



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Affairs and Islands Committee

Wednesday 22 November 2023

Session 6



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RURAL AFFAIRS AND ISLANDS COMMITTEE

30th Meeting 2023, Session 6

CONVENER

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

DEPUTY CONVENER

*Beatrice Wishart (Shetland Islands) (LD)

COMMITTEE MEMBERS

Karen Adam (Banffshire and Buchan Coast) (SNP)

*Alasdair Allan (Na h-Eileanan an Iar) (SNP)

*Ariane Burgess (Highlands and Islands) (Green)

*Jim Fairlie (Perthshire South and Kinross-shire) (SNP)

*Kate Forbes (Skye, Lochaber and Badenoch) (SNP)

*Rhoda Grant (Highlands and Islands) (Lab)

*Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Claudia Bennett (Scottish Parliament)

Michelle Colquhoun (Scottish Government)

Mairi Gougeon (Cabinet Secretary for Rural Affairs, Land Reform and Islands)

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)

Emma Harper (South Scotland) (SNP) (Committee Substitute)

Lorna Slater (Minister for Green Skills, Circular Economy and Biodiversity)

Roz Thomson (Scottish Parliament)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Affairs and Islands Committee

Wednesday 22 November 2023

[The Convener opened the meeting at 09:04]

Decision on Taking Business in Private

The Convener (Finlay Carson): Good morning, everyone, and welcome to the 30th meeting in 2023 of the Rural Affairs and Islands Committee. We have received apologies from Karen Adam MSP. I welcome to the meeting Emma Harper MSP, who is substituting for her.

I remind committee members who are using electronic devices to switch them to silent.

Our first item of business is a decision on whether to take in private item 9, which is consideration of the evidence that we will take on the Welfare of Dogs (Scotland) Bill. Do members agree to take that item in private?

Members *indicated agreement.*

Subordinate Legislation

Quality Meat Scotland (Amendment) Order 2023 [Draft]

09:04

The Convener: Our second item of business is consideration of the draft Quality Meat Scotland (Amendment) Order 2023. I welcome Mairi Gougeon, the Cabinet Secretary for Rural Affairs, Land Reform and Islands, and her officials: Michelle Colquhoun, head of livestock products policy, and Mairead McCrossan, a lawyer at the Scottish Government. I invite the cabinet secretary to make an opening statement.

The Cabinet Secretary for Rural Affairs, Land Reform and Islands (Mairi Gougeon): Good morning, and thank you for inviting me to speak about the Quality Meat Scotland (Amendment) Order 2023. The Quality Meat Scotland Order 2008 makes provision about the constitution and function of Quality Meat Scotland and specifies the rules on the rates for the red meat levy. The rates that are included in the order are the maximum rates that can be charged, and QMS sets the payable levies annually, with my approval, within those ceilings. The order stipulates that QMS cannot increase the paid levy in excess of the maximum levy rate in the order. Contravention of that requirement would be an offence.

The maximum rates have not been amended since the order was laid in Parliament in 2008. Since then, there has been only one increase in the payable rates. That was in 2010, when the rates increased from £4.57 to £5.50 for cattle, from 67p to 80p for sheep and from £1.05 to £1.26 for pigs. Those figures are for the combined producer and slaughterer levy. That change took the sheep rate to the maximum and left only 9p of headroom on pigs.

Levy income is fundamental to the running of QMS, which provides several functions to the benefit of the red meat sector. I do not have time to cover all of QMS's activities, but I highlight its marketing of Scotch Beef, Scotch Lamb and Specially Selected pork, which is important for Scotland's red meat industry and for raising the profile for the export market. It is important to ensure that QMS has the ability, with the agreement of industry, to raise the payable levy if it feels that there is a need to do so, and the draft order amends the Quality Meat Scotland Order 2008 for that purpose. Final approval of any rise in the payable levy is required from ministers.

I reiterate that the maximum levy rates are being raised due to the current payable sheep rates having reached the ceiling that is permitted by the

2008 order and the pig levy being just 9p away from the limit. The changes for which the new Scottish statutory instrument provides will ensure that the 2008 order will meet the sector's needs for a number of years. Raising the maximum rates in the order does not mean that the payable rates will automatically increase. In giving my approval for any subsequent proposed increase in payable rates, I will have to be satisfied that QMS has fully engaged with levy payers, that stakeholder views have been heard and that the impact of the rise has been considered.

Levy income is fundamental to the running of QMS and I am content that the amendment to the 2008 order is necessary. I hope that my comments have been helpful in setting out the rationale for laying the draft order. I am happy to take any questions that the committee has.

The Convener: Thank you very much, cabinet secretary. My understanding is that the ceilings for the levy have not been considered since 2010. That is some time ago. Why are we seeing an amendment only now, when the sheep levy is at its maximum? Why are the rates not reviewed regularly so that any increase might be smaller than it needs to be now? That would also give farmers more certainty. Thirteen years is a long time to wait, and it looks like you are making the amendment at the last minute because you have reached the top of the charge that you can make for sheep, in particular.

Mairi Gougeon: To be clear, I note that the ceiling was set in 2008, but you are correct that the last time that the levies were increased was in 2010. However, the levies are set annually and I have to approve them. It is up to QMS to propose and consult on any changes to the levies.

I agree that it has been a long time, which is why it is only right that we consider the ceiling rates and why we have made the proposals for the committee's approval. A lot has happened in that time. We are all seeing and experiencing the impact of inflation and the industry has faced some sizeable challenges over the past few years. That is why it is right that we look to increase the ceilings but also ensure that we future proof those rates so that, should QMS want to raise the levy and should levy payers ultimately agree to that after consultation, we have the ability and flexibility for it to do so.

The Convener: We understand that the 2008 order sets only the maximum levy. Is there a reason why it has not been reviewed more frequently? Will you review it more frequently in the future so that we do not get such legislation only every 10 years? If we compare the current maximum levy with the proposed maximum levy, we can see that there is a big increase, and some stakeholders have raised concerns about that. If it

was raised every two years or every five years, the ceiling might not have to rise so much. Why have you not reviewed it more often? It is 13 years since the matter was last discussed.

Mairi Gougeon: I make the point again that the order deals with the ceiling—the maximum rate. QMS would have to consult levy payers on whether to increase the levy. There is no guarantee in that regard. Ultimately, QMS needs to have a discussion with levy payers about the rates. That is looked at and considered annually.

The Convener: Yes, but the only time that the Parliament can look at the issue is once every 10 to 13 years. We have no role whatsoever when it comes to QMS engaging with its stakeholders and you, as the minister, in order to decide whether an increase is valid. That is why I ask the question. This is the last time that we will get to see the legislation before QMS could put the levy up from £5.25 to £9. I do not expect it to do that—I hear what you are saying—but this is the last time that we will get to look at the matter.

There is also a question as to why a business and regulatory impact assessment was not carried out on the order. I know that you have said that, currently, the order will not have an effect, but it will have a financial impact down the road, and the Parliament will have no role in relation to that. Why was an analysis not done of the potential impact of the levy increase that the order would allow so that the committee could consider that?

Mairi Gougeon: I want to make sure that we are absolutely clear on what we are talking about today. The last thing that I want to do is put a fear into the industry that levy rates will increase to the absolute maximum that is allowed by the ceiling. This is a technical order. We are raising the ceiling; the levy rates are not being increased.

I come back to the fact that any rise in the levy rates is a matter for QMS and its discussions with its levy payers about that. A proposed rise must come to the Scottish ministers for approval. As I have set out, that is an annual process.

It would have been very difficult for us to prepare a BRIA. As you set out, I wrote to the committee to outline why we did not undertake a BRIA. Had we done so, it would have been purely speculative. There is no proposal on the table for an increase in levy rates. We do not know whether such a proposal will be made or what it would be, so it is not possible for us to make a definitive assessment or to say that there would be a direct impact on businesses when we do not know whether the levy will rise.

The Convener: I appreciate that, but this is the last time that we can look at the matter. We are about to approve an increase in the ceiling—I absolutely understand that that is what we are

doing—but the Parliament and this committee have no role whatsoever in scrutinising when any levy increase may or will kick in. The levies for cattle, sheep and pigs will increase, but we will not have any role in that and we will not be able to assess what the financial impact will be. That is what I am trying to get at. Do you see the committee having any role in the future in relation to the ability of QMS and ministers to raise the levy?

Mairi Gougeon: The roles and responsibilities in relation to that are set out in the legislation. That is why I am appearing before the committee today to give evidence on the order, which is about raising the ceilings. However, I will be more than happy to keep the committee updated. QMS is undertaking engagement across the country through a range of events to discuss the issue of levies, as well as its wider strategy, with industry. That is a discussion that QMS needs to have. We will be informed and approached if it considers raising the levy, and I will be happy to keep the committee updated.

The Convener: Thank you. Rachael Hamilton, Kate Forbes and Jim Fairlie have questions.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): Good morning, cabinet secretary. There were two responses to the Government's consultation. Do you agree that that is not exactly a solid basis on which to proceed with the proposed technical amendment?

09:15

Mairi Gougeon: What is key there is who was consulted and the fact that there were follow-up discussions with the two people who responded to the consultation. It is critical that we engage with the people who would be most impacted by the amendment order, who are the processors. There was also a response from NFU Scotland. There were follow-up discussions and meetings with the two organisations to discuss their concerns about the order. Again, this is about their discussions with QMS should the levy rates be raised. We are talking about a technical order and raising the ceilings, and that was the discussion that we had.

Michelle Colquhoun might want to say something further on that.

Michelle Colquhoun (Scottish Government): Although we had only two responses, those two organisations have many members, so many more organisations were reached.

Rachael Hamilton: That is interesting. I was at an event with farmers when our committee survey had been sent out. Unfortunately, it was just a little bit too late. We did our due diligence, however, because we wanted to understand a little bit more.

I understand that you hand picked the people from whom you sought an opinion. Is that true? Farmers were not aware of it.

Michelle Colquhoun: It was a targeted consultation.

Rachael Hamilton: What is a targeted consultation? How do you hand pick those people?

Michelle Colquhoun: In consultation with QMS and using our own knowledge, we made sure that we reached levy payers. NFUS covers farmers and the Scottish Association of Meat Wholesalers covers processors. Those were the two respondents.

Rachael Hamilton: It was up to those organisations to speak to their members.

Mairi Gougeon: That is not an unusual approach. We take that approach with other consultations when we need to consult and hear from specific interests. Just to be clear, the consultation was about the ceiling and not about an increase in the levy, which is a discussion that QMS needs to have with the levy payers.

Rachael Hamilton: Do you believe that the consultation process should have followed the detailed engagement from QMS to understand what the levy payers actually believe about the particular raising of the ceiling?

Mairi Gougeon: I am sorry, but I do not understand what you mean.

Rachael Hamilton: Would it not have been better to ask QMS to do detailed engagement prior to the consultation process, so that QMS levy payers could have understood that the issue was coming up and we could have had a broader understanding of what they felt about it?

Mairi Gougeon: It was important that we consulted on the raising of the ceiling and that the consultation was, quite rightly, a separate process from consideration of raising the levy, because they are distinct processes. It is important that we set out that process and that we undertook the consultation in the way that we did.

Rachael Hamilton: Does the possible increase in the levy or the raising of the ceiling correlate directly with an increase in operational costs for QMS, or does it relate directly to the marketing of Scotch Beef?

Mairi Gougeon: Again, this is about future proofing the ceiling for years to come. QMS used a certain methodology in considering what the appropriate ceiling rates might be. Michelle Colquhoun might be able to say a bit more about that. We considered the consumer prices index, the retail prices index and the agricultural price index. We looked at the averages for the past 10

years and how they have changed, and we looked at how the ceiling could be future proofed for the next 10 years, at least, to give flexibility. Again, this is all about the ceiling and not what any rate might be.

QMS is not the only agency that is going through this process. The same discussions are taking place across the rest of the UK, including in England and Wales, where the agencies are looking at the ceiling rates for their levies.

Rachael Hamilton: I am thinking about the answers that you gave the convener about looking at the technical raising of a ceiling in the past 13 years. Is it a coincidence that this is occurring now or is it related to the inflationary cost burden on QMS?

Mairi Gougeon: As I highlighted, there have been a number of challenges over the past few years. We have seen inflation soar, which is why it is important that we are considering the matter now, especially as the levy for sheep is at the ceiling and the levy for pigs is only 9p away from the maximum. That leaves no leeway should QMS, in discussion with the levy payers, decide that there needs to be a change to the levy to enable it to carry out its activities. The levy is fundamental to the running of the organisation.

Rachael Hamilton: Does the Scottish Government have any oversight? QMS is a Government-funded organisation. Do you know whether the levy will be increased or whether an increase will be consulted on? Will any extra revenue be used for operational activities, taking the inflationary burden into account, or will it be directly correlated with marketing activities to promote Scotch Beef? A lot of farmers are concerned about that.

Mairi Gougeon: First, QMS is not a Government-funded organisation. The information that you ask for can be interrogated by the committee or by any member of the public in QMS's audited accounts, which are published annually.

Rachael Hamilton: I thought that QMS is Government funded.

Mairi Gougeon: It is not. That is why the levy is so critical. The levy is considered annually. It has to come to the Scottish ministers for approval even when there is no change, and that process will continue. When the levy comes forward for consideration, I would expect QMS to consult the levy payers before it proposes an increase—should it, in fact, propose one. I would expect to see evidence of that consultation that shows how QMS has engaged with stakeholders. I understand that QMS has already begun that consultation and is running a roadshow across the country to discuss both strategy and the levy. I will continue

to take an interest in those discussions before any proposals are put to me.

The Convener: Rachael Hamilton asked about targeted consultation. Can you give us a list of those who were asked to respond to the consultation?

Mairi Gougeon: I would be happy to provide that. If you want me to list them now, I have that information here, but I would also be happy to follow up in writing.

The Convener: If you have the information to hand and could tell us who they are now, that would be helpful.

Mairi Gougeon: Michelle Colquhoun has the list.

Michelle Colquhoun: The list is: the National Sheep Association Scotland, the Scottish Beef Association, the NFUS, the SAMW, the Institute of Auctioneers and Appraisers in Scotland, the Scottish Association of Young Farmers Clubs, the Scottish Crofting Federation, the Agricultural Industries Confederation, and Scottish Craft Butchers.

The Convener: Can you tell me who actually responded?

Mairi Gougeon: The NFUS and the SAMW.

Michelle Colquhoun: And the Scottish Association of Meat Wholesalers.

The Convener: Were you surprised by the lack of responses, and was anything done to follow up with the organisations that did not respond? As you know, we put out a call for views about the subject last week. The Scottish Beef Association said that it found the email in its spam folder. Was there any attempt to ensure that everyone actually got the message and was able to respond? Was there any follow-up? Two responses out of nine seems a low response rate.

Alasdair Allan (Na h-Eileanan an Iar) (SNP): Legitimate though that question is, I cannot see how the minister can be responsible for an email going into someone else's spam folder.

The Convener: Thank you, Alasdair. I will decide whether my question is valid.

My question is about the fact that you got only two responses from nine consultees. Was there any effort to get further responses to what was a targeted, rather than an open, consultation? That is where my question is coming from.

Mairi Gougeon: As I have said, we followed up with the NFUS and the SAMW. Michelle Colquhoun can explain any further correspondence that we had with other organisations.

Michelle Colquhoun: We were content that the two organisations that did respond were representative of both producers and processors. The timeline for the consultation was a tight one.

The Convener: Why was the timeline tight?

Mairi Gougeon: It was to enable us to bring the instrument forward. As I said when I set out the process, it was important to bring it forward to enable time for scrutiny of the ceilings and to enable QMS to undertake the engagement work that it has to do.

The Convener: Okay. Thanks.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): It sounds to me as though all the questions about what happens to the levy after this technical instrument is passed should really be directed to QMS.

Cabinet secretary, I took heart from what you have said this morning and from what you said in a previous letter, which was that you would expect QMS to fully consult as widely as possible and to engage with producers and processors before taking any action on the proposed increase. Many of the questions stem from a concern that right now it is hugely challenging for producers, in particular, to make any sort of margin in the industry. Will you say a bit more, broadly, on what role you expect QMS to take and how the Government is supporting producers and farmers more widely at a difficult time?

Mairi Gougeon: Absolutely. You raise a really important point. It is important that we do not conflate or in any way confuse the different roles and responsibilities in relation to this. As I have said, we have the responsibility of laying the SSI in relation to setting the levy ceilings. However, it is up to QMS, if it wants to raise the levy, to have that consultation and discussion with its levy payers and to put forward those proposals to me, ultimately, for approval.

I am sure that the committee will agree that QMS plays a hugely valuable role in marketing and promoting red meat and in everything else that it does for the red meat industry. I have seen at first hand, through the different trade fairs that QMS attends, what it does in relation to exports and the value of its promotion to the red meat sector, which equates to tens of millions of pounds annually.

The strategy that QMS is consulting and engaging with its members on at the moment shows it to be driving forward sustainability for the red meat sector as well as considering a number of exciting projects. However, it is up to QMS to have that discussion with its levy payers to show exactly what it is doing on their behalf and why that role is so critical.

Kate Forbes: One of the respondents to the consultation said:

“a change in the levy ceiling within the Order must not be taken by QMS as industry agreement to an increase in the levy rates paid”.

I assume that you agree with that, but I do not want to put words in your mouth, because it is for QMS to determine that.

Secondly, we understand that, although there is no requirement for QMS to consult, ministerial approval is still required at the start of each financial year, regardless of whether there is a change to the payable rates.

Mairi Gougeon: Yes, that is absolutely right. In response to both points, I would say that, if any proposal for an increase in rates were to come to me, I would expect to see evidence that QMS had consulted and engaged widely with its members and levy payers about the proposed increase and what that levy rate would be. That is the very least that I would expect.

Kate Forbes: Thank you.

Jim Fairlie (Perthshire South and Kinross-shire) (SNP): Kate Forbes has just very eloquently asked all the questions that I had. Thank you, Kate. I would just note from the responses to the committee’s call for views that there is broad support across the industry for the right to put the price up as and when, as long as that consultation happens. It is worth getting that on the record.

The Convener: Absolutely. I have a small supplementary question from Rhoda Grant and then we will go to Emma Harper.

Rhoda Grant (Highlands and Islands) (Lab): In response to Kate Forbes’s questions, cabinet secretary, you seemed to make two points. The first is that there would have to be agreement from the industry to a price increase, and the other is that there would have to be consultation with the industry. Those two things are not the same thing—agreement is very different to consultation. Which is the correct response? Does the industry have to agree?

Mairi Gougeon: I would expect to see engagement and consultation with industry. That is a given—the industry needs to be consulted about any potential increase in the levy rate, which would be up to QMS to do. Of course, I would hope that any proposals that it put forward would have that industry agreement. At the moment, I cannot speculate on what any potential decision might be or what it would look like, but I know that QMS has a strong relationship with its levy payers and that at that moment it is engaging with them and undertaking that engagement across the country. I would hope that QMS would reach

overall agreement and consensus, if it were proposing to increase the levy, about what that should be.

Rhoda Grant: Okay, but it is not necessary.

Mairi Gougeon: Again, QMS would put a proposal to me and then it would be up to Scottish ministers to agree on it one way or the other. I am just trying to set out how that fits into the overall process.

09:30

The Convener: Do you have the ability to go back to QMS and say that you are not satisfied with the consultation and that you want to see approval from the stakeholders?

Mairi Gougeon: Again, we are going down all sorts of different roads here and speculating about what might or might not happen. We have not been in that position in the past. The proposals are put to Scottish ministers for approval.

QMS is a responsible body, and I know that it would undertake that engagement. As I have said, I know that, in this case, that engagement has already started. I do not think that QMS needs any prodding from me or to be told to engage with the industry—it is doing that now. It is in its best interests to do that and to have a good relationship with levy payers.

The Convener: I am not questioning QMS's ability to do that. I am just asking, on the back of Rhoda Grant's question, whether you have the power to go back to QMS and say, "We know that you've consulted, but we want an affirmative, positive response from the industry that the levy increase is acceptable."

Mairi Gougeon: I am sure that we would have those discussions with QMS. Again, I think that we are jumping automatically to a negative situation, and I do not think that we will be in that position. We have a very strong working relationship with QMS, and I know that QMS has that kind of same relationship with its levy payers, so that engagement from its side is important. I do not imagine that we would end up in that situation, to be honest.

The Convener: Okay. That is fine.

Emma Harper (South Scotland) (SNP): I know that I am a substitute on the committee, but I want to go back to the beginning. This is a technical instrument making a technical amendment. In my engagement with Quality Meat Scotland, I have found it to be competent, professional, responsible and diligent in working with businesses and farmers. I would trust Quality Meat Scotland to carry out the correct engagement.

My question goes back to the fact that this is a technical amendment. It allows Quality Meat Scotland to go out and engage if levies are to be increased, which would be done incrementally over an annual engagement basis. Is that correct?

Mairi Gougeon: Yes, you are absolutely right. I agree with everything that you have just said about Quality Meat Scotland. This is a discussion that it needs to have. You are absolutely right that the instrument is technical; it just raises the ceiling, not the levy itself, because that requires a discussion between QMS and its levy payers.

The Convener: I do not think that the committee is in any doubt about what, exactly, the instrument is. Are there any more questions from members?

Rachael Hamilton: I have one, convener, on the issue of whether QMS is likely to review this in another five years. What if it reaches the ceiling for the levies? Will we find ourselves in this position and have to go at it again if there are extreme market conditions? It is relevant that QMS has cited inflationary pressures as a reason for implementing the increase. We might find ourselves in such a position again, but I suppose that we will just cross that bridge when we come to it.

Mairi Gougeon: You are absolutely right in that sense, but I have tried with the proposed ceilings to future proof things, so that we do not need to come back every year to look at them and decide whether they are at the appropriate level.

As I have said, a variety of factors have been taken into account in developing the proposals for the ceiling rates set out in the order. We have looked at averages over the past 10 years to project as well as we possibly can in order to future proof things. Of course, we can never say never—we do not know what will happen a few years down the line—but we hope that the ceiling rates in the order today are future proofed to a certain degree.

Rachael Hamilton: I just want to clarify one other thing. QMS found itself with a shortfall of £1 million for its activity as a result of how things worked out in relation to the levy. Did it raise that with you when it asked you to make this technical change?

Mairi Gougeon: That is not a discussion that I have had with QMS.

Rachael Hamilton: Thank you.

The Convener: If there are no further questions from members, I just want to raise one point about the policy note. You are aware that the committee wrote to ask for clarification of some things. As convener, I felt that the policy note was lacking in some information that could have been provided.

For a start, there was no indication of the proposed changes or the history behind the policy. In general, we quite often find that there could be more detail in the policy note to help the committee in considering SSIs, and this particular policy note could easily have contained a little more information to help us, before we had to engage our clerks to investigate it.

With that, I thank the cabinet secretary and her officials. The session has been hugely helpful.

We will now deal with the real business. Having had the discussion, we move to formal consideration of the motion to approve the instrument.

Motion moved,

That the Rural Affairs and Islands Committee recommends that the Quality Meat Scotland (Amendment) Order 2023 be approved.—[*Mairi Gougeon*]

Motion agreed to.

The Convener: Is the committee content to delegate authority to me to sign off our report on our deliberations on this affirmative SSI?

Members indicated agreement.

The Convener: That completes consideration of the SSI. I thank the cabinet secretary and her officials once again for the information that they have provided.

I briefly suspend the meeting to allow a change of witnesses.

09:36

Meeting suspended.

09:41

On resuming—

Welfare of Dogs (Scotland) Bill: Stage 1

The Convener: Our next item of business is an evidence session on the Welfare of Dogs (Scotland) Bill. We are joined by Christine Grahame MSP, who is the member in charge of the bill. We have scheduled 90 minutes for the session.

I welcome to the meeting Christine Grahame; Roz Thomson from the Scottish Parliament's non-Government bills unit; and Claudia Bennett, who is a Scottish Parliament solicitor.

I invite Christine Grahame to make an opening statement.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): Thank you very much, convener. I welcome the opportunity to give evidence on my bill to the committee.

For the past six years, I have been working with a wide range of organisations on the policy in the bill. As the minister highlighted in evidence, the Government's dog breeding licence scheme had its genesis in my previous member's bill, in the previous parliamentary session. The bill is therefore a reduced version of that former bill, but with the valuable addition of the certificate process to complement the code of practice.

Six years ago, I became aware of the growth in the supply of puppies and dogs purchased online and from puppy factory farms, and I considered what could be done to reduce that. I decided that, if supply was the issue, the current legislation and policing were not having a sufficient impact and that I should perhaps tackle demand, which would have an effect on supply.

We all know that there has been a surge in the level of dog ownership across Scotland, exacerbated by Covid. Combined with the lack of an informed approach among the public to buying a dog—which I understand—that has led to a rise in unscrupulous breeding. It is therefore more urgent to ensure that those who are thinking of getting a dog do so in an informed way. My bill is a valuable tool in the box alongside other on-going work set out by the Scottish Government in the minister's evidence.

The animal welfare issues, emotional distress, massive vets' fees and high mortality rates as a result of illegal puppy farming and the buying of dogs that people cannot care for have been well established in evidence to the committee. Evidence from key stakeholders supporting my bill demonstrates the scale of the issue. The Scottish

Society for the Prevention of Cruelty to Animals has estimated that the illegal puppy trade is worth £13 million a year in Scotland. The Dogs Trust has highlighted the huge rise in problems that have arisen from people buying dogs that they cannot properly look after. Abandonment rates are rising—there was an item on the news this morning in which it was shown that abandonment rates are still on the rise—and 96 per cent of rehoming centres have reported an increase in behavioural issues.

Calls to the SSPCA helpline about giving up pets have quadrupled. Costs, vet care and inappropriate living conditions are cited as common reasons. A recent survey found that only 29 per cent of people considered cost when they got their pet.

Dogs are the most frequently abandoned animal, and rehoming centres are experiencing incredible pressures. Battersea Dogs & Cats Home found that only 5 to 10 per cent of puppies across the UK come from licensed breeders, who should ensure healthy puppies and appropriate new owners. It follows that 95 per cent of puppies are bought from unlicensed sellers.

09:45

Awareness of the signs of unscrupulous breeding is low. A report by the People's Dispensary for Sick Animals found that only 43 per cent of dog owners knew that a puppy should be seen with its mother. The SSPCA highlighted that 65 per cent of owners found their pets online—with £2.5 million of associated fraud. Twenty per cent of puppies bought online fall ill or die within a year, according to Government-commissioned research.

The Dogs Trust's submission describes the purpose of the bill to be

"educating and providing prospective dog owners with the tools to purchase or rehome a dog more responsibly, and to identify and avoid unscrupulous breeding practices."

That is the crux of what the bill would achieve: educating to change the behaviours of the public and prevent many of the problems that I have highlighted. That is why the general principles of the bill are supported by the clear majority of organisations that have submitted written evidence to the committee, including the SSPCA, the Scottish Animal Welfare Commission, Blue Cross, the Dogs Trust, Battersea Dogs & Cats Home and a number of local authorities.

Before I answer questions, I will make two key points on the contents of the bill.

The question why we need a new code when the Government could just revise and promote the old one has been raised. The code in the bill

serves a purpose that is very different from that of the existing code. Given that distinctive purpose, it will have a different appearance. It applies to a different group of people, and a new certificate and associated process are attached to it. It applies to people who are considering acquiring a dog; the existing code applies to people who already own one.

The code in the bill and the certificate process would do three additional key things. First, they would make people think twice if they realise that they cannot afford a dog or that it would not fit their lifestyle or living space. Secondly, they would help people to have more time to identify the right breed for them and their circumstances. Thirdly, they would help people to assess the situation that a puppy is being sold in and give them clear warning signs that they may be buying from the illegal puppy trade.

The code will also be short and easily understood. It will be a punchy checklist of key considerations, including the key questions that I set out in my bill. That contrasts with the existing code, which is a long reference document that runs to 28 pages and is linked to a wealth of other reference material. I want my code to be easily understood. Subsuming its contents into the existing code would mean that the key considerations that I seek to get buyers to engage with would get lost and therefore would have less prominence. Furthermore, the distinct purposes of the two codes would be diluted. Clarity would be lost, and the code would therefore be less effective.

I also emphasise the importance of the certificate. No certification process is associated with the existing code. Certification seeks to ensure that anyone who is buying a dog will reflect on the questions to be answered as part of that certification. That will prompt them to reflect on the questions and, I hope, to reflect further.

The briefest consideration of those questions will give pause for thought—no pun intended—to those who are buying a puppy through online sales, through consideration of the cost and the breed, questioning why they cannot see the mother with the puppy and so on, as will asking them to sign the certificate and confirm that they understand the need to retain it in case the authorities should have cause to see it.

That is based on a process that is followed in France, where, as of 2022, a certificate has been required when buying a dog or a number of other animals. Both my certificate and the French certificate require the provider to sign the certificate, which creates a responsibility on the supplier to ensure that the acquirer has gone through all the necessary steps in the checklist of questions that are contained in the certificate.

I have listened carefully to the evidence that the committee has received and to the recurring themes in members' questions. On the point about the Government being able to do the work that is required to create a new code without my bill, the policy work, drafting, consultation and scrutiny have already been undertaken, and the Government has made it clear that it supports the code and the certification process and has even considered how it would amend the bill at stage 2. How would asking the Government to begin that work again be a good use of the time of the Parliament, the Government and the animal charity sector among others, or improve the welfare of animals?

In addition, the bill includes a legislative requirement for the code to be publicised. That requirement, combined with an acknowledgement from the minister that the costs associated with that element of the bill seem entirely reasonable, gives assurances that awareness raising will definitely happen. That is the key difference between a new, successful code and a new certification process and the existing code, about which there are very low awareness levels among the public and which has not been revisited or revised since 2010.

I am just coming to the end now—I see the clerk looking agitated.

On part 2 of the bill, members will have seen the letter that I sent to the minister last week. I am wholly committed to the intention behind part 2 to improve traceability, so that any dog that is being sold or transferred in Scotland needs to be on a searchable database. That would enable the public to take informed decisions when sourcing a puppy. It would also aid enforcement and make puppies that are sold outwith either regime—including those sold through the illegal puppy trade—far easier to identify.

That said, if an alternative is being actively pursued by the Government through the use of microchipping that would deliver the benefits of part 2 by another means, that would merit close consideration as a viable alternative to the register of unlicensed litters that I propose, especially given the Government's indication that it will seek to remove part 2 by amendment at stage 2.

I am still arguing for those provisions but, if push comes to shove with part 2, I would be content for the committee—if necessary and if the committee wants—to remove the provisions about the register for the time being, and I would undertake to accept the Government's amendment, subject to our moving on with a microchipping national database.

The Convener: Thank you, Ms Grahame.

I will not accuse you of filibustering, as we will still have 90 minutes of questions—although you probably answered all of them in your opening statement. We will kick off now anyway. Thank you for your statement, which has been really useful.

I will ask a very simple question. How would a voluntary code of practice on the responsible purchasing and selling of a dog change behaviour in practice?

Christine Grahame: The certificate is not voluntary. If the code of practice comes into being, the certificate will be mandatory. That will be very useful for ensuring that people have read and understood some basic questions that most of us would ask ourselves when getting a puppy or a dog. That would require the person who is transferring the dog and the person who is acquiring it to have seen and signed the certificate and to have said that they understand the conditions.

That is also useful for animal welfare organisations. If an issue relating to the welfare of the dog arises, for instance, the response would not be punitive, but an organisation can point out that the person requires the certificate. As I have emphasised throughout, the bill is not a punitive piece of legislation; it is intended to change public behaviour.

The Convener: You have touched on the point that the bill is largely about awareness. The certificate is effectively a reassurance that someone has read the instructions, so to speak. They will have taken the time to read something, and they will have signed a certificate saying that they have done that. Most people will want to do the right thing by a pet, although there will always be people who disregard common sense when it comes to responsible ownership. Will we not just get people ticking a box or signing a certificate without that resulting in any benefit, because signing the certificate is voluntary?

Christine Grahame: It is not voluntary in that sense. Section 4 says:

“Before acquiring the dog, the prospective acquirer is to complete a certificate”.

It says “is to complete”, not “may complete”, so completing the certificate is mandatory.

There are too many people who, for good reasons, do not reflect before they acquire animals. We see that in the number that are being abandoned and in the vast criminal puppy trade. It can cost £2,500 for a puppy that has been brought here, often in dreadful and desperate conditions.

Earlier, I talked about the purpose of the bill—it is to ensure that people think twice. A person will have to complete a certificate relating to the

matters mentioned in section 4(4)—they have to go through all that. They have to think twice, thrice or four times before they maybe say at the end of that, “Yes, I do want to get a dog, but I had better not get that breed,” or, “I’ve got to go and see it with its mother and not buy online.” There is a huge increase in the online selling of little teddy bear puppies and very popular dogs, and often the results are puppies that are poorly bred and poorly trained and that come from really bad sources. It is about all-round good-egg stuff for the animal and the person who is getting it.

The Convener: Do you think that it would assist the SSPCA in coming across a case in which a dog’s welfare had not been properly looked after if it could refer back to the certificate and say that the person should have been aware of the needs of that type of dog? Would that help in relation to potential prosecutions, animals being taken away or whatever? It would be an extra tool for the SSPCA to solve such issues.

Christine Grahame: Yes. Actually, it was the SSPCA that brought the French certificate to my attention. It is not necessarily about prosecution or taking a dog away; it could simply be a matter of educating. We must look at that as something additional to what the SSPCA has.

As I have said, the thrust of the approach is not punitive; the thrust is getting people to educate themselves. When I introduced the original bill proposal six years ago, things were bad enough, but they have got worse. I hope that focusing on that at the beginning will mean a happy outcome for people who want the comfort of a pet dog and that it will also deal with online sales in which people do not know where the pet is coming from or the state that it is in.

The Convener: Thank you.

Kate Forbes: I want to unpack a little why your proposed legislation is needed compared with what we have already. I think that you have answered that question quite comprehensively, but why do you think that the Scottish Government has not updated or revisited the existing code, although it is different from what you propose, since 2010? Is that indicative of a lack of concern by the Scottish Government, or is it indicative that it feels that updating the code would not necessarily solve the problem anyway? I know that that is a question for the minister—

Christine Grahame: It really is for the minister.

Kate Forbes: —but you must have considered whether that might have been a route for achieving the purposes that you want to achieve.

Christine Grahame: The code is more than that; it is a case of a simple focused thing. I have already addressed in my opening statement the

issue of the code being absorbed into the general codes. It would get lost in translation. I wanted to focus on the purchasing and acquiring of puppies in an uninformed fashion, which has been ancillary to an increase in puppy factory farms. That was not the only issue, but it was part of the issue. By making a simple code, we are dealing with a different cohort of people—people who, for good reason, want the company of a pet. We are making them focus on that. I hope that, with the code, the nature of the unlicensed puppy trade—if I may loosely call it that—will be changed.

Kate Forbes: We are conscious that it is a logical conclusion that, if something stands alone on its own merits, it will inevitably be clearer and more accessible. However, there is a lot of legislation around animal welfare and so on. The landscape is quite littered.

Christine Grahame: Cluttered.

Kate Forbes: It is a cluttered landscape. Does knowing how best to prosecute, what guidance is relevant to them and where they should even start have its own challenges for anybody who comes into contact with the issue?

Christine Grahame: The landscape would be more cluttered if the code were to be absorbed into what exists. I am decluttering the landscape.

What is the big issue? What is the biggest problem when people start to look after a dog as a pet? The problem starts from the moment that a person gets it. If a person gets the wrong pet in the wrong circumstances for the wrong reasons and they have not seen it with its mother, they will have problems from the start. Instead of dealing with welfare issues once people have a pet, we should really deal with them in advance of that.

On top of that, the legislation would require people to self-certify with the person who is transferring the dog to them. That person also has a job to do in that they have to say that they think that the buyer is the right person. A licensed breeder will do that in that a good one will check the buyer’s circumstances and will not let any Tom, Dick or Harry—it is not politically correct to say that, so I will say Tom, Dick and Harry—get a dog.

10:00

People cannot just go into a rehoming centre such as the SSPCA and get a cat or dog. The centre will check the person’s circumstances and will not let them have an animal if it thinks they are the wrong person. That is the level at which a person who is not licensed and who is transferring a pet to someone will operate. The buyer will be involved in the conversation and, importantly, as far as is humanly practicable, will see that puppy

with its siblings and mother. That will tell them an awful lot about how the animal has been brought up.

The certificate will say, "I've thought about all of that." People might not always get it right, but it will mean that they pause to think about it. I am sure that anyone who is sitting around this table who was thinking of getting a puppy would do that. However, that is not the case for many people, for very good reason, as was highlighted during Covid. The bill will make sure that they would do what all of us here would do.

Roz Thomson (Scottish Parliament): Briefly, on the point about how existing legislation would sit alongside the bill, I will address how that relates to criminal liability. The bill is deliberately drafted to lift sections from the Animal Health and Welfare (Scotland) Act 2006. Failure to comply with the requirements of the proposed code or the certificate can be taken as supporting evidence if other animal welfare offences have been committed. That also complements the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021. I can provide the committee with a list of the ways in which those pieces of legislation fit together in terms of how the SSPCA would actively pursue something.

Kate Forbes: That would be useful.

Christine Grahame: Page 7 of the policy memorandum gives details on the current law and practice and how enforcement would be undertaken—that is why it is not necessary to put that into the bill.

Kate Forbes: Our core question is whether the laudable aims of the bill are best served through alternative legislation or changes to the current legislation. I think that you have answered that helpfully.

I will make a final small point. You have made the point that what is distinct about the bill is that you are reaching prospective keepers and owners rather than existing ones. That is a notoriously difficult group to reach because, by their nature, they are not necessarily easy to identify. Being able to do that boils down to somebody having the foresight that they might have to engage with the process. How do you envisage raising awareness so that prospective keepers know that they will now be caught by new legislation?

Christine Grahame: The major onus is on suppliers, as many of them are in business—some are not, but most of them are. There would be a duty on the Scottish Government to publicise the proposed code. There is also the certificate, which will require a change in engagement. We rarely say to people that, if they have read a code or the legislation, they need to sign something saying that they have read and understood it.

Engagement should be a process of saying, "You're part of this." Part of the issue that I want the public to understand is that they are the custodians and are policing the welfare of Scotland's puppies and young dogs that come into the system. I go back to the fact that demand will change the nature of supply. My expectation is that informed demand—it is a horrible expression—will mean that the puppies that come through the system will change. People will say, "Wait a minute. I have seen the puppy online. I know that I can't take it. I'm not supposed to do this. I don't know who this person is."

Alternatively, they might see somebody at a market who has some puppies in their van. The trouble is that people think that they are rescuing animals, but they are not. If you see a puppy in a distressed state with its big eyes and you think, "I'll take it," all that happens is that, in the conveyor belt of these factory farms, some bitch is being put through the system to produce more puppies. By signing the certificate, you become part of regulating and part of the system.

I think that that is good for owners. I get quite emotional about this because, due to my lifestyle, I cannot have a dog. I have gone through those tests myself and said, "I can't do this," because I have the cat and I am not there and all those things, including my age, which has to be taken into account. People have to go through that process and say to themselves, "I'll be hard." If they must, there are other ways of enjoying the company of dogs, such as fostering or going into pet shelters to take them for walks, but maybe it is not right for them to have a dog.

What distresses me is that, in the six years that I have been working on the issue, the system has got worse. If it had not got worse, I would have packed it in. I would not need to be arguing for change—I could leave it to the Government—but the point is that the Government has not changed the existing code. By introducing the bill and pushing the Government to put a new code through, we move the dial—to use that horrible expression.

Kate Forbes: Thank you.

The Convener: Before I bring in Alasdair Allan, Rachael Hamilton will ask a brief supplementary question.

Rachael Hamilton: Good morning, Ms Grahame. You have just said that you have been working on the issue for six years. Obviously, in those six years, things have changed. The proposed code of practice is probably outdated now and it has shortcomings. Would you be disappointed if the Government combined the two codes?

Christine Grahame: I was going to say that I would tear my hair out, but it looks as if I have done that already to some of it.

I would be disappointed. The legislation is not an ego trip, but I would be disappointed, because I do not think that such a combination would work as well as the proposed code would work. That is key. I care about Christine Grahame's legislation because I care about the effectiveness of a code of practice in changing the way that people behave in acquiring a puppy or a dog.

If I thought that, in the next year, amending the existing codes would be effective, I might consider it, but I do not think that it would be at all effective. You can see for yourself that the questions in the bill are really simple. They are straightforward questions that anybody can understand, and the proposed code is not complex. The existing code is 28 pages long, including all those links. Who is going to read that? The proposed code is straightforward, with a wee checklist of questions.

I see that Roz Thomson wants to come in.

Roz Thomson: I will come in briefly. On page 12 of the policy memorandum, there is a sample of what the certificate could look like. I imagine that it could be in plainer English but, effectively, the entire contents of the proposed code fit on two sides of A4 paper. The key questions that prospective owners should ask themselves include, "How old is the puppy?", "Have you met the mum?" and, "Are you familiar with whether there is a breeders licence and have you taken all reasonable steps to establish that?" To give you a sense of how distinct that would be from the longer code that was mentioned, those two sides contain the core contents of the code.

Rachael Hamilton: I know that we are moving on from this subject, but I want to make the point that, in the evidence, it has been suggested that it would be confusing and burdensome to have two codes, and that really speaks to the previous question.

Christine Grahame: That is the point—the Government has not committed to amending the current code. I also dispute that suggestion. I could go out tomorrow and show people in Tesco that checklist of questions and I think that they would understand it. However, if I went out and showed them the full amended code, I think that they would go, "For goodness' sake, I'm not reading 40 pages."

The Convener: That leads us nicely to a question from Alasdair Allan.

Alasdair Allan: Good morning, Ms Grahame. Will you say a wee bit about why you chose to put the code of practice in the bill rather than use

some other mechanism, such as giving ministers the power to regulate in the area?

Christine Grahame: As I said, those are the fundamental questions to ask when you are buying a dog. The list is not complete; it is open to the Government, within the ambit of those questions, to have additional questions, if it wishes to do so. However, those are the very straightforward questions and I put them in the bill, as a direction to the Government, to ensure that those particular questions go into the code.

Too much of legislation is complex. When we are asking the public, rather than lawyers, to operate within legislation, it has to be easily understood, and I think that the questions that I have put in the bill, because I want them in the code, are easily understood. They are not complicated for people, but it is important that they are used. There is scope for the Government to include other information, but it should not go beyond that kind of ambit. Those questions are absolutely vital to the code as it has been constructed.

You can look at the questions in the bill, which I am now digging out. They are in straightforward English. For example, one asks:

"Is the breed of dog suitable for you and your family?"

That is an important question. The bill asks if the environment is suitable. If you live six floors up and you want to get a great big dog that needs a lot of exercise, that is not a good idea, because the lift might break. Those are simple things.

The bill asks:

"would the dog fit in with the composition of the household?"

Do you have a baby on the way? Is it a good time to get a dog? Do you have a lot of young children? What breed should you have? The bill also asks if you can afford

"the costs associated with keeping the dog",

such as food and bedding. As I said in my opening statement, very few people think about that. Getting a dog is an emotional thing, so people do not consider the costs that lie ahead. Believe you me, when you walk into the vet, you either need insurance for the dog or a big pocketful of money, because it is expensive.

Another question in the bill is:

"are you committed to caring for the dog?"

The puppy that starts off as a toddler in your house becomes a naughty adolescent tearing things to bits. You are going to have it for 10 or 15 years. Your life will move on. Are you ready to take that dog with you?

Those are not complicated questions, but I think that they are the sort of questions that the public will understand and that will educate them. They will not be offended by them. You must have the public on your side.

Alasdair Allan: My question is also about something that you will be familiar with and that we wrestle with regarding legislation in general. How much should a code of conduct be part of the bill and how much should be left to secondary legislation or for action by ministers? Did you consider that balance, and how did you decide what should appear in the bill?

Christine Grahame: After consultation with the various organisations that support the bill, I decided that those were the basic questions. There might be other questions that someone else might ask. For example, someone might have a medical condition and their abilities might deteriorate over time. The questions would be different for them. The bill includes basic questions that people often do not consider, and those are the simple ones that we should start with. Where am I living? Is this the right place for a dog? What is my family like? Do I have cats? Do I have another dog?

Some people even speak to a vet before they get a pet. You do not need to put that in the bill. The questions in the bill are what should be considered, and I thought that they were good starters for 10, as it were.

Alasdair Allan: You said that you cannot have a list of questions that is 40 pages long. I appreciate that, but did you consider other things and decide not to put them in that list? I am sure that you considered the issue of microchipping.

Christine Grahame: I wanted to keep the bill short, punchy and easily understood. If we want to educate people, we cannot blow the bill up and put too much in. As a former secondary school teacher, I realise that you can only teach so much in one lesson. I put in the questions that I thought were key. As I said previously, someone else might have additional questions, but the ones in the bill are the basics. It is up to the Government to add any other questions that it might consider, subject to their being within the ambit of what I already have in the bill.

The Convener: To follow on from that, have you considered using regulation-making powers to amend the content of the bill through subordinate legislation?

Christine Grahame: I do not quite follow your question.

The Convener: Have you considered how to ensure that regulations are in place to allow for amendment of the bill via secondary legislation?

Christine Grahame: Are you referring to my letter to the Delegated Powers and Law Reform Committee?

The Convener: You might revise that list. For example, if you are successful, you would surely want to have microchipping in one of the 10, or however many, notes.

Christine Grahame: Yes.

The Convener: If more information comes forward that Battersea Dogs & Cats Home or the SSPCA thinks it would be important to have in the bill, have you given any consideration to how that would happen?

Christine Grahame: It could happen at stage 2, if someone wanted to add something that was within the bill's ambit. Also, in preparing the code to go through—I have my letter to the DPLR Committee, in which I say that I would be content for it to undergo parliamentary scrutiny—there is an opportunity to add things to extend the purpose of the bill, such as educating and so on. It is a starting point that lays the groundwork.

10:15

The Convener: You have omitted to put in anything about microchipping, which is going to be quite important. I suppose that I am asking whether there should be some route to amend what is currently in the bill. Even the Government is saying that some tweaks will be required. It could bring them in through secondary legislation, but we might have a new minister taking advice and so on. If we were to pass the bill at stage 3, the ability to amend it would then be gone—unless you put something in there that would allow regulations to be updated through secondary legislation.

Christine Grahame: First, the Government has not undertaken anything in relation to microchipping. I seem to recall, convener, that you were on the Audit Committee in 2016—I might be wrong.

The Convener: No, I was not.

Christine Grahame: I am maligning you. In 2016, I raised the idea of having a national microchipping database, and the Government made a vague undertaking to look at that, but nothing has happened in all that time. I would love there to be a national microchipping database. It would solve an awful lot of problems. I will hand over to Roz Thomson to comment, but I think that it would be open to the Government to add that if it wanted to. It has not shown any inclination in that direction since 2016.

The Convener: It is your bill, so why did you not include microchipping in it?

Christine Grahame: That is because I started with registration, and microchipping was nowhere on the horizon. Nothing had happened since the microchipping legislation came in, so I started with registration. If registration is cumbersome, as the Government claims, and it is now discussing and pushing microchipping, that will make me happy. Either way, we will have a database, because every puppy aged eight weeks and over will have to be microchipped. A national database of dogs is a beginning. There is a lot of information on the microchip, so that is fine by me. If registration is cumbersome and we are walking down the road to a national microchipping database, that is grand. Although I wanted registration, part 2 of the bill will have served the important purpose of creating a national database.

Roz Thomson: The key elements in the bill are the things that the member considers absolutely must be in the code. The list can be added to, including with suggestions from the bodies that the committee has taken written evidence from. As the member confirmed, that would be subject to consultation and parliamentary scrutiny.

Christine Grahame: The code relates to the time of the transfer of the dog. Microchipping relates to part 2, which is on a registration system. Microchipping would not be in the code.

The Convener: It seems strange that there is no ability to add to or remove what is in the bill.

Christine Grahame: Section 5, on revision of the code, says

“The Scottish Ministers may revise the code of practice as it has effect for the time being.”

They can revise the code.

The Convener: Yes, they can revise the code, but the bill does not contain the ability to change the key points. Once the bill has been passed, there is nothing in it that would allow it to be amended.

Christine Grahame: There can be stage 2 amendments. After long consultation, I tried to keep the bill as uncluttered as possible for the prime purpose of enabling somebody who is acquiring a puppy to have second or third thoughts. I think that the bill delivers that. Other matters could then come in. You have raised microchipping—I am delighted that you have—but I think that that would come under part 2, where I was looking for registration to assist people acquiring puppies and the suppliers.

If we could have, even if not immediately, a national microchip database to which we can add information—because, as you know, many companies move from one place to another and nobody knows where they are—that would be great. If the bill moves that forward, I will be

content that part 2 goes, subject to what the Government has to say about microchipping.

Emma Harper: Good morning to you all. I know how hard Christine Grahame has worked on the bill over the past six years. I have been very interested to follow the process, because I am interested in illegal puppy farming and puppy trafficking and how we can reduce or prevent that. We know that puppies still come in through the port of Cairnryan.

In 2021, regulations established licensing conditions for the sale of puppies under the age of six months. The conditions include requiring the puppy to be seen with its mother, which is an important part of mitigating trafficking. I am interested that the bill has chosen to define a young dog as a dog under the age of 12 months, whereas the SSPCA defines a puppy as a dog under the age of six months. Will you tell us a bit about why the bill defines a young dog as a dog under the age of 12 months for the purpose of the additional requirements in section 3?

Christine Grahame: There is the first transfer, which would be at the puppy stage. If you look at the sections of the bill, you will see that section 2, which is on the sale or transfer of any dog, is a way to ensure that, if somebody were to acquire a dog at the puppy stage from a breeder—an unlicensed breeder, I hasten to add, not a licensed breeder—they would have to go through that process and complete the certificate. They might then move the puppy on to someone else, and they would then have to go through the process again, which is covered in section 3 on the sale or transfer of any dog by its first owner.

Part of the thinking behind that is that you might have someone who would acquire a puppy from an unlicensed breeder, say that they have done the certificate, and then move the puppy on to somebody else. However, that situation would be caught under section 3, because they would still have to go through a list of questions and complete a certificate. It is about catching that bit from puppy to 12 months. If you just did it for puppies, there would be a kind of loophole, so that is what section 3 is for.

Emma Harper: If I bring six puppies over on the ferry to sell them for £2,500 each because they are bonnie wee spaniels, and then somebody says, “Right, I want to move this dog,” and that person keeps the six puppies, the provision would cover moving those dogs on to another person who was going to receive the dogs.

Christine Grahame: Yes. I will ask Claudia Bennett to talk about the legalities, but that is my view.

Claudia Bennett (Scottish Parliament): Section 3 relates to the sale from the first owner of

the litter of puppies, but the general questions that the public are supposed to ask themselves before getting a puppy would still apply.

Christine Grahame: It is about the transfer. It is not just the first purchase; you could be a supplier to an acquirer who has the puppies for a short time before moving them to somebody else—that is what the provision is going for.

Emma Harper: It would help to reduce the unregistered transfer of dogs and, again, it would promote education to whoever is the recipient of the young dog or puppy.

Christine Grahame: Yes.

Ariane Burgess (Highlands and Islands) (Green): Thank you for coming in and giving us your evidence on your bill. I align myself with Emma Harper's thoughts on the amount of work that you have put in to get it this far.

The word "loophole" came up in response to Emma Harper's question, and I will continue on that theme. The bill provides that young dogs are to be seen with their mother

"unless this is not practicable",

and my question is about that wording.

A couple of stakeholders raised concerns about that being a loophole and asked for something a bit more specific. What do you think about that? For example, Battersea Dogs & Cats Home suggested using the wording:

"unless this is not practicable for welfare reasons".

The Dogs Trust suggested that it might apply

"if the mum is deceased".—[*Official Report, Rural Affairs and Islands Committee, 20 September 2023; c 12.*]

Christine Grahame: That could be the case, but it is less likely. It might be that the person acquiring the dog is physically unable to go and sends someone in their place to see it. That is understandable. If somebody is highly disabled, somebody else can go for them and check it out, but, in the vast majority of cases, the person should see the puppy with the siblings and the mother, unless there are particular circumstances—I hesitate to use the word "exceptional", but something close to that. In the main, the person must see the mother.

Ariane Burgess: The bill says that the person who is going to see a puppy has to see it with the mother

"unless this is not practicable".

What do you think about the suggestion that that needs to be clearer? An alternative suggestion is

"unless this is not practicable for welfare reasons",

so that we are specific about why it is not possible.

Christine Grahame: There might be circumstances in which a puppy cannot be seen with its mother, and I allow for those. The 2021 regulations set out a number of circumstances. They say:

"A puppy may only be shown to a prospective purchaser if it is together with its biological mother."

However, that does not apply if the

"separation of the puppy from its biological mother is necessary for the health or welfare of the puppy"

or that of

"other puppies from the same litter or"—

and this is the circumstance to which you referred—

"the puppy's biological mother is deceased."

We can see the reasons why it would not be practicable, but they are already in regulations.

Ariane Burgess: Okay, they are there.

Christine Grahame: Most of it is common sense. People should ask the person who is supplying the puppy why they cannot see it with its mother and challenge them.

Ariane Burgess: In a way, you have introduced the bill partly because, although we would think that some of that is common sense, you have discovered that it is not.

Christine Grahame: That is because we have got so used to things being online, and that increased during Covid. We get our messages and our shoes online. Some people get their car online, and it is now relatively common for people to buy animals, including puppies, online. The difference is that a puppy is a sentient being. The car can fall apart and it is the owner's fault but, with the puppy, you are responsible for the welfare of the animal from the moment that it is bred, not just the moment that you acquire it. That is what the bill is getting at. Our culture has changed, but we must reverse that when we are dealing with sentient beings such as animals.

Jim Fairlie: Thank you, Ms Grahame, for coming to the committee. Where did the six months come from? By and large, anyone who sells a pup will sell it at between eight and 12 weeks. Is there a definition that I have missed that allows it to be six months? Usually, pups will be sold long before they ever get to the six-month stage. I find that gap quite surprising.

Christine Grahame: I think that I made that clear. Some people acquire puppies directly from the unlicensed breeder. I thought that I was dealing with a possible loophole, although it might not always be a loophole. Somebody might acquire a puppy from an unlicensed breeder, keep it for a bit and then transfer it to somebody else,

perhaps because they cannot cope with it or for other motives. The 12-month deadline is in the bill so that they will still have obligations if they do that.

I do not want to focus only on online sales, but let us say that there will be cute little puppies online. There will be other dogs as well that might be six or seven months old and have already been with somebody other than the unlicensed breeder. The same obligations exist, so that is why I took it up to 12 months. As you can see from the bill, there are different rules for the first unlicensed breeder from those for people those who sell dogs up to 12 months old.

Claudia Bennett, do you want to comment?

10:30

Claudia Bennett: I will just add that the original intention was that the register, which is where this 12-month requirement comes from, would be a temporary register. The first owner of the litter of puppies has only to register once they intend to sell or transfer a puppy. The owner might originally intend to keep the puppy and keep it for a few months, and then realise that it is too much. Once there is the intention to sell or transfer, and only then, the registration requirement arises. The intention is that the code and the register will work hand in hand, which is why the 12-month time limit was adopted for part of the code as well.

The Convener: I am conscious of time, but, Rachael, you have a small question.

Rachael Hamilton: On that point, if somebody went to a dog and cat home and there was a sheepdog puppy that someone said that they could not cope with, how would your bill support the individual who wanted to rehome the puppy if the puppy had difficult behavioural issues, needed specific conditions or had specific requirements?

Christine Grahame: It is a good question, Ms Hamilton, but the rehoming centres, such as the SSPCA and Dogs Trust, are very strict. If they have a dog with behavioural issues, as cutesy as it might be, even if somebody says, "I just love it," they would say that the dog has issues. Quite often, the centres keep the dogs and retrain them.

The centres are, in fact, huge custodians of the welfare of the animals that they have and of the people who want them, and they will not simply hand the dog over. I know that from experience, because I am a member of the SSPCA, which I probably should have declared, and I am also a patron of the Edinburgh Dog and Cat Home, which has had some dogs for a couple of years because the right match for them has not been found.

Beatrice Wishart (Shetland Islands) (LD): Good morning. I will turn to the issue of certificates

for ownership. At our round-table session in September, animal welfare stakeholders generally expressed support for the certificates, but Battersea Dogs & Cats Home raised the issue of enforcement. You have already said that the certificates would be mandatory, but whose responsibility would it be to ensure that a certificate was actually completed?

Christine Grahame: It would be the responsibility of the transferor—the person who had the dog and was transferring it to the person who was acquiring it. The certificate would be their responsibility. They would not need to have the certificate all the time, but, if an issue arose, an animal welfare organisation such as the SSPCA, which might have received a call from someone who was concerned about the welfare of a dog in a household, could ask to see the certificate.

Today, everything can be done online, or you can print things out or get them at libraries, so you could demonstrate that you had the certificate. You are supposed to do it, but this is an educational issue—it is not punitive—so there might be circumstances in which the person has not done it. There is scope in the bill and in the criminal legislation—the Animal Health and Welfare (Scotland) Act 2006—to make an allowance if somebody has not done it, provided that the reason is not malign and the person has been negligent in a sense, but not so negligent that they deserve to be penalised for it.

In my view, in all legislation—except in road traffic legislation and so on, in which the requirement is absolute—there should be flexibility in certain circumstances, but you would have to show why you did not know about it.

The certificate requirement is about making people aware so that they have read about and done what they are supposed to do. It is a physical demonstration that they know about and have done it. Given that it is not onerous, I think that most people will be pleased to do it and will think that it is a good idea.

Beatrice Wishart: It comes back to the point that people who are responsible will do it anyway. Obviously, you are trying to reach the irresponsible.

Christine Grahame: I would not call them "irresponsible". It is a terribly emotional thing. I do not know how many people get a dog or a puppy for emotional reasons before their head comes in somewhere down the road. It is a very hard situation—for example, during Covid, people were stuck at home over a period of two years and in need of companionship. I would not call it "irresponsible". I am saying that, although someone might wish to proceed, they should think about what suits them at the time. At the end of

the day, it might well be that it is quite right for that person to get a dog or a puppy for companionship, but it is a case of getting the right dog at the right time, having considered everything else.

I would be careful about saying that people are irresponsible; people just need to think about it. It is tough to have to say to yourself, “No—I’m in the wrong place to have a puppy,” when you desperately want it. However, it might be the right thing for you at that time and the right thing for the puppy. If, having considered everything, you are going to get a dog or a puppy, it is important that you get it from the right place. It is not just about having the right reason; it is about getting the dog from the right place.

The Convener: I ask for a very short answer—

Christine Grahame: Do I need a tin hat?

The Convener: No, no. It is the responsibility of the seller to ensure that the acquirer has filled in the certificate that says that they have read all the requirements, and then the acquirer and the seller must sign that certificate. Therefore, it is really the responsibility of the seller to ensure that the buyer has undertaken the checklist.

Christine Grahame: Let us flip that a bit. In the main, suppliers will be more aware of the requirements, but both the supplier and the buyer must sign the certificate and both must be aware of the responsibilities under the certificate.

The Convener: The legislation would suggest—

Christine Grahame: Bear with me—I think that I am being supported.

Claudia Bennett: The main emphasis is on the acquirer, who has to complete the certificate and print it out. The responsibility on the supplier is to check that that has been done.

Christine Grahame: The acquirer must challenge the supplier—that is the point. Perhaps “challenge” is too strong a word, but they must question the supplier. I come back to the purpose of the legislation, which is to stop the casual emotional acquiring of puppies, which is not in the interest of the puppies or the people who acquire them. The purpose is to make them pause. The code, separated off, is simple and straightforward, because it is designed to educate the section of the public who are not being irresponsible but who just do not think long and hard enough. It might be that it is not the right thing for someone at that time but that, in a year’s time, it would be. That is what this is about.

The Convener: Again, please be as brief as possible, because I am conscious of the time. How will the code and certificate apply to buyers who are resident in Scotland and wish to purchase a puppy from somewhere else in the UK or abroad?

Christine Grahame: If they were resident in Scotland, the law would apply, but we cannot legislate beyond the jurisdiction of Scotland. If you acquire an imported puppy—whether from Ireland, Romania or wherever—you will not see it with its mother. The point is that, in most circumstances, you get to see a puppy with its mother. If you cannot see the mother, you should be asking, “Where is this puppy coming from?”—

The Convener: It does not matter whether it has come from abroad or anywhere else, does it—

Christine Grahame: I am sorry?

The Convener: You could not compel anybody outwith Scotland to apply the certificate rules at all.

Christine Grahame: No, but the point is that the acquirer should be saying, “Here is a puppy for sale, but I can’t get to see it. Where is it coming from?” If they check, they will find that it is coming across on a boat to Stranraer from a puppy factory farm in southern Ireland or from somewhere in Romania that is pretending that the puppy is a rescue puppy when it is not—it has been bred to come to this country. People would ask, “Why can’t I see this dog? I can’t see this puppy with its mother. Ah, wait a minute—something fishy is going on here.” That would stop them doing it—that is the point. You cannot legislate for a supplier outwith the jurisdiction, but you can legislate for the acquirer—the demand purpose. That is what stimulated the bill.

The Convener: Okay, so the prospective acquirer—the person buying the puppy—would still need to fill in a certificate, even though there would be no obligation for the seller to do so.

Christine Grahame: They could not fill it in, because they would not have checked. They would not have been able to see the puppy with its mother and daddy. None of that would have happened; that is the point. Many people think that they are rescuing dogs when, in fact, it is a business—a European business or a business in southern Ireland, in the main.

Jim Fairlie: I have a brief observation on that point. When someone is going to rescue a puppy, they are doing it because they think that they are rescuing a puppy. Does that not sort of negate your point? There will still be the emotional pull to rescue the puppy, regardless of whether people see the mother, because they will have been shown a picture and whoever is selling the story will have said that the pups were found abandoned and that they need good homes. The emotional tug will be there.

Christine Grahame: That is what I have to overcome. It is a good question, because those people are not rescuing a dog; they are buying a product that criminals are breeding. If someone

takes that puppy, another six will appear in its place, at £2,500 to £3,000 each.

Jim Fairlie: Does that not make the point that this is just as much about educating the population in general, rather than putting in place provisions to force the issue?

Christine Grahame: I am not forcing it.

Jim Fairlie: I mean that the legislation will add another thing that people will have to do.

Christine Grahame: The point is that the current system is not working. It is quite common for people to know about puppy factory farms, but the fact that puppies are being sent back and dogs are being abandoned tells us that we are not having the proper effect. The code is simple. It is to educate people and make them realise that they are not rescuing a puppy—they are creating more misery for more puppies.

The Convener: We move to questions from Alasdair Allan.

Alasdair Allan: I will be brief, convener. Ms Grahame, you spoke earlier about common sense, and we have all heard a fair bit about how it should apply but often does not. The minister and some stakeholders have suggested that public awareness of existing practices might be low. What is there in the bill that could improve public awareness of what is expected of people when they buy a puppy?

Christine Grahame: First, there is a requirement to publicise, which Governments do not always do with members' bills. Although they have said that they might do that with previous bills, they have not done so. It should also be repeat publicity. You can see that in the financial memorandum, which sets out the cost of a publicity campaign and of reinvigorating it. To me, that underlines the simplicity of the code and why it is understandable. It shows people some things that they have to consider and be aware of.

If the Government agrees to the legislation and we have public awareness campaigns, I hope that those start with images of what happens when the tests are not applied. The puppies have behavioural issues from being crammed into crates with lots of different breeds and unscrupulously sold for a fortune. The people who buy them are not rescuing them. The campaigns need to help us, the various welfare organisations, local authorities and everyone else who is involved with the issue to prevent the wrongful breeding of puppies.

The Convener: One of the driving factors behind the bill relates to public awareness and education. They are the overriding reasons for the bill. You suggest that the cost of raising public awareness in the year that the bill comes into

force will be between £200,000 and £250,000, and there will be costs every five years thereafter. Those figures are based on the Government's figures, but the Government acknowledges that

"public awareness of the existing code of practice is likely to be low."

How can you improve public awareness when you do not intend to have a bigger budget than the Government currently has?

Christine Grahame: To the best of my knowledge, the Government was content with the costs. Those are the gross costs of raising public awareness. When we offset the costs that are difficult to quantify as net costs, which are not only those to the public purse but the costs to welfare organisations of coping with the fallout from animals that have been abandoned, are in a state of distress or have behavioural issues, we are looking—

10:45

The Convener: I am sorry, but I am going to interrupt you. The point is that you are not projecting to spend any more than the Government does currently. The Government has acknowledged that public awareness of the existing code is "likely to be low", which suggests that it is not spending enough money on it. You are not proposing to spend any more money on a public awareness campaign, so why would the outcomes be any better?

Christine Grahame: First of all, I am hopeful that, in the initial stages, the certificate would reduce the need to publicise or run public awareness campaigns about the illegal puppy trade. The point is to provide education in order to change public behaviour. We should let the public do the job of achieving what we all want, which is an end to the illegal puppy trade, the distress that happens and people getting puppies for the wrong reasons. I hope that the certificate will do that.

Publicity campaigns on various issues are already running and telling people that they should not buy this or that, but those are not working. The situation is getting worse, in that more people are buying puppies online and then abandoning them and so on. By having a campaign on acquisition, we are going back to the key message. The problems start when people first get puppies. I hope that, if we start there, we will decrease the requirement for subsequent messages such as "A dog is for life, not just for Christmas", which is the famous one.

The Convener: Thank you. That is a useful answer.

Jim Fairlie: Ms Grahame, we have rehearsed this conversation in private.

Christine Grahame: I do not remember it, so you might have to repeat it. [*Laughter.*]

Jim Fairlie: It is crucial that we get it on the record. Stakeholders and ministers have indicated that they feel that part 1 of the bill should be extended to all dogs, not just pets. Can you explain why you chose to limit the scope to pet dogs and whether you would be open to extending that scope?

Christine Grahame: You have heard the thrust of my argument, which was about people buying online with their emotions. That is what it was about. I am sure that your experience stems from your own background; mine is that people who acquire working dogs are working—that is the key. In the main, they know the dog's pedigree, their attributes and where they come from; they are not buying casually. That dog has got to earn its keep. It is therefore a very different kettle of fish. Working dogs, police dogs, assistance dogs, guide dogs and gamekeepers' dogs are all trained. They have certain attributes from their breeding.

My bill was never aimed at those dogs, and I do not see the point of its being aimed in that way. The gamekeepers and the people who train guide dogs know what they are looking for and are educated. They can say, "I am not getting that dog, but I know that this collie would be very good, because I know its parenthood." That is a very different thing, which is why the bill does not cover such situations. It was aimed at pets, not working dogs. I do not think that it should include working dogs.

Jim Fairlie: I see a slight problem with that. If you do not broaden the definition to cover all dogs, there will be farmers, like myself, who in the past have sold pups as pets. How do you define when a dog is a pet and when it is a working dog?

Christine Grahame: First of all, I know that situation. My own dog—my Irish setter—came from a gamekeeper at Twynholm. He kept two puppies and the rest were sold as pets. I therefore understand those circumstances.

Let us look at the definition of a pet. The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 say that a

"pet" means an animal kept permanently, or intended to be kept permanently, by a person mainly for—(a) personal interest, (b) companionship—

I do not know about this one—

"(c) ornamental purposes"—

whatever that is—

"or (d) any combination of (a) to (c)".

A working dog could have a litter and one of that litter could become a pet. That would come under the legislation, as they would then be transferred.

That is where the 12-month thing comes in. It might take a few months to decide that a dog will not have pups because it does not have the attributes to work on a farm. The dog would then become a transferee, so it would come under the legislation. That is obvious, and it is commonplace. It could apply to a gamekeeper's dog or a guide dog. I have sponsored a number of guide dog pups; perhaps it is something to do with my sponsoring them, but only two have succeeded and have become guide dogs. The other two have become pets, so they would come under the legislation.

Roz Thomson: In circumstances where the owner of the litter has working dogs and is selling to somebody who is acquiring the dog for the purpose of its being a pet, the responsibility is on the acquirer according to the terms of the code and the certificate.

Christine Grahame: I will also say that I saw my puppy with the other dogs, and it was very well socialised and happy as a bunny. The gamekeeper told us that they were keeping two but that they did not need the other six, because they would not be suitable.

To me, this is not a difficult issue. The difference is that a working dog retires but a pet does not. A working dog might retire and be kept with a person after it does so.

Kate Forbes: To start with, I have a broad question on this section of the bill. The minister was permitted the opportunity to speak about this, and so I am keen to hear Christine Grahame's perspective on the various points that have been made, both by stakeholders and by the minister, on her rationale for proposing a registration system for unlicensed litters, and how she sees it working in practice.

Christine Grahame: There are also licensed litters, but we will set that aside, because we are talking about unlicensed litters.

Any advert for a puppy or young dog would need to include a registration number for the dog from a licensed breeder or from an unlicensed owner. I envisage that that will provide reassurance for someone acquiring a dog, as they would know that the breeder or owner is compliant with all the regimes relating to the selling of puppies.

Again, that would require the public to be aware of the new system, in which every advert has a number for one or two regimes. The bill provides for awareness raising, and I envisage that that would need to be done on a rolling basis, not just as a one-off.

The creation of the registration requirement would mean that all puppies and young dogs sold

in Scotland would be traceable, which would assist local authorities, the SSPCA and other welfare organisations in relation to enforcement. Sometimes, if a dog misbehaves and there is no owner in sight, it is hard to know whose dog it is.

At present, if someone is not a licensed breeder, it is assumed that they are breeding fewer than three litters. There is no simple way of establishing whether they are breeding on a wider scale in an unlicensed way. In other words, we do not know whether they are breeding lots and have not applied for a licence.

Traceability of any puppy would aid enforcement to prevent the wide-scale sale of puppies from multiple litters by those in the illegal puppy farm trade. The register would also inform decision makers for those purchasing dogs, and it could highlight when a seller was not compliant with either regime.

Those are the purposes of registration. It is about traceability.

Kate Forbes: Thank you. I just wanted to get that on the record.

Alasdair Allan: I take it that we are still in the realms of question 11. I did not want to give anything away by giving it a number.

Christine Grahame: How many questions have you got? It would be nice to know that in advance.

Alasdair Allan: What is your view on concerns raised by the minister that a registration scheme could provide false assurance to potential buyers? Do you refute that view, or do you share it?

Christine Grahame: I notice that the minister suggested that the scheme is not workable, not a proportionate response, might not improve animal welfare, could provide unwarranted assurance to buyers and could provide a front for those selling puppies in the illegal puppy trade. I know that the Government intends to amend the bill to take out that part, should the bill proceed to stage 2, but it would, to me, be doing a disservice to the stakeholders with whom I have worked and who support the registration provisions, because of the benefits that they believe a register of unlicensed litters would bring, if I did not continue to highlight the benefits of implementing this part of the bill— notwithstanding the Government's position.

As I have said, should it be the position of members of the committee that they would support the general principles of the bill if part 2 were to be removed, I would strongly encourage them to consider the clear need to have some means of ensuring the traceability of puppies and to seek an assurance from the Government at stage 2 that progress would be made in that regard. I am, of course, alluding to a national microchipping database.

The minister mentioned the legal requirement for all dogs to be microchipped, and a central register of microchipped dogs would provide traceability and the other benefits associated with the registration scheme that I propose. That would be an alternative to part 2 of the bill. I hope that members have seen my letter to the minister regarding that. As I have already said, I have always felt passionate about the need to make best use of the legal requirement to microchip puppies, and I have promoted the clear associated benefits for a long time. People would be able to check whether a puppy was on the national microchipping register.

Beatrice Wishart: The bill specifies that the registration requirements do not apply to

“a first owner of a litter of puppies who is not at the time resident in Scotland”.

Some stakeholders have suggested that that might become a loophole. What are your thoughts on that? Is the issue one that you have considered?

Christine Grahame: Bear with me while I find the right place in my papers.

The focus of section 8 is on the first owner being a Scottish resident at the time of wanting to advertise sale or transfer. At that point, the litter would have to be registered. I come back to the difficulty of a situation in which the puppy is coming from abroad. Before we even get to that point, people should have checked by seeing the puppy with its mother. That is the key.

I have mentioned Romania and southern Ireland; with puppies that have been bred outwith Scotland and imported, it is necessary to have seen the puppy with its mother. I know that there are criminal ways in which people try to get round that, such as by having a false bitch with the puppy, but that is key, in the first instance. If someone who wants to acquire a puppy thinks that there is something amiss, because the puppy is not registered, they have not seen a registration for it or they have not seen it with its mother, alarm bells should be ringing. If they think, “This is not fit—there's something wrong here,” they should not proceed or should make further inquiries.

Alasdair Allan: I want to look briefly at the history of the bill.

Christine Grahame: I was a young woman at the beginning of this process.

Alasdair Allan: I am sure that you were, Ms Grahame.

In a previous version of the bill, it was a requirement that there would be a registration scheme. Under the current version, it will be at the discretion of ministers. Will you explain the

consideration that went into that? Are the powers in the bill necessary?

Christine Grahame: I want to get the bill through, so I have to carry a lot of people with me, including the Government. Therefore, I have taken a lighter-touch approach. When I started out all those years ago, in my youth, there were going to be penalties and everything else. A lot has changed in that time—with inflation, the pressures on local government and the pressures on budgets—so I must be realistic.

What is important to me is that I get the education part through. That is why I am prepared to compromise on other parts, and it is why the bill takes a lighter touch on registration. I would love it to be tougher, but you have to fit in with the times and with what is practicable in terms of legislation. I hope that what I have ended up with—bearing in mind my caveat about registration in the light of a national microchipping system—can become law and can work. I am not interested in legislation for its own sake; I want it to change what is happening out there for puppies and owners. That is why I have taken a lighter-touch approach on the registration scheme, and it is why I have moved a bit further as I have gone along the road.

The Convener: I call Rhoda Grant.

Rhoda Grant: You talked about your letter to the minister on this section of the bill. Have you had a response?

Christine Grahame: No.

Rhoda Grant: You have not had a response yet—okay.

We are making the assumption that the Scottish Government would prefer a registration system based on microchipping. Do you have any idea of how that would work, and whether stakeholders would be happy with it?

11:00

Christine Grahame: I do not think that the Government has been as specific as that. It has alluded to a microchipping system and a national database as something that would be useful. I do not think—to the best of my knowledge; I will just check—that it has gone so far as to say that what has been proposed would be equivalent to that. However, it is a better step than having nothing at all, as we have at the moment.

Roz Thomson: The policy note on the Microchipping of Dogs (Scotland) Regulations 2016 affirmative instrument, which introduced mandatory microchipping, said that such a system

“could help to deter opportunistic dog theft by making it harder to sell such stolen dogs on. It could help to trace those breeding or dealing significant numbers of dogs

illegally without a licence, or those breeding dogs irresponsibly”.

That addresses the point whether it is a viable alternative. In 2016, the Government acknowledged, in its policy note, that it would have that value.

You asked about organisations. I know that Battersea Dogs & Cats Home commented on the potential for microchipping to aid traceability, which is what part 2 seeks to achieve.

Rhoda Grant: That is helpful. So, we do not, at the minute, really have an idea of how that would work as an alternative system.

Christine Grahame: Well, the Government could do it.

I do not want to pre-empt the committee, but here is what I hope that it will do if it takes the view that it might support the bill at stage 1, if I give an undertaking about part 2, subject to the Government’s own view. It would be good if the committee were to push the Government to put through a national microchipping database. As I have said, that has been on the cards for six years, and it would be a good opportunity to push that forward.

It would be another step towards the identification and traceability of dogs, for a whole range of reasons. Control of dogs notices could be part of it—I brought that legislation forward—as well as information about where the dog came from. A lot of stuff could be added, if we had the right system. I am not a technocrat, but a lot can be added to a proper system, including more information about the dogs, so that we have traceability throughout Scotland on a rolling—and national—basis.

It is a great opportunity for the committee to push the Government along that road, if the Government is going to say that registration is too onerous.

Rhoda Grant: I understand that. On the face of it, that appears to be simple. However, various organisations have microchipping registers—

Christine Grahame: That is right.

Rhoda Grant: I do not know whether you have had any discussions with them about trying to pull all of that into a national register. Obviously they make money out of that—it is a commercial business.

Christine Grahame: I will let Roz Thomson in here. I have not been specific because microchipping has come in as a sort of ancillary to the bill; it was introduced by the minister, actually, in response to the committee. That was the first time that microchipping was mentioned—in evidence to the committee.

I will pass over to Roz Thomson.

Roz Thomson: The policy note on the 2016 legislation on microchipping does not necessarily say that there needs to be a central database. However, it says:

“The proposed legislation”

—which is now in place—

“requires standardised types of microchips, standardised information to be kept on the database, appropriate access to the data held; and systems for cross-referring between different microchip databases.”

That is to say, therefore, that a central database is not the only possibility. It would be about existing databases having the capacity to cross-refer, as the Government envisaged in 2016.

Rhoda Grant: I have a tiny question. Do you know whether that has been implemented, given that the legislation was passed in 2016?

Roz Thomson: The 2016 regulations have been implemented, and the annex to Christine Grahame’s letter to the minister contains the details of all the microchipping requirements that are currently in place. We can send you those regulations if that will be helpful.

Christine Grahame: I would be very happy for the committee to pursue either cross-referencing or a national microchipping database. That would be superb—indeed, excellent—and it would move us a long way towards assisting with the legislation and the code.

The Convener: We have a number of supplementary questions—it is obvious that the subject is quite interesting.

Rachael Hamilton: Although we know—I have forgotten what I was going to say. No, it is fine. Although microchipping is not part of the bill, we know that, as Christine Grahame said, it could be. However, including something about that in part 2 would be a new thing, which has not been consulted on. Although some stakeholders mentioned microchipping, as did the minister, and you have now written to ask the minister to clarify some of her comments, if such a provision were to be added, would you have to go back to stakeholders to consult them?

Christine Grahame: No. The position is that I am keen on part 1. If the committee wants to pursue microchipping in the bill, it is open to it to take evidence from the Government. The Government introduced the idea in its evidence; I sat in the committee when the minister introduced a line about microchipping. If the committee wants to lodge amendments to add such provisions, it can always take evidence at stage 2.

The Microchipping of Dogs (Scotland) Regulations 2016 require substantial details to be

recorded. That is already in force, but we do not have the ability to cross-reference. The regulations refer to

“the full name and address of the keeper ... the contact telephone number ... the e-mail address ... the fact that the keeper ... is also a breeder ... the fact that the keeper of the dog is a person who holds a breeding licence”

and

“the name of the local authority which issued the breeder’s licence”.

A whole list of things are there.

Rachael Hamilton: The minister understands that a number of microchipping databases are in operation, as Rhoda Grant said, but they do not include some of the information about breeders. How can the bill add those parts to databases that are operated for commercial interests?

Christine Grahame: I am not looking to add information; my thrust is about registration. Every cow and sheep in Scotland has a registration number; I would like that for each puppy sale or transfer. This has been added by the Government—

The Convener: We are at risk of falling down a rabbit hole—

Christine Grahame: Rabbits are not registered, are they? I do not know—maybe they are.

The Convener: For the next piece of legislation, we can do a search and replace to substitute “dog” with “rabbit”.

We are not at the stage of considering microchipping; we are still at stage 1, where you refer to a registration scheme. Amendments could be lodged at stage 2 to introduce microchipping, but it would be for me as the convener to decide whether that was appropriate and whether those amendments would be considered. Rather than expand too much on the subject, can we keep to what is in front of us? The database and microchipping are a whole different topic.

Christine Grahame: That is a can of worms—or a database of worms.

Ariane Burgess: I have a supplementary question that is on microchipping, but it is also about supporting the register. On 20 September, we heard evidence from Libby Anderson, who explained that, although microchipping improves traceability of individual dogs, a register could ensure not only traceability but transparency about and accountability of the breeder. Other witnesses have provided evidence on unscrupulous dealers switching out microchips to falsify where an animal has come from. I have read your letter, Ms Grahame, and hear your possible openness to microchipping. However, if we relied on

microchipping for traceability, how could such practices be prevented?

Christine Grahame: I want a registration scheme but, if a registration scheme was not acceptable to the committee, I would not want the bill at stage 1 to be sabotaged—I do not mean sabotaged; I mean fall by the wayside—because of that.

Obviously, I want a registration scheme. However, I say to Ariane Burgess that the approach would be discretionary. Importantly, the bill says:

“The Scottish ministers may by regulations prohibit the first owner”

from selling or advertising litters that are not subject to registration. The key word there is “may”. I am leaving the Scottish Government some flexibility to act at a suitable time, because I accept the economic pressures that are being placed on the Government and local authorities. I have to be realistic, because the bill’s primary purpose—I will bore you by repeating it—is to educate. Acquiring registration is an important part of that, and I am pleased that you support it. I put in that section of the bill because I think that registration is important, but, if push comes to shove and there is a push to cross-reference microchipping, I can see a way forward to satisfy us that there will be some traceability of puppies and dogs in Scotland. It may not be the best solution, but it is part of a solution.

Emma Harper: I will not pursue my supplementary question about microchipping, as it relates to the traceability of dogs in relation to livestock worrying. However, as microchipping is not part of the bill at this time, I will not pursue the issue.

Rachael Hamilton: Ms Grahame, you mentioned the cost and the pressure on local authorities with regard to enforcement. After all the conversations that we have had, do you think that the costs might exceed the estimates in your financial memorandum? How did you come to those figures?

Christine Grahame: I refer to page 11 of the financial memorandum. Paragraph 61 details that there is

“an estimated cost of £21,500 to the Scottish Ministers to establish the register and £16,000 per annum to maintain the register”.

It also says:

“There may also be a cost to the Scottish Ministers of producing guidance; this is expected to be minimal and met from existing budgets”.

It lists a range of things that would fall under those costs, including publicity, and the details of other potential costs. Of course, in terms of local

government funding and central Government funding, we are talking about gross costs. I was cut off in my prime earlier with regard to net costs, but it is important to note that abandoned animals and animals that behave badly represent a cost to the public purse—for example, there is a cost to local authorities in the policing of those issues. Some local authorities indicated in their submissions that they could see the benefit of educating the public to be aware before they get a pet, as there would be less pressure on them from dogs that are out of control and so on because we would have nipped the problem in the bud at the beginning by making sure that the animal is in the right place with the right person at the right time.

Rachael Hamilton: The financial memorandum says that the cost of enforcement work relating to the bill would be £1,500 per local authority—well, no, it says that enforcement costs for all local authorities would range from £60,000 to £90,000 a year, or £1,500 per full-time equivalent role. Glasgow City Council has made the point that, with the additional demands, that amount might not cover it. It is difficult to top up any additional resource costs that a local authority may need to pay to ensure that enforcement is carried out. You are also asking them to do things that are additional to what they are currently doing, and a lot of them are concerned that that is going to be a burden to them.

Christine Grahame: Before I ask Roz Thomson to go into the specifics of the figures, I will say that that is why, as I said in my answer to Ms Burgess, I made the requirement discretionary. As I said, I am aware of inflationary pressures on Government and local authorities at this time. Much as I love animals, providing homes for people is at the top of the list. That is why the requirement is discretionary, bearing in mind that economic circumstances have changed—inflation was raging, particularly last year, and it is still high.

That is also why, with regard to part 2 of the bill, if the Government feels that the cost of registration would be cumbersome and suggests an alternative, I am prepared for that alternative to be used, with the caveat that we move forward with some kind of cross-referencing of microchipping. I am very aware of costs for local authorities. I will ask Roz Thomson to reflect on the specifics but, in general, that was my policy view of it: we have to be realistic; we cannot say to local authorities, “This is a whizz-bang system. I just want you to do it and I dinnae care what it costs.” I do care what it costs.

11:15

Roz Thomson: I acknowledge that estimating the costs for local authorities was the most challenging part of the financial memorandum.

Paragraph 50 of the memorandum sets that out. It was partly based on evidence that the Public Audit and Post-legislative Scrutiny Committee received in the previous parliamentary session as part of its post-legislative scrutiny of the Control of Dogs (Scotland) Act 2010, which Christine Grahame took through Parliament as a member's bill.

There was a huge range of responses from local authorities on how they approach those issues and on the number of different roles that individual members of staff can hold. There is a hyperlink to that document in the financial memorandum, but I can provide it in full to the committee to give a sense of the range of estimates and challenges that local authorities highlighted.

Christine Grahame: Paragraph 52 of the memorandum includes the costs in relation to the employment of an animal welfare officer and so on. As far as is practicable, we have looked at that, but I am conscious that I do not want to burden local authorities with additional costs when their budgets are pressured. That is why, as I said, I made the question of when and if to introduce a registration scheme a matter for the discretion of the Scottish Government.

Rachael Hamilton: There could be inconsistency across local authorities because of cost concerns—for example, in the constituencies that you and I represent, there might be an extra requirement for cross-border enforcement. Will you take into account the different challenges that local authorities would have to face with regard to an increase in the resource requirement?

Roz Thomson: From memory, some of the details from local authorities that we used as an evidence base included distinct challenges, and I think that the cross-border issue was one of them. It was difficult to estimate any savings from enforcement over a period of time, so we did not attempt that.

Christine Grahame: We know that there will be some additional costs, but we would just be plucking figures from thin air, and I will not do that.

As I say, in the general picture of things, we are well aware of the costs—as well as the potential benefits—for local authorities. However, this is not the time—this year or next year—to burden them with additional costs when they have so much to deal with.

The Convener: We have no further questions, so I thank Christine Grahame and her NGBU colleagues for providing evidence. I suspend the meeting for a comfort break.

11:17

Meeting suspended.

11:25

On resuming—

Subordinate Legislation

Plant Health (Fees) (Forestry) (Scotland) (Amendment) Regulations 2023 [Draft]

The Convener: Our next item is consideration of draft regulations. I welcome Lorna Slater, Minister for Green Skills, Circular Economy and Biodiversity, and her officials: Clarinda Burrell, tree health policy and implementation officer, Scottish Forestry; and David Corrigan, solicitor, Scottish Government.

Minister, I invite you to make an opening statement.

The Minister for Green Skills, Circular Economy and Biodiversity (Lorna Slater): Thank you for taking the time to consider the draft Plant Health (Fees) (Forestry) (Scotland) (Amendment) Regulations 2023. The regulations would amend Scottish legislation in the field of plant health. They introduce provision to extend the duration of an exemption from the requirement to pay fees for phytosanitary certificates for forestry exports from Scotland to Northern Ireland, in certain circumstances, under the UK Government's movement assistance scheme. That will support Scottish exporters after the transition period and will ensure that Scottish exporters retain access to the same support as their English and Welsh counterparts.

As Northern Ireland remains part of the European Union plant health system, exports from Scotland to Northern Ireland are required to fulfil EU entry requirements, including phytosanitary certificates. The movement assistance scheme, which is funded by the UK Government, temporarily removes the requirement for exporters to pay fees associated with obtaining a phytosanitary certificate for the export of plants and plant products to Northern Ireland. The movement assistance scheme has been extended to June 2025.

The draft regulations also include a minor amendment to the wording of schedule 1 of the Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015 in order to provide greater clarity on the scope of activities that may be carried out in relation to audit inspections by competent authorities of professional operators authorised to issue GB plant passports.

I consider the regulations necessary and appropriate. My officials and I would be happy to take questions from the committee.

The Convener: As there are no questions, we will move on to the next item, which is formal

consideration of motion S6M-10920, to approve the draft regulations.

Motion moved,

That the Rural Affairs and Islands Committee recommends that the Plant Health (Fees) (Forestry) (Scotland) (Amendment) Regulations 2023 be approved.—
[Lorna Slater]

Motion agreed to.

The Convener: Is the committee content to delegate authority to me to sign off on our report on our deliberations on the affirmative Scottish statutory instrument?

Members indicated agreement.

The Convener: I thank the minister and her colleagues for attending the committee this morning.

11:28

Meeting suspended.

11:29

On resuming—

Rural Support (Simplification and Improvement) (Scotland) Regulations 2023 (SSI 2023/308)

Common Organisation of the Markets in Agricultural Products (Fruit and Vegetables) (Amendment) (Scotland) Regulations 2023 (SSI 2023/311)

Animal Welfare and Food Safety (International Professional Qualification Recognition Agreement Implementation) (Miscellaneous Amendment) (Scotland) Regulations 2023 (SSI 2023/312)

The Convener: The next agenda item is consideration of three negative instruments. Do members have any comments on the instruments?

Members: No.

The Convener: Everyone is content. Thank you.

Windsor Framework (Non-Commercial Movement of Pet Animals) Regulations 2024

Official Controls (Extension of Transitional Periods) (Miscellaneous Amendments) Regulations 2023

The Convener: Our final item of business is consideration of consent notifications for two UK

statutory instruments. Are members content to agree with the Scottish Government's decision to consent to the provisions set out in the notifications being included in UK, rather than Scottish, subordinate legislation?

Members indicated agreement.

The Convener: Thank you. That concludes our business in public.

11:30

Meeting continued in private until 12:03.

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