicator of how well we are pushing out fair work in Scotland, as it gives the workforce the ability to shape the work, and it gives employers and workers in a sector the ability to make tools that fit the sector rather than simply very blunt instruments that we can sometimes see in other ways.

Matt Lancashire: We also have to remember that RSA has had a positive impact on the Scottish economy. That supports Helen Martin's and Tony Mackay's points. RSA has been responsible for generating additional jobs in economic downturns, which is important. In a sense, it has emphasised creating jobs. Once the jobs are there, the question is how we shape fair work practices, fair work jobs and fair work roles. I take Helen Martin's

points in particular about how we might go about doing that as part of the RSA process. It is important to point out that additional jobs would not be in Scotland and that our economy and unemployment rate might be worse without RSA.

Richard Marsh: Helen Martin and Matt Lancashire are right: RSA would have the potential to make more of an impact if we chose to attach different, wider conditions. Matt Lancashire was also quite right to point out that the more conditions that are attached, the less likely companies are to take up the intervention. We have to balance that with providing jobs in an area that needs them, and we have to be much clearer about what kind of development we want. I fully agree that we have to be very clear about that. At present, inclusive growth is ill defined and is not fit to shape those policy discussions in Scotland.

The Convener: I want to briefly follow up on that, if Mr Wightman is happy with my doing so—I do not want to interrupt his line of questioning.

Putting too many conditions on people was mentioned. However, let us take Amazon as an example. Amazon locates warehouses in places from where goods need to be distributed. The further away from the delivery point the warehouse is, the more there will be an effect on Amazon's costs. I would have thought that, from its point of view, there is a balancing of cost and profit and that it is not all on one side, as it were.

For example, Amazon gains advantages by being located in and having operations in Scotland, as other companies do. I take the point that has been made, but it is not quite that simple. There are both sides. I see that Helen Martin is nodding in agreement.

Helen Martin: What you have said is absolutely true. Sometimes, we take these conversations as being quite blunt, in some ways. We think that employers have a completely blank page for where they can take their business, but that is not entirely true. There are other reasons why they might want to locate in Scotland, because there are other things that Scotland has to offer. We have a highly skilled workforce, good connectivity and a good economy to build on. Companies want to come here to access our market, too. We should not start every conversation by thinking that we cannot ask for fair work conditions to be applied and that such things are not achievable, because they are. Other countries have better social frameworks around employment than we have in the UK, and they are still prosperous and successful. It is possible to work in a way that produces greater social justice outcomes, as well as a good business environment.

The Convener: I did not mean to take Andy Wightman out of his stride.

Andy Wightman: I will get straight back into it.

Some witnesses raised the differential rates of support that are available, according to whether businesses are in a tier 1 or tier 2 assisted area or, in effect, the rest of Scotland, which is subject to the general block exemption regulations. In its evidence, Aberdeenshire Council highlighted that the general economic assessment of Aberdeenshire, which is relatively more affluent than other parts of Scotland, can mask inequalities within Aberdeenshire. The council also highlighted that the reassessment of the assisted areas has resulted in a situation whereby Buckie, which is in tier 2, can receive a higher rate of intervention than Macduff, which is just across the river in the Banff and Buchan area of Aberdeenshire.

Do we need to revisit the hard lines on maps, given that the impact of businesses and the choice of where they locate are dependent on factors such as workforce, transport, site and land availability and raw materials? What is needed does not fit neatly into the areas that we have defined on maps as being more or less deserving of support.

Richard Marsh: I agree with Helen Martin that, in relation to inward investment in particular, companies are unlikely to consider the availability of grants and loans as fairly high priorities. They will look at the available workforce, the strategic location, the source of raw materials and so on.

What makes me nervous about Andy Wightman's suggestion is that hard lines are quite useful. Sometimes, there can be very good reasons for supporting industries and companies; at other times, the long-term benefits of giving large-scale support to industries and companies are less than clear. There are quite good reasons for allowing the market to decide where the best places to invest will be. Allowing businesses to create their own innovative products and competitiveness is good, and we should assume that that is probably what happens in most cases.

Having been involved in shaping some of the lines in the past, I know that a bit of gamesmanship is involved in trying to remove the lines as much as possible to the benefit of a local economy. If we moved from having hard lines—I accept that there are good reasons for doing so—we might end up with the gerrymandering of where the different assisted areas might be, with people trying to push the lines back as far as they can do, to ensure that they can get investment in areas that might have got it anyway.

Jackie Baillie: Is the RSA grant appraisal process fit for purpose? Some firms that have received RSA funds have subsequently experienced—how can I put it?—trading difficulties. The list includes the Michelin tyre

factory in Dundee, Kaiam Europe, the 2 Sisters Food Group poultry business, Havelock Europa, Burntisland Fabrications and, most recently, Ferguson Marine Engineering.

Tony Mackay: We should accept that bodies such as SE and HIE have to take risks. If they did not invest in risky ventures—I am not necessarily talking about specific firms—anyone could do the job that they are doing. It is inevitable that some of the businesses that they assist will go under. We have to accept that.

There are some exceptions. I think that I have made this point to you before: in my opinion, in the past few years, both SE and HIE have started taking a lot of investment decisions on the basis of politics rather than economics or business reasons. They have become too politically biased. Ferguson Marine is an obvious example, as are Prestwick airport and Burntisland Fabrications. It is unfortunate that, in the past few years, quite a few RSA or other decisions have been taken on more political than economic grounds.

If decisions are taken on economic grounds, I am not particularly worried. Indeed, it is a good sign—"good" is probably not the correct word—that some investments have gone wrong, because it shows that the bodies are taking risks. Okay, the risks might be too high. However, the big problem in the past few years has been the political bias in relation to the likes of Prestwick airport and Ferguson Marine.

Jackie Baillie: Some committee members might disagree with you. I will not invite them to speak.

Helen Martin: I take a slightly different view. It is more about shoring up strategic assets in the Scottish economy. It is important that that is done, and it is a role that the Government has to play.

It is important that there remains a strong fair work dimension to such issues. We would like there to be conversations about how the workforce will be treated in future, in particular if new owners come in. That has to be a key element of the conversation, but it does not always happen—coverage is still patchy on that question.

We want the Scottish Government to be ready to defend strategic assets that play an essential role in shoring up elements of the economy that might not fare well if they were left to market forces alone.

Richard Marsh: I was going to make similar points. Tony Mackay talked about decisions being made on political grounds; I think that it is probably "political" with a small p. Helen Martin's point about the need to shore up strategic assets is fair. As I said, the letter from Scottish Enterprise to the committee about what it did with Kaiam spoke

quite loudly to that kind of approach. Scottish Enterprise was clear that it tried to do everything that it could to save a large employer in an area that desperately needed jobs.

However, if the intention is to shore up strategic assets, is an economic development tool that encourages people to go on a large-scale capital investment programme and expand their workforce the right tool to use? That is my concern. Is that the right thing to do to try to improve the viability of companies that are in distress? I cannot imagine for one minute that it is, so we are not using the right tool to achieve what I think that Scottish Enterprise is trying to do. However, it is not saying so in its correspondence with the committee.

11:45

Matt Lancashire: I do not disagree with what has been suggested. We need to look more widely than RSA in relation to those businesses that we are calling strategic assets. That plays into Richard Marsh's point about how—whether it is Prestwick airport or other firms in the future—we go beyond just shoring them up and make them wealth creators. How do we go beyond accepting risk from those types of organisation to look at how they create wealth, perhaps by bidding for other contracts? Perhaps it could involve providing support outwith their current region. Again, that goes back to improved leadership and management in businesses so that they look more broadly and beyond where we are right now. That is critical if we are to get the best out of RSA. It can shore up a business, but what comes next and what are the opportunities to go further?

Jackie Baillie: From my perspective, it is interesting that there was a decline in RSA, particularly around 2014, when there were changes to state aid rules. It has gone up in the past year, but for smaller rather than larger firms. Having spent part of my time yesterday with a small firm that is in receipt of RSA, I know that the volume of material in both the application process and the subsequent monitoring is vast.

Richard Marsh said that RSA is not the right tool and that we need to be brave and move away from it. What would you move to? Should we continue to spend money on RSA or should we direct money into another area?

Richard Marsh: My suggestion would be to go back to what Jackie Baillie said originally. She spoke about firms receiving RSA and subsequently finding themselves in trouble—she said something along those lines. However, that is not the right timeline. In all the cases that were suggested—and many others, including many

large employers—the firms first got into trouble and then received RSA.

If we are trying to find very large employers that are encountering difficulties, we already have tools in Scotland that help us to engage with corporates facing significant challenges in turnaround-type activities. However, that is very different from providing direct funding to produce capital investment and to expand the workforce, which seems to be a very brave decision if a company is possibly facing cash-flow problems.

Jackie Baillie: Are there any other views on whether we should replace RSA with something else or use it differently?

Helen Martin: The role of RSA is important. I have some sympathy with what has been said about the timing—when it is used—and about how it is used. In Scotland, we have recently seen moments of crisis in which we have been trying to deal with a company—a whole list of companies was named—that is very much a strategic asset in the economy. For example, Ferguson Marine plays an essential role in shipbuilding, and there is a long list of shipbuilding procurement projects coming from ports all across Scotland. We have a need for that type of company, so it is right to shore it up, and we have seen enterprise agencies and the Scottish Government using every tool in their armoury to do that.

Rather than trying simply to make what there is fit, it might be fair to think about whether we need specific tools for those interventions. Using state intervention to ensure that strategic assets have a life and can be maintained for the value of the Scottish economy is reasonable and responsible government. Therefore, thinking about how we do that and planning for it in a systematic way is perfectly reasonable, rather than considering simply what we can give people access to and what sticking plaster we can put on today. That approach could play a large role in an industrial strategy within Scotland.

Tony Mackay: Let me give one example that I have been heavily involved with for many years. I do not know how many of the committee were alive in the 1960s and 1970s. [*Laughter.*]

Richard Lyle: Some of us were.

Jackie Baillie: We are not going to answer that, convener.

Tony Mackay: I remember that, at the height of the North Sea oil boom, we had about 15,000 people working in the fabrication industry in the Highlands and Islands, at Nigg, Ardersier and Kishorn, as well as at Methil and Hunterston. Sixty-seven per cent of the fabrication work that was done in the UK was done in Scotland. There was a body called the Offshore Supplies Office,

which was very active in those days. Now the share is about 10 per cent; it has collapsed and, instead of 15,000 jobs, we have 500 or 600 jobs in the fabrication industry. Yet there are offshore wind farms. Virtually all the fabrication for the offshore wind farms is being done overseas, even in high-cost countries such as Denmark and Norway. The decommissioning of oil and gas installations is a big industry in Scotland and will be for the next 20 years, but our share of that is about 10 per cent. Most of the equipment that is being removed from the North Sea is being taken overseas. Bodies such as Scottish Enterprise and Highlands and Islands Enterprise should be doing much more to get the 10 per cent share up to what it was in the 1970s and 1980s. They are not doing that. Is RSA the best way? I doubt it, but I would certainly like to see Scottish Enterprise and HIE doing much more to resurrect the fabrication industry in Scotland.

Jackie Baillie: That is a useful example.

The Convener: It is always easy to critique or criticise things, but what should they be doing specifically to accomplish what you have just set out?

Tony Mackay: I could give quite a lot of examples. Let us take wave energy. A few years ago, Mr Salmond said that Scotland would be the Saudi Arabia of wave energy, yet it is on a tiny scale here. HIE has lost about £20 million through investing in two companies that went bust. It has set up a body, Wave Energy Scotland, that is doing very little. There needs to be serious changes at the top level in both organisations. We need to be coming up with a development strategy for helping marine energy and for helping the fabrication industry. Possibly, if there is a contract for an offshore wind farm, there should be conditions applied to that that say that there has to be a certain level of Scottish content, although maybe not 70 per cent. If there is a condition and the companies getting the contracts for the offshore wind farms have to abide by it, SE and HIE should be helping local businesses to win those contracts. They are not doing that, unfortunately.

Colin Beattie: I would like to look at the economic impact of RSA, which seems, according to the information that I have, rather difficult to pin down. What impact has RSA had on the productivity and international exports of the recipient companies?

Matt Lancashire: Everyone is looking at me on that. I do not think there have been many studies on RSA as the only driver of productivity, internationalisation and export trade.

Colin Beattie: It is one measure.

Matt Lancashire: It is one measure, but many areas focus on and drive productivity, such as inward investment, leadership and management in businesses, digital utilisation and quickening of processes. However, we know for a fact that productivity has not moved over the past 10 years in Scotland, let alone in the UK as a whole. It is not just a Scottish problem; it is also a UK phenomenon.

RSA potentially plays a role in driving productivity, but it depends where it is invested and in what type of businesses. RSA involves writing a five-year business plan, but if I was in a new start-up in emerging new sectors, such as artificial intelligence and data, and I wanted funding to locate here, how the hell could I write a five-year business plan for where my business will be when that sector will move significantly over the next few years? The impact of where automation, AI and data are heading will be felt across all sectors.

It is hard to pin down RSA as a key driver of economic productivity in Scotland. It is one of the drivers, and it is linked to and supports productivity. However, in essence, once an RSA grant has been received, how do we ensure that the grant is used effectively by the business? It is not just about being a driver of jobs; it is about being a driver of innovation in businesses to create further work, economic opportunity and productivity. If we could start to measure and evaluate the impact of RSA on those a bit better, we would get the answer to your question.

Colin Beattie: I will extend what you have said to the What Works Centre for Local Economic Growth case study, which found that RSA policy UK-wide has had positive impacts for small firms but no impacts on large firms. The case study report authors speculated that that was because larger firms could “game” the system and receive the subsidy without complying with the requirement to create jobs. That is an interesting thought.

Matt Lancashire: I cannot comment, because I have not seen the study. I imagine that a small or medium-sized enterprise that has the challenge and wish to grow and support its local community and region will drive it forward. I suspect that larger businesses wish for the same, but I cannot comment until I have read the study.

Richard Marsh: I agree with all Matt Lancashire’s points. RSA is a relatively small tool for the enterprise agency, and it is difficult to pick out what impact one particular tool has on productivity and international exports.

What jumps out at me is that the reporting on RSA by the enterprise agencies shows how many offers were made to companies, how many were

accepted and how many jobs have been promised and safeguarded—I think that we had a report last week. I go back to the communication from Scottish Enterprise to the committee about Kaiam, which seems to lack prioritisation of exactly the things that you have said. What was the turnover of the companies that received RSA? How profitable were they? What was the productivity of the workforce before, during and after completion of the RSA project? Scottish Enterprise has that information; in last week's committee meeting, it said that it has it, but it does not publish it. I would prefer to have the hard data of baseline information to say how many jobs we are talking about, the turnover and the differences in productivity to show those changes over time—it is fine if it needs to be shown over five or three years to give a more consistent picture. The reporting at the moment focuses on how many jobs were promised, which does not get down to the actual change on the ground.

Colin Beattie: If we are assessing economic impact, a large part of it is job creation. Why are we not looking backwards to see what was achieved, so that we know whether we are putting the money into the right places?

Richard Marsh: That is a very good question. The issue is readily solvable, but if we go to an RSA report, it will say, "We promised £30 million or £40 million and the companies have told us that they will create so many jobs." What we are not so good at reporting is a clear table to say how many jobs were created back in 2005, 2010 and 2015 and whether the companies delivered on their plans.

12:00

Colin Beattie: It seems a very basic question to ask.

Richard Marsh: It does.

Colin Beattie: I cannot understand why there is no answer to it.

Does the panel have a view on the economic impact results that are quoted for RSA? Are they realistic? You are saying that the emphasis is solely on the jobs that are promised. Can we accept that the results that are put forward are realistic?

Richard Marsh: I would like to make a case for the defence. There are plenty of reasons to criticise the information that is put forward, but appraisal and evaluation are difficult. It is extremely hard to get precise numbers; it is necessary to do the best you can and to hope that any errors you make cancel themselves out and do not all point in one direction.

The problem that we have with RSA is that we are talking about helping companies that face challenges in areas that the market has found it more difficult to invest in. I think that a witness that the committee heard from a couple of weeks ago said that the creation of employment in South Uist in the Highlands is worth more than employment that is created in a big urban centre, and they were absolutely right.

When it comes to the economic impact, the only thing that you are trying to do, whether through sophisticated econometric analysis or business surveys, is to provide the context in which the outcomes can be achieved. The creation of a small number of jobs in a deprived area that is in desperate need of jobs is probably worth a lot more than an intervention that creates jobs in the centre of Glasgow or Edinburgh. That is what you are trying to do as regards impact, but what is being missed is what Mr Beattie identified in his question. It is not really possible to do such detailed analysis without having a good-quality baseline. There might be good reasons why a particular area has been given a bit more money to create a smaller number of jobs but, rather than jumping into the context, we need to be told how many jobs were created and sustained over a 10-year period in that area.

Colin Beattie: Given the limited size of the funds that are available through RSA, it seems from what you are saying that it would be better to invest in smaller rather than larger companies. I do not necessarily want to take Uist as an example, but are you saying that putting money into a small company in a rural area, for example, has a greater economic impact than giving it to one of the big multinationals?

Tony Mackay: I think that the answer to that is yes. That was the main reason for setting up the Highlands and Islands Development Board in 1965. Certain areas were disadvantaged compared with the central belt—Glasgow and Edinburgh—and it was felt necessary to give additional assistance to those areas. That is still the case. That was the reasoning behind setting up the south of Scotland development agency, whatever it is called. It is thought that, while many businesses in central Scotland do not need assistance and can get on on their own, in rural areas, because of the disadvantages of lack of labour and additional transport costs, subsidies are needed.

In many other countries, it is simply the case that specific grants are provided—a business in a rural area might get 25 per cent. In countries such as Denmark and Norway, there is no selective assistance; it is an automatic grant. Here in Scotland, we have gone through the selective assistance approach, which involves account

managers in Scottish Enterprise and Highlands and Islands Enterprise.

I think that the principle of rural areas requiring more assistance than Glasgow and Edinburgh is still very valid.

Colin Beattie: Given everything that has been said, does RSA offer value for money in terms of the investment that is made?

Tony Mackay: I think so but, as I said earlier, RSA accounts for about 20 to 25 per cent of the expenditure of SE and HIE, administration accounts for about 20 per cent and the rest goes on other expenditures. I am much more disappointed with what those bodies have been doing with the other expenditures than with what they have been doing on RSA. Basically, RSA has been effective, but the other assistance from those bodies has been much less effective.

Matt Lancashire: I think that our members believe that RSA has been effective—I agree completely with Tony Mackay on that. However, there is an element of job creation and productivity that we are not understanding. We need to consider whether we are creating jobs for jobs' sake or creating productivity in firms that will evolve and create higher-value jobs over time, which will make our economy more competitive. RSA could be improved—it would be a continuous improvement rather than a complete rewrite—if the productivity of firms was considered. That would directly lead to better-paid jobs and probably more fair work jobs in the long term. If we just say that we are going to create 200 jobs in two years' time at all costs, that is a bit perverse as a challenge; the challenge should be about increasing profit, productivity, exporting and efficiency of the business, which will lead to more direct investment, and that will lead to better jobs, increased living standards and increased wages in the region. If we can add that into the mix in RSA as a continuous improvement, we will succeed.

Helen Martin: I take a slightly different view. I think that fair work is the key to improvement. We need a focus on true fair work outcomes for workers across the economy. That should be overlaid with a focus on the foundational economy and on investment that stays in the community and supports workers there. We should focus on areas that are foundational and that need to be in a certain location and cannot be stripped away particularly easily. All that would unlock economies of scale in local communities, including rural communities. If there is a strong fair work focus, we will see improvements in how the money is used and improvements in the outcomes for people's living standards, which fundamentally is what we are trying to achieve.

Richard Marsh: Again, I agree with most of what Helen Martin and Matt Lancashire have said, although I have slightly contrasting views. The overall point is that we do not know fully the answer to Colin Beattie's question—we do not have the evidence to answer it, even though that evidence is held by the enterprise agencies. They will have databases that show how all the companies that have been supported have performed over the past 10 or 15 years. Helen Martin is right that we should measure how much the companies pay their workers, whether that has increased, whether it matches the living wage and whether we are pushing up productivity in those companies. Mr Beattie also asked whether the effect is larger or smaller for larger companies or for companies in rural or remote areas and so on. We do not know, because that information is not published.

The criticism that I would level at the current reporting mechanisms is that the enterprise agencies have confused reporting on the success of an administration system with reporting on measures of success. As Matt Lancashire mentioned, it is about the viability and profitability of companies in the long term and how the workforce is treated—those are the things that should be measured. To come back to an earlier point, when the committee pressed Scottish Enterprise on Kaiam, the agency reported a fourfold return on investment and a 10:1 capital investment leverage. It did not mention the things that should be measured. That company died on the operating table, and that should be the sort of thing that is measured in the monitoring frameworks.

The Convener: We have a few follow-up questions on that.

Willie Coffey: First, I must come back to Tony Mackay's point about Prestwick airport. I hardly think that what happened with the airport is an example of political bias, given that it is such a strategic asset and given that the constituency is represented by a member who is not a member of the Government party. I do not think that it can be described as that, but thank you for the comment.

To follow up on Colin Beattie's line of questioning, RSA has been with us for 47 years, since 1972. Why are we saying 47 years later that we have to measure what we are doing better? What on earth is going on? I am keen to get panel members' views on whether the interventions through RSA over those years have led to sustainability in either the businesses or the communities involved. Do they no longer need to rely on further RSA investment to sustain them or is RSA the only mechanism that will sustain jobs and employment in our communities in Scotland?

Richard Marsh: I will make some quick points before everyone else jumps in. We are still measuring what we are doing nearly 50 years later because the things that we are trying to measure have changed. In 2015, we decided to put our shoulder to the wheel to ensure inclusive growth. However, over the past 50 years, different Governments of different stripes have changed what we are trying to get out of public interventions.

You can go back a little further and say that, at some point, we started to look at environmental sustainability as well. It is perfectly natural that how we measure these things changes and will need to change again in the future as we decide on different priorities.

I have discussed this next point with Tony Mackay. Having been involved in economic development not quite for 50 years but certainly for some time, I know that, back in 2010, Scottish Enterprise stated that every pound it was going to invest would return £8.80 to the Scottish economy by 2020. Last year, the committee heard a similar figure—it was up to about £9 for every pound invested. That is not true—it cannot possibly be true. Scottish Enterprise said that we would get that return by 2020. If that were true, we would be sitting on something the size of Norway's oil wealth fund, but we are not.

Occasionally, we get things wrong—occasionally, there is a bit of optimism bias. You hope that these things work out. If they do not, it is important to understand why. Rather than placing the emphasis on saying, "This could have been brilliant," or, "We hoped that it would work," we should be like fiscal ferrets, asking, "Why did it go wrong? What could we have done differently? How can we shape interventions in the future?". However, for 50-odd years, for a very understandable reason, we have not been terribly good at that.

Willie Coffey: Where are the success stories, then? Surely RSA has been a success in some areas—what communities or companies in Scotland are now successful as a result of the RSA intervention and do not need that intervention any longer? Are there any?

Tony Mackay: I think so. Over the past 10 years, we have had a big boom in the North Sea oil industry, not just in the Aberdeen area but elsewhere too, but that has been followed by a collapse in oil prices and a recession, which the enterprise agencies could not have predicted, and they have had to cope with that.

Over the past few years, Brexit has caused a lot of problems and uncertainties, with reduced investment. However, one beneficial effect is that, because of the collapse in the value of the pound,

the tourism industry in Scotland has been booming. Two years ago, it would have been difficult for anybody in the agency to predict that tourism boom.

I can remember doing various studies for the Scotch whisky industry in the 1970s and 1980s. The industry was struggling then, but now it is booming. The digital companies in Dundee have done extremely well out of RSA. There are quite a few examples of industries that have done well in the long run. However, you have to counter those examples with the collapse in North Sea oil and the current problems with Brexit.

12:15

Willie Coffey: Is RSA the only means of providing sustainable jobs?

Helen Martin: The problem is that the system is often not well joined up. A business might receive RSA, but that does not mean that it is receiving all the assistance that it could receive from the Government or from other public agencies. We heard the example of the wind turbines, where it was clear that the UK Government could have put into its contracts a condition that a certain proportion of the work had to be done in Scotland. The Government chose not to do that and, because of that choice, that work is now going offshore and the trade union movement is having to run a strong campaign against EDF—which is using the clauses that it has in its contracts, which are absent from the UK Government contracts—to put work into the BiFab yards.

We have managed to leverage that, but we should not have to work so hard at it. We should be able to see those things coming through from the UK Government, the Scottish Government and all the systems that we have, to support the companies that ultimately receive public support in other ways. Why did we not close the system and finish the support in order to secure the work in the long term? It is a fundamental weakness in the system that it is divided up and there is a lack of strategy and a lack of priority given to supporting our strategic assets in the long term.

Matt Lancashire: I agree in the main with what Tony Mackay has suggested. RSA has supported the digital industry in Dundee in recent times and it is now a world leader and is bringing world-leading jobs to Scotland as a result.

I want to focus on what is coming down the river with Brexit, how it will impact on RSA and how we may be required to consider the process of RSA to continue to support and sustain certain industries and communities at that point. It will have an impact.

The Convener: I remind members that we are running out of time.

Dean Lockhart (Mid Scotland and Fife) (Con): I will try to brief. I will continue with the question of economic impact. None of the Scottish Government's eight performance targets on the economy is being met. Why might that be the case given the significant sums that have been invested by the agencies through RSA and otherwise? Is confusion over what inclusive growth means as the overall strategy a factor in that economic underperformance? Last week, we heard from the agencies that inclusive growth means different things to different people.

Richard Marsh is laughing.

Richard Marsh: I have got to stop doing that.

We do not have to critique the performance of Scotland's economy. The point that I am trying to draw out is that, way back in 2015, we decided to have a strategy that focused on inclusive growth. At the committee last week, members asked the enterprise agencies what they mean by inclusive growth and how it shapes their policy decisions. The answers were along the lines of, "It's a basket of things." No one actually described what inclusive growth means, how it shapes their interventions and what they do as a result.

The agencies pointed the committee towards a diagnostic tool. The diagnostic tool has the five Ps—productivity, population, participation, people and place. The first line on productivity for inclusive growth says:

"growth is resilient, sustainable, and inclusive."

It is four years since we decided the strategy, yet we have a statement at the top of the diagnostic tool that says that inclusive growth means inclusive growth. That approach has not worked too well in describing policy over the last few years. We do not have a firm handle on it.

The Highlands and Islands Enterprise representative who came to the committee last week did a pretty good job of saying that it meant taking place-based approaches, which sounds entirely reasonable.

We have heard today that there are things that we can measure—the living wage, how the workforce is treated and so on. That seems entirely reasonable. However, what we have in the diagnostic is something that, if it is really important, we should be able to describe succinctly. We should not need to take 15 or 20 pages to describe the broad vision and then have nothing to measure, because that would mean that the agency that is tasked with delivering this would not know what it is supposed to be doing.

Tony Mackay: I can give two brief answers. First, a lot of the targets have been far too ambitious. When you apply for a grant, you are likely to give the most optimistic answers. That means that, later, things will be less successful. It is a bit like listening to what Craig Levein and the manager of Hibernian are saying about this football season—do you really believe them?

The second point is that we need to take into account issues such as the recession in the North Sea oil industry and the problems that are being caused by Brexit. Over the past five years, those issues have had a negative impact on many businesses. Because of that, the targets are not being met.

Helen Martin: There is a strategic understanding, at a ministerial level, of the relationship between inclusive growth and fair work. However, I do not think that, even by this point, that has filtered down to all agencies to the degree that it should have.

We are seeing signs that the situation is starting to improve, and we are having discussions with various agencies in different areas about fair work and what their contribution to fair work can be. However, we are still in the early stages of ensuring that that is built in across all the activities of Government in a systematic way.

In some ways, the situation is disappointing. Our target is for Scotland to be a fair work society by 2025. That seems a close date and a daunting task. Workers on the ground hear fair work being talked about but they do not see it in their workplace and work life—there has been a change in policy speak, but there has not been any visible change. At some point, if people are to have genuine faith in the agenda and the approach of Government, we are going to have to see some measurable movement. There is a lot of activity and emphasis, and there is strategic leadership, but we are still trying to embed the approach in the system. Confusion about what fair work really means is not helping that process.

Matt Lancashire: As I said before, increasing Scotland's productivity involves increasing living standards and wages for all and becoming more competitive in an international space in terms of driving foreign direct investment and inward investment into the country, which should translate into more fair work jobs with higher pay, with better industries and sectors coming to Scotland that already have fair work practices embedded in their psyche when they land here. If we add all that up, we get back to the question of how we can increase productivity. RSA is one tool in that regard.

As Tony Mackay said, over the past 10 years since the financial crash, it has been hard to

increase productivity because the cost of North Sea oil is down and because issues around Brexit are reducing confidence in our economy. Another issue is the fact that we in Scotland have not grasped the AI and data challenge, which involves how we can best support our companies to use that technology to become more productive. I welcome the announcement in the programme for government about an AI and data strategy for Scotland. I think that that should support us to deliver more in those areas.

The issue comes back to increasing productivity. That is how you create an economy for all. How we do that is critically important to the success of RSA and its continuous improvement over the next few years.

Gordon MacDonald: I return to the question of value for money. The Scottish Enterprise RSA 2018/19 annual summary says that 86 per cent of the RSA offers that were accepted were from Scottish-owned companies but that only 61 per cent of the funding went to Scottish-owned companies. A 2008 evaluation report of RSA from 2000 to 2004 found that Scottish-owned businesses received substantially

“lower levels of financial assistance compared to ... foreign-owned businesses”

and UK-owned businesses.

Clearly, that has been a long-term trend. Even taking out the one-off, large payments of financial assistance, such as the £6.6 million that was paid to Barclays in 2018-19, Scottish-owned companies got, on average, a lower level of grant, and they have done over the past 20 years. Is there an underlying reason why that is the case?

Tony Mackay: A lot of the successful companies have been export companies, and many of the successful exporters in Scotland are now internationally owned. Again, let us take the whisky industry as an example. Twenty or 30 years ago, the sector was largely in Scottish hands; now it has been taken over by international companies such as Diageo. They have been successful because they can get into the export markets much more successfully. The same is true for the energy and oil sectors—the more successful companies have been the exporters, and they have tended to be taken over by foreign-owned companies.

Gordon MacDonald: Does anyone else have a view? I asked the question because of Helen Martin’s comment about the importance of investment staying in the community. Obviously, companies are coming to Scotland to invest because they want to improve their profitability. If we encourage more foreign investment, whether that is from the UK or overseas, the profits will effectively be flowing out of the country. In

addition, many of the suppliers and services that they use will be outwith this country. We are not getting the multiplier effect that we should get. How do we address that?

Helen Martin: It is important that we think about ownership models when considering whom we are investing in. It is also important that we consider supporting smaller companies that are rooted in the economy and those that are in the foundational economy. Those might be large multinational companies, but they are still rooted in the community. If we consider those place-based elements in the grant-making procedure, that will help the money to be retained in the community and have the multiplier effect that you mentioned. Ultimately, this is about getting the most community impact out of the grants.

We have to remember that companies—particularly large companies—will always seek assistance, but that does not mean that they need that assistance to come to Scotland. We are trying to focus on who needs the assistance, how that assistance will multiply and support the community and how it will support workers in that community to have a sustainable livelihood. If we could do those things just a little bit better, that could pay dividends in relation to how the economy functions, particularly for Scottish people.

Richard Marsh: I keep saying this, but I agree with everything that Helen Martin has said. The point was made that foreign-owned companies get more money. Such companies in Scotland tend to be bigger than Scottish-owned companies. We have been particularly poor at growing companies. We have not really produced significant companies of any scale for a long time, and we need to get better at doing that. That is not necessarily the fault of the RSA; it is a much wider system issue.

12:30

I fully agree with the point about ownership. Gordon MacDonald is absolutely right about large companies that are owned overseas or elsewhere in the UK. In a company that has a public shareholding, the profits are distributed to shareholders. However, if a company is a co-operative, for example, the earnings are retained in the local community and can be distributed, so there is a multiplier effect, with more wealth retained and a more sustainable community in the long run.

Gordon MacDonald: I take the point. Do you know how many co-operatives have had RSA support?

Richard Marsh: Co-operative Development Scotland is probably the place to go to find that out.

Matt Lancashire: I very much agree with what the panel has said.

In relation to indigenous Scottish businesses, there is an opportunity to do a bit more in the context of where the RSA grant's focus might be, for all the reasons that Helen Martin set out, which I will not go into in detail. We also need to consider in a bit more detail how we de-risk—or use RSA as a de-risk for—indigenous Scottish businesses that want to grow. Some of that is about the company's business model, who the directors on the board are and how the company is set up. Is the company a strategic asset, such as we talked about earlier? How do we start to look at these things differently, so that we de-risk companies' opportunities to grow? Risk is part of why our indigenous Scottish businesses are not taking their companies to the next challenge, new market or opportunity.

Gordon MacDonald: On the point about de-risking, when we look at the level of grant in relation to the jobs that are planned—accepting all the caveats about there being no proper measure in place—we find that, in Scotland, average support per job is lower than it is in UK or foreign companies. Does that mean that we are getting better value for money because it takes less RSA money to support a job in Scotland?

Matt Lancashire: I will not read as much into that as you are reading, for obvious reasons. I hear what you are saying and I understand where you are going on that. It is an argument that can be presented, yes.

Richard Marsh: I would be cautious about making that interpretation. It could be that more capital is involved elsewhere, or it could be about higher pay. There might be a smaller number of jobs among foreign companies but with higher wages, or vice versa. Members should not read too much into a fairly blunt statistic.

Gordon MacDonald: I will take your advice.

Richard Lyle: We are nearing the end of our discussion and we are running out of time, so I will curtail my questions. We are—or were—a country that developed many inventions over the years. Yes, Mr Mackay, I remember the 1960s and the 1970s, but in the 1960s we had the “I'm backing Britain” campaign, and in the 1970s we had the winter of discontent. Those decades were not as great as you think they were.

We talked about Prestwick, which put me in mind of a song. I will certainly not be singing, “Prestwick no more”. As far as I am concerned, we are going to safeguard Prestwick, as my colleague said.

Regional selective assistance was used to retain, improve, encourage and promote jobs. Have we lost all that?

To come back to a point that Helen Martin made: we are not buying locally; we are buying where we should not be buying, and our carbon footprint is increasing because we go so far away. That is the problem.

However, we have higher employment, as another committee member said. We are not doing as badly as some members make out.

Can the panel suggest changes to RSA or wider enterprise agency support for business? Should we change things? Should we invent more things? Should we get ourselves back to the powerhouse of the 1960s, which Tony Mackay talked about?

Helen Martin: It is very positive that RSA will look more strongly at fair work outcomes and consider only jobs that are paid above the living wage. That is a good start, but it is not quite good enough. I would like it to look at fair work in a much broader sense.

I would also like to see much more of an industrial strategy from the Scottish Government, and the UK Government, too—those need to link together. Industries need to be supported through a range of procurement options. For example, we should have a procurement strategy for ferries and a strategic overview of how ports will be developed to support island communities to grow. We desperately need those things, and we are not really seeing as much of a drive for them as there could be. With the tools that are being put in place around inclusive growth and fair work, there is a lot of potential, but we need to maximise that as much as possible.

Matt Lancashire: There are two clear opportunities for RSA, which relate to our focus on new, emerging sectors. Artificial intelligence and digital, which I discussed before, will impact every sector in Scotland over the next 10 to 20 years, and how RSA responds to that will be critical to the success of our industries. There is an opportunity for us to be world leading and to get back to those halcyon days of the 1960s that I can only watch on historical programmes on television—I do not know whether that is a good or a bad thing.

The other opportunity relates to the climate emergency that the First Minister announced a few months ago. Clean growth is a great sector to be in, and the expertise in Scotland, in the north-east and beyond is critical to how RSA will support industries in that sector in the future. There are great opportunities to be world leading in those two areas.

Richard Lyle: Tony, what is your view on where we are now?

Tony Mackay: We have been very innovative in some industries, of which one of my favourites is the alcohol industry. If you look at what is happening with whisky, gin and beer—

Richard Lyle: And India pale ales.

Tony Mackay: There has been a huge increase in that sector in Scotland—not just involving big firms, because there are a lot of small firms in Orkney and elsewhere.

We have talked before about the successful IT firms in Dundee.

Richard Lyle: Dundee is a world leader in games. There is also a world leader in games just across the road from here.

Tony Mackay: Yes. However, the big disappointment for me, which I mentioned before, is marine energy—wave and tidal energy. We have got the coastline and natural resources to do more in that area, but we are letting that opportunity disappear.

The Convener: That concludes that agenda item. I thank the panel for their evidence. We will now move into private session.

12:38

Meeting continued in private until 13:07.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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

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