



OFFICIAL REPORT
AITHISG OIFIGEIL

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Net Zero, Energy and Transport Committee

Tuesday 21 May 2024

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NET ZERO, ENERGY AND TRANSPORT COMMITTEE
18th Meeting 2024, Session 6

CONVENER

*Edward Mountain (Highlands and Islands) (Con)

DEPUTY CONVENER

*Ben Macpherson (Edinburgh Northern and Leith) (SNP)

COMMITTEE MEMBERS

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

*Jackie Dunbar (Aberdeen Donside) (SNP)

*Monica Lennon (Central Scotland) (Lab)

*Douglas Lumsden (North East Scotland) (Con)

*Mark Ruskell (Mid Scotland and Fife) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Maurice Golden (North East Scotland) (Con)

Gillian Martin (Minister for Climate Action)

Graham Simpson (Central Scotland) (Con)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Net Zero, Energy and Transport Committee

Tuesday 21 May 2024

[The Convener opened the meeting at 08:30]

Circular Economy (Scotland) Bill: Stage 2

The Convener (Edward Mountain): Good morning, and welcome to the 18th meeting in 2024 of the Net Zero, Energy and Transport Committee.

Our only item of business this morning is day 3 of our stage 2 consideration of the Circular Economy (Scotland) Bill. I welcome to the meeting Gillian Martin, the Minister for Climate Action, and her supporting officials. I also welcome Graham Simpson, and I think that other members might appear during the meeting.

At last week's meeting, the committee ended day 2 consideration of the bill, having disposed of amendments to section 8 and having agreed to that section, so that is where we will start off. I do not want to curtail anyone's contributions to the debates on any of the issues but, as always, time is against us. This is democracy, and it is important that everyone has their say, but I am just conscious of the situation. I am totally in the committee's hands, though, and I have no ability to control the length of the meeting.

Section 9—Power to require imposition of charges for single-use items

The Convener: Amendment 24, in the name of Graham Simpson, is grouped with amendments 25 to 27, 29 and 35. Graham, can you speak to and move amendment 24 and speak to any other amendments? [Interruption.] I will get this right, so I am going to start again. It is obviously way too early for me.

Please speak to and move amendment 24 and speak to the other amendments in the group.

Graham Simpson (Central Scotland) (Con): So far, the process has been quite frustrating, but I hope that it will get better as the morning goes on. I always like to think that, at stage 2, members can listen to and base their votes on actual debates, and that the minister can be flexible and does not have to adhere to what have seemed to me to be quite old speaking notes, which were probably written before she took office.

On amendment 24, it is not clear to me what section 9 would apply to, but I find some of its

wording concerning. I have lodged a number of amendments that relate to charges for single-use items, but amendment 24 would remove such charges if a deposit return scheme were ever to be put in place. The minister, who was, I accept, not the architect of the DRS shambles, might well say that it is obvious that that would be the case; however, nothing is obvious unless you make it so, which is why we need something in legislation—hence amendment 24.

On amendment 25, the circular economy is, to me, about ensuring that goods and products that can be recycled or reused are, indeed, recycled and reused. We have become a throwaway society, as anyone who has been on a litter pick will know. As I have said, it is not clear to me what section 9 would cover, but in the stage 1 debate I said that, as far as charges for single-use items are concerned, you could be talking about a container for a takeaway meal. In other words, it would be a fish-and-chips tax, and the wording of the bill suggests that that is the case. It says:

“The regulations may only specify items which are—

(a) manufactured,

(b) provided—

(i) as a container or packaging for goods,

or

(ii) to be used in connection with the consumption or use of goods,

and

(c) likely to be used for that purpose only—

(i) once, or

(ii) for a short period.”

Therefore, my fear could definitely come to fruition.

All sorts of things could attract surcharges: shoeboxes, bags that clothes come in, tins and the paper bags for your prescriptions. There are all kinds of things that the provision could encompass. Of course, Scotland's great chippies could be hit by it, too.

However, what if the committee were to accept amendment 25? At a stroke, items that are biodegradable, which is what the amendment is about, would be exempt. Surely we are not targeting such items—after all, they are going to rot away, anyway. Under the amendment, biodegradable food and drink containers would not face a charge. Indeed, why should they? The committee can do the right thing on this and spare our chippies.

On amendment 26, I firmly believe that, given the bill's woolly wording, we should, if we go down this road, set out which single-use items would not be covered. The minister might well say, “We can't

do that, because the list would be too long”, but surely businesses need that sort of clarity. The minister could set out a list of the categories of products that would be exempt, which would be much shorter than a list of individual products. Maybe that is something that we could look at for stage 3—indeed, I know that people are already considering stage 3 amendments. Businesses need clarity, and because this is a framework bill, they do not have it—hence the concerns.

Amendment 27 is short but very important. It says that ministers must spell out who should pay a charge for single-use items. If I pop into a coffee shop and ask for an americano and maybe a sandwich, they are both likely to come—*[Interruption.]*

Bob Doris (Glasgow Maryhill and Springburn) (SNP): I apologise, Mr Simpson.

Graham Simpson: Okay—just when you are ready.

Bob Doris: I have made my apologies, Mr Simpson. Perhaps you can get on with it.

The Convener: We do have to give the member the right to speak, but I do not think, Mr Simpson, that we want to get into some situation where you are drawing attention to things. I am very happy for you to speak, and Mr Doris was conscious of allowing you to speak—

Bob Doris: And I have apologised.

The Convener: And you have apologised. Can we park that there, please, Mr Simpson?

Graham Simpson: Absolutely.

If I pop into a coffee shop to ask for an americano and maybe a sandwich, both are likely to come in containers that I might just throw away. Therefore, they would be single-use items. Of course, they might be compostable—and, if the committee accepts amendment 26, such provisions would not apply to them. However, they are likely to be covered by section 9. The question, then, is this: who pays the charge? Is it the producer of the containers that have been supplied to the coffee shop? They could be anywhere in the world. Is it the coffee shop itself? Is it me—the consumer? Again, businesses need to know and consumers, in particular, need to know if they are going to be hit with a sarnie-and-coffee tax.

The minister might well say that the matter is already covered in the bill, but let us look at the wording. The bill says:

“The regulations may in particular include provision about—

(a) the circumstances in which the requirement applies,”

and

“(b) the suppliers to whom the requirement applies”.

It says that it “may ... include provision”, but that also means that it may not. My view is that the regulations should include such provision, so my amendment 27 contains the word “must”, which provides a far stronger legal position.

I turn to amendment 29—I should say that we are still on section 9. Such charges could have a major impact on small businesses and microbusinesses. They will, if anything, be an administrative burden. Businesses are already up against it and the charges could be just the thing that tips some over the edge. Therefore, the amendment would allow for payment of grants and loans to help such businesses to deal with the impact. It does not say that that “must” happen; instead, it says that it “may”, which might suggest that I have gone a bit soft. To that extent, it would allow ministers to budget.

Of course, a better solution would be to get rid of section 9 altogether. It is too onerous, and we would be better off without it.

I am not the only one who has concerns about charges for single-use items. The committee’s report highlighted concerns from business and other stakeholders about the potential impact of these charges, and it recommended that this must

“go hand-in-hand with other measures to promote reusable alternatives as a social norm and a positive choice.”

The committee also recommended

“a strategic approach to the use of the powers in Section 9”,

and suggested that initial regulations on charges for single-use items should be subject to super-affirmative procedure. That is a very good idea indeed.

The minister told the committee that regulating single-use items required

“using the right tool for the right job.”—*[Official Report, Net Zero, Energy and Transport Committee, 5 December 2023; c 37.]*

I am not convinced that section 9 is the right tool, or that charging for the supply of single-use items is the right job. What about the unintended consequences of the charges for those who rely on single-use products? Local retailers and hospitality venues will have to pick up the additional administrative and logistical slack that that would create.

UK Hospitality Scotland told the committee—I am nearly at the end, convener—that

“Adding a cost to the price of purchasing single-use items will penalise Scottish businesses and consumers. For example”—

it said—

“it is envisaged that a charge of 20p could be applied to single-use cups. This may well result in lost business for high street premises as customers choose not to make a purchase and pay the extra. Given”—

it went on—that

“we are in a cost of living crisis anything that could dent consumer confidence and spend is unwelcome, further jeopardising business and jobs.”

Do we really want to jeopardise businesses by placing more burdens on them from additional charging? My other amendments have suggested some ways in which to make the regulations less burdensome, but it might well prove to be better just to scrap section 9 of the bill altogether, which is what amendment 35 would do.

I move amendment 24.

The Convener: Thank you very much, Graham. Do any other members wish to contribute? I think that Ben Macpherson wants to come in.

Ben Macpherson (Edinburgh Northern and Leith) (SNP): Thank you, convener. I thought that the minister might speak first, so I apologise, minister, if this covers some of the things that you might want to say.

Mr Simpson has brought some important points to the debate. Having heard the voice of small business during the stage 1 proceedings, we should consider what impact charges for single-use items would have on small businesses when they are in competition with larger companies—sometimes multinational companies. That could prove to be difficult in that single-use item charges—for example, on coffee cups—would disincentivise people to purchase on the go and would create a logistical challenge for smaller businesses.

That said, I think that the Government is right to want to take that power in a piece of primary legislation. The considerations thereafter would be on deployment and utilisation of the power. I know that the Government, and future Governments, would be careful and cautious about impacts on businesses when utilising the power. Therefore, there is a debate to be had on when and for what that power should be used. As things stand, it is important to take that power in a circular economy bill, but I urge the Government and future Governments to think carefully about putting the cost and emphasis of creating a circular economy on to the individual consumer, rather than on to businesses.

I thank Mr Simpson for lodging the amendments, but I urge him not to move them at this juncture and to have further dialogue with the Government to see whether there is a better position that can consensually be arrived at for stage 3.

The Convener: Thank you very much, Ben. Douglas Lumsden wants to say something.

08:45

Douglas Lumsden (North East Scotland) (Con): Yes—I will say a few brief things.

The deputy convener has raised a useful point in relation to when the power will be used and on what. The problem with the bill is that, once it has passed stage 3, there will not be any more debate in the chamber and the time for consultation will have passed.

We often hear coffee cups being mentioned. The power could be used far more widely than just on coffee cups. Graham Simpson mentioned packaging for fish and chips, but there are other things, too. Take a tin of beans. That is a container, so will there be a charge on that? There are also unknowns about VAT. I do not know whether the Government has identified whether VAT would be payable on that charge. There is quite a lot that we do not know, which makes it quite difficult to—

Bob Doris: Will the member give way?

Douglas Lumsden: Of course.

Bob Doris: I find it quite helpful to have some of the concerns explained. During our stage 1 scrutiny in preparation for our report, we had a debate on the extent to which the bill should be a framework bill. One of the reasons for its being a framework bill is that a lot of the matters that you are raising need to be ironed out: it might be impractical to include such things in the bill or it might make the legislation too rigid. Would you accept that there is a balance to be struck, Mr Lumsden?

Douglas Lumsden: I accept that. Mr Doris knows my position on framework bills. The reason why I am so much against their use is that we could end up approving legislation even though it still does not have the detail that we need in order to do our jobs properly. That sums up the problem that we have.

One issue is what will be covered by a charge. VAT is another issue. Graham Simpson mentioned unintended consequences. Section 9 might make ordering a cup of coffee less affordable.

We are serious about having a circular economy, but the Government could have tackled the issue differently. We discussed in committee the use of reusable coffee cups, with each vendor handing out and taking back the same cups. That is something that would give us a real circular economy, but no proposal on that has come

forward. Just having a tax on things is probably not the right way of doing it.

Monica Lennon (Central Scotland) (Lab): It is nice to come in after Douglas Lumsden, having heard him be very passionate about reusable items. Mr Lumsden, I ask you just to hold that thought.

I want to come in briefly to support amendment 25, in the name of Graham Simpson, on biodegradable items being exempt from a charge. It is important that people who are already trying to be more circular and environmentally friendly are not penalised for that. I am happy to support that amendment.

Amendment 26 provides helpful clarity for business. However, I will not be supporting amendment 35, which seeks to strip out section 9. That part of the bill is important.

The Convener: Before I come to the minister, I would just add that I find it interesting that, when clarity is sought on issues, the Government's position is always to ask the member to withdraw the amendment so that further consultation can take place. Of course, there is another option: the Government could support the amendment and then seek to amend it at stage 3, which would show an absolute willingness to contribute.

I find it interesting, too, that we could end up taxing things that are biodegradable. Surely the whole point of the biodegradable item and the investment being made in it is to ensure that it does not go into landfill, which, after all, is a significant step.

The question of who will pay is an interesting one, as is the position on VAT, which I have not yet had explained to me. I am minded to seek clarity by agreeing to many of the amendments in the group, just to force the Government to come back at stage 3 to define its position instead of just saying that it might do so before stage 3.

On that note, as no other member wishes to speak, I am happy to pass to the minister. Good morning, minister.

The Minister for Climate Action (Gillian Martin): Thank you, convener, and good morning, everyone. I want to start by addressing some general points that have been made about the regulations that would be introduced under the bill.

Regulations made under section 9 will already be subject to the super-affirmative procedure, which was welcomed by the committee, and will therefore be subject to a high level of scrutiny before they are laid. The Government will make proposals for everything that it would apply a charge to through a Scottish statutory instrument, and those proposals would be subject to the

parliamentary scrutiny that would come with that. Any Government would allow for that scrutiny.

Douglas Lumsden: Will the minister take an intervention?

Gillian Martin: I will make a start on this point and then let Mr Lumsden in.

The Scottish Government cannot support any of Graham Simpson's amendments in this group, but I am, as ever, happy to speak to him about some of his concerns. I will lay out my reasons for not supporting the amendments, starting with amendments 24 to 26, which seek to exempt items from future regulations made under the proposed new power in the bill.

Amendment 24 seeks to prevent the use of the power to charge for single-use items if they fall within the scope of a deposit return scheme or "any ... re-use scheme". Without a specific definition, it is not clear exactly what the term "re-use scheme" means here and, therefore, what the impact would be of exempting those schemes from future charges. The committee will be aware that, at the moment, the Scottish Government is in discussion with the United Kingdom Government and the Welsh and Northern Irish Governments about a future United Kingdom-wide DRS.

Douglas Lumsden: On the minister's initial point about the scrutiny process, the proposals would have to come through an SSI, but do you accept that, at that stage, we would be able to say only yes or no to them and any chance to make amendments to improve those proposals would have passed?

Gillian Martin: As Mr Lumsden has been in the Parliament for a few years now, he will know that a committee can have any deliberations that it wants on what evidence to take on an SSI and that the Government will go out to consultation. Mention of business impacts has been made a number of times now, and I point out that it is our duty to consult with businesses ahead of any changes that would be made. Any speculative throwing around of examples—say, chip papers—does the process a bit of a disservice, as there would be an opportunity for scrutiny as well as consultation. After all, we would not want to do anything disproportionate.

We will consider carefully the policy interactions and implications of any future deposit return schemes and charges for single-use items. Although we might agree in principle that any item that is subject to a deposit should not be subject to a charge, too, we do not yet know what the DRS is going to look like; we are still having discussions with the UK Government and other devolved Governments, and at this point, it is not possible to evaluate all the future policy interactions. I cannot

agree to anything that will restrict something that we might need in the future.

Amendment 25 seeks to exempt “items that are biodegradable”. Without a specified environment or time frame and a proper definition, the term “biodegradable” is problematic, as it is unclear. Mr Simpson mentioned compostable and biodegradable products, but those are two very separate things. Typically, products that are referred to as biodegradable are single use, with their own set of waste management charges. The majority of materials that are found in any litter stream are, eventually, biodegradable, but we need to consider how many years those products take to degrade. Exempting biodegradable items from charges would create a significant potential loophole for suppliers to continue supplying single-use items without charging for them, which would undermine the purpose of the charge.

More important, because of that loophole, any actions that we could take to reduce the number of single-use items would not work. After all, the bill is aimed at improving recycling rates and, with regard to the waste hierarchy, at removing wasteful items from the economy, in general. Unfortunately, Mr Simpson’s amendment 25 provides a loophole, and I do not want that to happen.

Graham Simpson: I do not want to create a legal loophole either. It sounds as though the minister might accept what I am trying to achieve, but she is not happy with the wording.

Gillian Martin: Despite what Mr Simpson said in his opening comments, I am open to discussing anything that has a laudable intention. I understand why Mr Simpson has lodged his amendments, and I am happy to work with him on this matter, but I do not want to be in a situation where the use of certain language would create a loophole. Perhaps we can discuss the matter ahead of stage 3.

Graham Simpson: May I intervene again, minister?

Gillian Martin: Yes.

Graham Simpson: Thank you. Those comments were very positive. It is that kind of discussion ahead of stage 3 that I have been trying to achieve with a number of my amendments. After all, this is a process. I will comment further on this when I sum up on the group, but the minister’s remarks have been useful and I will certainly have that discussion with her ahead of stage 3.

Gillian Martin: Amendment 26 seeks to ensure that all regulations made under the power must include a list of exempt items. Because such regulations will have to specify the items for which

a charge is to be applied, it is unnecessary to require them to specify a list of items that will be exempt. If regulations do not specify a particular item, that item will not be subject to the charge and will, in effect, be exempt. I reassure Mr Simpson that secondary legislation will be required to introduce a charge for an item so, as I have said, there will be an opportunity to consider the circumstances in which the charge will apply.

On amendment 27, I agree that it will be very important to set out clearly the scope of future charges to be made using the powers, but I do not believe that the amendment itself is necessary. The focus of the power in proposed new section 87A of the Climate Change (Scotland) Act 2009, as inserted by section 9 of the bill, is to allow ministers to set a charge for specified single-use items and to require suppliers to levy that charge when they supply the goods to their customers. The regulations do not need to specify who should pay the charge.

Graham Simpson: Does the minister not think it really important that we know who will pay the charge? I set out a number of scenarios in my opening comments. Will it be the supplier? In the case of, say, coffee cups, will it be the coffee shop? Will it be the consumer? Do you not think that we need that clarity?

Gillian Martin: The initial proposed items that will be subject to regulation, should the bill be passed, will be single-use coffee cups. We know that. We would require suppliers to levy that charge—that is what the power will do—when they supply the goods to their customers. I think that it is quite clear who that would be.

On amendment 29, I note that Scottish ministers already have the power to give financial assistance to small businesses and microbusinesses—

Douglas Lumsden: Will the minister take an intervention?

Gillian Martin: It would be great if I could actually get through a point.

As ministers already have the power to give financial assistance to any person, including small businesses and microbusinesses, for any scheme or programme with the purpose of preventing or reducing waste, I do not believe that amendment 29 is necessary.

I will take Mr Lumsden’s intervention.

Douglas Lumsden: I thank the minister for taking my intervention, which is on a key point. When you say “a supplier”, do you mean the supplier to the coffee shop, or do you mean the coffee shop that supplies the drink to the customer?

Gillian Martin: It is the supplier of the drink in the coffee cup. That seems quite clear to me.

Douglas Lumsden: So it is not the person who supplies the coffee shop with the cups. The point of the amendment is to clarify how far down the chain this goes.

Gillian Martin: Mr Lumsden will be familiar with the single-use carrier bag charge. That is what is proposed here.

Douglas Lumsden: Okay. Thank you.

The Convener: Can I come in on that? I want to clarify this in my brain. What you are saying is that, in the case of the single-use coffee cup, the supplier of the coffee in the coffee cup will charge the purchaser of the coffee, and—

Gillian Martin: So—

The Convener: I am sorry, minister, but hold on. If I may, I will just finish the question. I am just trying to understand this.

You then equated the proposal to the single-use carrier bag charge, where suppliers voluntarily collect the money and give it to charities. Is that what you are suggesting? It seems that you started off by talking about the supplier of coffee cups, which could be China, but now you are saying that it is like the single-use carrier bag charge, and that the supplier might be asked to give some of that money to charity. I seek clarity, minister.

09:00

Gillian Martin: I will be as clear as I possibly can. With, for example, single-use coffee cups, the proposal is that when you buy a takeaway coffee in a cup—that is, at the point of sale—a charge will be applied, as with a carrier bag. The charge will be applied at the point of sale.

The Convener: I am sorry, minister, but will you take another intervention? Who keeps the money from the supply of the item?

I am sorry—that was a bit rude of me. I need to speak through myself. Minister, can you clarify who will keep the money from the charge?

Gillian Martin: Yes, that is in my speaking notes. This particular part of the bill allows regulations to come forward, and everything in relation to where the money goes will be scrutinised. To be clear, the overall purpose of the power is to reduce our reliance on single-use items; the power with regard to the proceeds of sale is identical to that contained in the Climate Change (Scotland) Act 2009 for carrier bags; and regulations that would introduce any charges under that section would provide further detail. I think that that is quite clear. I had hoped that I was

being helpful by correlating this with the use of carrier bags, which everyone will be familiar with.

Amendment 35 would delete section 9 of the bill, which is unfortunate. I have just extended to Mr Simpson the ability to talk about some of the issues that he has raised about the section.

Maurice Golden (North East Scotland) (Con): Given that the Scottish Government has clearly picked this area for a policy intervention, what assessment has the Scottish Government made of the potential emissions reductions that would result?

Gillian Martin: Because this policy intervention is about the power to levy additional charges on single-use items, the point at which we decide on which items will be subject to the charge will be the point at which we can carry out an assessment of the nature that Mr Golden has suggested.

I will just say that, as amendment 35 would delete section 9, I cannot support it.

The Convener: I call Graham Simpson to wind up and press or withdraw amendment 24.

Graham Simpson: It has been an interesting discussion, and I thank the members who have contributed. Ben Macpherson, Douglas Lumsden and Monica Lennon all made good points, but the final exchange with the minister was quite revealing, in that I do not think there is enough clarity in certain sections of the bill as it is written. The minister did not clear up who would pay these charges; we have to go with what is actually written in the bill.

I am very happy to talk to the minister about amendment 25 or any other amendment. I guessed that she would not want to obliterate section 9—of course I did, but I will probably not move that amendment. I hope that the rest of the amendments are up for discussion. When the minister and I sit down to chat about amendment 25, perhaps we can widen the discussion and talk about other things on which we might be able to reach consensus.

Maurice Golden: In advance of stage 3, it might be beneficial if the committee and Parliament were to understand why, in this case, charges for single-use items as a policy intervention were chosen over other policy interventions, so that we can better understand the impact on emissions, behaviour change and the circular economy. At the moment, I am not clear, and I wonder whether the member is clear, why we are discussing this particular policy intervention.

Graham Simpson: I am not any clearer than Maurice Golden. The level of detail that he asks for is essential, and we do not have it. I listed a number of products that I might encounter in my day-to-day life, but there will be a whole load of

others that I have not thought of that could be caught.

Ben Macpherson: Does Graham Simpson agree that, as we discussed at stage 1, it is important to consider single-use item charges with regard to the particular circumstances of different items? For example, the charge on plastic bags was, from memory, more to do with the damaging effect of plastic bags as a pollutant in the natural environment—whether in rivers or woodland, or from wildlife choking on plastic. A disposable cup is a different item. For consumers, putting a reusable bag in their pocket is a different consideration from putting a reusable cup in their pocket. We would all do well to consider the circumstances of different items, rather than being wide-ranging in using the plastic bag charge as a justification for saying that charging would be beneficial when it comes to other single-use items.

Graham Simpson: Ben Macpherson is a very considered member and usually makes very good points, as he has done on this occasion. I did not refer to the plastic bag charge, and Mr Macpherson is absolutely right—the main point of that charge was to reduce littering. I certainly reuse plastic bags, as I am sure that Mr Macpherson does. He is right to say that different products could be treated differently.

Gillian Martin: On a point of clarification, does Graham Simpson agree that section 9 gives the power to put a charge on items when regulations are brought forward that specify that item, which will allow Parliament a chance to scrutinise the merits of putting a charge on the item, rather than having a list of items in the bill? There is a power to put a charge on specified items via regulations in the future.

Graham Simpson: The minister makes a reasonable point, except that those of us who know how the affirmative or super-affirmative procedure works know that such regulations are not subject to the same level of scrutiny as something that is put in a bill.

Earlier, the minister said that the Government can go out to consultation on all of this. The problem is that there is no ability for members to change what the Government puts forward. As Douglas Lumsden said, it is either a yes or a no. That is the problem with framework bills—the use of which is increasing, as the committee said in its report.

Bob Doris: I am following the debate with great interest. On amendment 26, and on putting in the bill a list of items that would be exempt from a charge, does Graham Simpson consider that there is a possibility that, by definition, the absence of any item from the list may lead to concern that every item that is not on the face of the bill might

be considered for such a charge, which would not be the case?

The power to levy a charge does not mean that, if something is not exempted in the text of the bill, it is being actively considered for a charge. Having a finite list in the bill itself might lead to greater anxiety. It could also mean that, as new products are made and become available, we would need primary legislation to add them to the list.

That is not a reason not to support amendment 26, but does the member appreciate that I have outlined two drawbacks of his amendment?

Graham Simpson: Mr Doris makes a reasonable point. I thought that I had made that point in my opening comments, because I was anticipating the argument from the minister that, if we went with this amendment, the minister—whoever it was—might have to provide a very long list of particular items that were exempt.

That is why I have offered the alternative of categories, which would be a much shorter list. That might be a better way forward for stage 3, which is why I have referred to this as a process. I did not hear the minister take me up on that offer, but it is still there. Perhaps, in reflecting on amendment 26—as members heard last week, I do reflect on things—

Bob Doris: In real time, Mr Simpson.

Graham Simpson: In real time.

Perhaps the approach is too onerous, but there might be a better, different, approach offered at stage 3. However, that would require co-operation from the minister.

I am happy to take any further interventions. I see that Mr Ruskell wants in.

Mark Ruskell (Mid Scotland and Fife) (Green): It has been an interesting debate. In summing up, can you say whether you believe that there is a role for single-use item charges at all? What I have heard from you has been pretty negative.

I am not quite sure about the analogy of chip paper—as a consumer, I certainly would not want to reuse chip paper. What do you see as the role of single-use charges? They have been effective for carrier bags, and there has been a long-standing policy development around the use of charges in relation to coffee cups and other hot-drink cups.

I am interested to know the thrust of what it is that you are trying to achieve with your amendments. If you are trying to achieve clarity by putting more requirements in the text of the bill in relation to schemes that are brought forward, or trying to design in exemptions around the nature of biodegradability and everything else, I can

understand where you are coming from, but that seems to be quite a negative place. It seems that you do not, fundamentally, see a use for such charges, which may be seen as punitive, but which—it could be argued—nonetheless have a pretty critical role in reducing waste and delivering behavioural change.

Graham Simpson: I thank Mr Ruskell for those useful comments. I go back to what I said to Mr Macpherson, when he commented on the plastic bag charge, which I think is about reducing littering. His point was that we need to look at different products differently, so it depends on what we are talking about.

That is why I was after some more clarity in the text of the bill, so that it becomes less of a framework bill. At this point, the committee—and at stage 3, the whole Parliament—would be able to say, “Well actually, we’re not happy just to leave all this to Government and to regulations.” The problem with regulations, as Mr Ruskell is well aware, is that when a regulation comes to the committee, it will require a simple yes or no; we would not be able to tweak it.

Gillian Martin: On that point, I highlight—although I am loth to mention this, because Mr Simpson knows the parliamentary processes very well, in particular given his previous convenerships—that ministers have a legal duty to take account of any report or resolution of the Parliament. The super-affirmative process provides for an extended amount of time for scrutiny of regulations about specific items. Before we lay regulations in Parliament, it would not just be that we may consult—we would consult; we are legally bound to consult on the implications of what we are producing.

When laying regulations, we need to give a statement setting out the changes. We also need to take into account what Parliament says in response.

09:15

Graham Simpson: If only every minister was as reasonable as Ms Martin. Unfortunately, that is not always the case. We are putting something into legislation that will last far beyond Ms Martin’s tenure in her current post: it will last into the next parliamentary session and beyond, presumably. We need to get it right.

I make the point again that making regulations is not the same as putting something in the text of a bill. This applies in the UK Parliament, too: there is an increasing trend to produce framework bills, and that is not healthy for parliamentary scrutiny. That is why I have lodged my amendments: I am seeking greater detail.

However, unless there are any other interventions—which I would be delighted to take—

Mark Ruskell: We have lots of time, so let us use the time.

Graham Simpson: Yes—it is very healthy.

Mark Ruskell: The committee’s stage 1 report went into some detail on the options to put more detail in the bill or requiring what could effectively be called a super-affirmative process, which was originally used for the establishment of the DRS regulations back in 2019. That involved Parliament taking extensive evidence from stakeholders in advance of the regulations being laid and seeking reassurance from the minister about how the regulations would be altered in light of the committee evidence before finally being laid.

I just wonder if, in lodging his amendments for this morning, Mr Simpson had considered what an enhanced parliamentary process might look like. Co-production, whether with industry, the Convention of Scottish Local Authorities or individual local authorities, is critical, as these are the folk who will be delivering the schemes in practice. They are the people who will be selling the coffee, taking cups back, administrating charges and so on. They will be setting up the systems for dealing with waste, biodegrading, composting and all of that. If those people and organisations are the experts, surely there is a way to bring co-production into Parliament, allowing for greater scrutiny ahead of something being introduced. To write a scheme into the bill at this point without any of that co-production or scrutiny would perhaps ring alarm bells within industry, whereas an enhanced parliamentary process might be more appropriate. The committee was wrestling with working out where a super-affirmative process might add value to the bill and where it might not. A Scottish statutory instrument process would be adequate.

Graham Simpson: Mr Ruskell is making a very interesting point, and he is probably talking about a whole new process, which we do not have at the moment. I am looking at Mr Doris’s screen: he is looking up what super-affirmative SSIs are.

Bob Doris: Will the member take an intervention?

Graham Simpson: Sorry. I was not being—

Bob Doris: But will you take an intervention?

Graham Simpson: Yes, I will let Bob Doris in. I do not blame him for looking that up. Not everyone quite understands the different processes.

The Convener: I am going to intervene here. I am sure that everyone knows the processes of the Parliament far better than I do and will give me an

opinion on whether I have interpreted them properly or not, but the idea of the stage 2 debate is that we go through the debate on the principles, and the member who is moving the lead amendment speaks to it and the other amendments in the group, and there is then a debate at that stage. The minister comes in if they have not spoken already and responds to the member. Then, the member sums up at the end. That is not another area for debate.

I gently remind members, for fear of being chided about my understanding of parliamentary process, to try to stick to procedure in the hope that we will get through this before day 6. I would love to extend the process to day 6, if members want to debate for that long, but I do not think that that would be helpful in allowing time for further debate at stage 3.

I am going to push Mr Simpson to wind up on this group of amendments and we will see if we can move forward.

Bob Doris: Convener, I have been named, so I seek an intervention.

The Convener: I think it is entirely appropriate at all stages during the parliamentary process to check, as I do, what that means. I have been convener of this committee for seven years and I still sometimes have to check procedures. I do not think that that was a derogatory naming, Mr Doris.

Bob Doris: I seek clarity because Mr Simpson made an assumption. If I could intervene constructively, that might add something to the debate.

Graham Simpson: I am happy to let Mr Doris intervene before I wind up.

Bob Doris: In the interest of clarity for Mr Simpson, I used to chair the Subordinate Legislation Committee before it was called the Delegated Powers and Law Reform Committee and we looked at the super-affirmative procedure.

I want clarity about something very important. Draft regulations can be published for up to 90 days before final regulations are published and laid before Parliament and there was a dynamic parliamentary process in which the minister would have to demonstrate amendments made at that point. We are looking at the super-affirmative procedure, which Parliament at that time thought was a substantial level of scrutiny. I still agree with that and I think that it is reasonable for this piece of legislation. I would like clarity from Mr Simpson because I would not support having the measure on the face of the bill—I think that would be wrong—and would like to know from him what procedure would be used if it were not the super-affirmative.

The Convener: Thank you, Mr Doris. Every day in Parliament is a learning day for me too. Mr Simpson, I ask you to address that specific point as you wind up and then to press or withdraw your amendment.

Graham Simpson: I will be really quick. The affirmative and super-affirmative procedures have limitations. I would probably go back to what Mr Ruskell was suggesting and what others have suggested in the past, which is that, after 25 years of this Parliament, we might need some new process.

However, as you rightly say, convener, we are not here to deal with that. We are here to deal with the amendments in this group, so I will wind up here.

The Convener: Are you pressing or withdrawing amendment 24?

Graham Simpson: I will not move amendment 24, on the basis of—

The Convener: No, Mr Simpson, it is a question of pressing or not pressing.

Graham Simpson: I will not press it.

Amendment 24, by agreement, withdrawn.

Amendments 25 and 26 not moved.

Amendment 27 moved—[Graham Simpson].

The Convener: The question is, that amendment 27 be agreed to. Are we agreed?

Members: No

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result the division is: For 2, Against 5, Abstentions 0.

Amendment 27 disagreed to.

Amendment 29 not moved.

Amendment 28 moved—[Graham Simpson].

The Convener: The question is, that amendment 28 be agreed to. Are we agreed?

Members: No

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result the division is: For 2, Against 5, Abstentions 0.

Amendment 28 disagreed to.

The Convener: Amendment 30, in the name of Graham Simpson, was debated with amendment 5. I remind members that amendments 30 and 31 are direct alternatives.

Amendment 30 not moved.

Amendment 31 moved—[Graham Simpson].

The Convener: The question is, that amendment 31 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 31 disagreed to.

The Convener: Amendment 32, in the name of Graham Simpson, was debated with amendment 5. I remind members that amendments 32 and 33 are direct alternatives.

Amendment 32 not moved.

Amendment 33 moved—[Graham Simpson].

The Convener: The question is, that amendment 33 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 33 disagreed to.

Amendment 34 moved—[Graham Simpson].

The Convener: The question is, that amendment 34 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 34 disagreed to.

Amendment 35 not moved.

Section 9 agreed to.

After section 9

The Convener: Before I move to the next section, I remind members that, as I said last week and have said previously in these meetings, I am a member of a family farming partnership in Moray. As such, we are involved in agriculture and own land. Also, I have regularly been on the receiving end of fly-tipping. The past two events were the dumping of mattresses and tyres barely three weeks ago, so I have an interest in the subject and I have made that clear.

Amendment 201, in the name of Murdo Fraser, is grouped with amendments 121 and 202 to 204. I remind members that amendments 201 and 121 are direct alternatives, as shown on the groupings paper. Douglas Lumsden will move amendment 201 and speak to the other amendments in the group.

Douglas Lumsden: Thank you, convener. I remind members of my entry in the register of members' interests: I was a local councillor at the start of this session of Parliament.

I will move amendment 201 and speak to the other amendments in the group and specifically 202, 203 and 204, which are in the name of my colleague Murdo Fraser. Murdo Fraser cannot be at the committee this morning due to a medical appointment, so I will put forward those amendments and speak to them on his behalf.

As colleagues will be aware, Murdo Fraser has taken a keen interest in the bill's provisions on littering and fly-tipping and has been preparing a member's bill on the issue, which seeks to

improve data collection and publication; adjust the liability both on generators of waste and on the innocent owners of land on which waste is dumped; and increase the penalties for offenders. The consultation responses to the member's bill proposal showed very strong support for each of those measures.

I understand that Mr Fraser engaged with the Scottish Government and specifically Lorna Slater, who was the minister previously in charge of the bill, around those issues. He asked me to put on record his thanks to the minister for the constructive engagement that he had with her.

I turn to the detail of the amendment. Amendment 201 deals with the issue of

"fixed penalty notices for fly-tipping offences."

It would modify section 33A of the Environmental Protection Act 1990 to increase the maximum amount at which the fixed penalty for a fly-tipping offence can be set by ministers from level 2 to level 3 on the standard scale, thereby increasing the maximum fixed penalty that might be set by secondary legislation from £500 to £1,000.

09:30

In addition, it would give ministers the ability to provide for different penalty amounts in different cases—for example, a higher penalty amount where a previous fixed-penalty notice had been issued to the same person—with the maximum amount not to exceed level 3 on the standard scale, which is £1,000. Previously, the maximum fixed penalty that could be charged was £200, although it was recently increased by secondary legislation to £500. However, it is my view, and that of Mr Fraser, that that increase does not go far enough. There should be discretion to issue penalty notices up to a higher amount of £1,000. That would provide a stronger deterrent for people who are involved in fly-tipping, in particular where it is part of wider criminal activity.

Amendment 202 addresses the question of liability on the part of an innocent landowner on whose property waste has been dumped, where they did not generate the waste or give permission for it to be deposited. Under section 59(1) of the Environmental Protection Act 1990, liability for removal of the waste lies with the occupier of the land, who could face fines if it is not removed. In addition, when an appropriate statutory body, such as the local authority or the Scottish Environment Protection Agency, steps in to remove such waste, the cost of removal can be levied on the owner of the land. That is clearly an unfair practice: it is contrary to natural justice and goes against the "polluter pays" principle. I can think of no other area of public policy in which the victim of a crime

is held responsible for it or for paying the costs of another's actions.

When Mr Fraser consulted on his member's bill proposal there was strong support, particularly from the farming and landowning communities, for a change in the law in that area. Some 85 per cent of respondents to the consultation were fully supportive of the proposal that legal liability should be removed from the person who has waste deposited on their land, with a further 9 per cent being partially supportive. The proposal had particular support from NFU Scotland and Scottish Land & Estates, alongside a broad range of other respondents.

Paragraph 79 of the policy memorandum that accompanies the bill specifically addresses the issue, in stating that the Scottish Government

"does not believe it is appropriate to remove liability from occupiers of land. Existing legislation does not place immediate legal liability upon the occupier of the land but does provide a means of compelling the occupier to remove waste in circumstances where there is substantial evidence that the landowner bears some responsibility for the deposited waste."

However, evidence suggests that that statement does not reflect practice. Cases have been brought to us where the innocent landowner is compelled to remove waste under threat of penalty, despite there being no evidence that they had responsibility for it having been deposited.

The effect of amendment 202 would, therefore, be to remove the liability from the innocent landowner and instead place an obligation on SEPA, in such cases, to clear up waste that has been illegally deposited on an innocent person's land. That seems to me to be a fair and reasonable proposal, which I know would be enthusiastically supported by a wide range of stakeholders.

Amendment 203 addresses the question of data collection on fly-tipping. The Scottish Government acknowledges that, currently, the collection of such data has a number of weaknesses. Amendment 203 would modify the 1990 act by granting powers to the Scottish ministers to require information from local authorities and the Loch Lomond and the Trossachs National Park Authority on the reporting of incidents of unlawful depositing of waste, to allow for collation and analysis of data on fly-tipping, with the purpose of improving public access to data. That would also include cases where local authorities had used their powers under section 59 of the 1990 act to remove unlawfully deposited waste. In addition, amendment 203 specifies a non-exhaustive list of the types of information that can be requested, as well as stipulating that the Scottish ministers may not exercise that power more than once in a 12-month period per authority. The effect of the

amendment would be to allow for the better collection of data, so that we would know the extent of fly-tipping.

Amendment 204 is consequential to amendment 203. It would require the Scottish ministers to report annually to the Parliament on the number of incidents of fly-tipping on which they have collected information and on a number of other matters, including the number of fixed-penalty notices that have been issued, the number of prosecutions, the number of convictions and the total number of fines.

I move amendment 201.

Jackie Dunbar (Aberdeen Donside) (SNP): I declare my interest as a former local councillor on Aberdeen City Council, because I realise that local authorities are being discussed at this time.

The Convener: Thank you. I call Edward Mountain—that is me, of course—to speak to amendment 121. [*Laughter.*] Apparently, I have to say “Edward Mountain” to ensure that it appears on the record, so I have done that.

I submitted amendment 121 ahead of Murdo Fraser submitting his amendment 201. I acknowledge the exceptional work that Murdo Fraser has done in relation to fly-tipping. The reason why I submitted my amendment was to stiffen the penalties for people who are responsible for fly-tipping. We should be under no illusion that fly-tipping involves only household waste; it also involves commercial and industrial waste. The waste that can be deposited on people’s land is phenomenal. The people who are responsible for dumping that waste can be people who cannot be bothered to go as far as the dump, but they can also be organised crime syndicates who are collecting rubbish and then dumping it out, or they can just be people who have been paid to dump it.

We heard in our stage 1 evidence that it is really important that we stop fly-tipping and make sure that waste goes to the right places to be recycled. In most cases, it is very easy to go to a recycling dump with your rubbish. Some councils have made that more difficult by organising booking systems—which are unhelpful, in my opinion—but it is still easy to do that. However, rubbish continues to be dumped in the countryside. The point of my amendment is to increase the fine in order to put people off.

It is deeply disconcerting when you spend a weekend picking up tyres, stacking them into trailers and taking them to the council tip to be charged £3 for every tyre that you put in, because somebody else has decided to dump them on your ground. Not long ago, I received a deep-freeze full of food from a shop that had obviously replaced its deep-freeze. Rather stupidly, they left the name of

the shop in the deep-freeze, so I was able to return it to them. However, that is not always the case, and people end up having to clear up rubbish, which is why I want to see an increased fine to make it entirely clear that fly-tipping is inappropriate.

I believe that Mr Fraser has discussed his amendments with the Government and reached some agreement, so I will not move my amendment at stage 2. However, I will look at the bill at stage 3 to make sure that it is entirely clear that people who are commercially benefiting from fly-tipping on other people’s land, whether it be farmland or someone’s garden, pay a maximum fine, and, frankly, £1,000 as a cap on such fines does not do it. That is all that I have to say.

Mr Simpson wants to come in.

Graham Simpson: Thanks, convener. I have enormous sympathy with what you are trying to achieve in amendment 121, because there needs to be a stiffer deterrent than exists at the moment. We have probably all had cases of industrial-scale dumping in our patches. I had a really disgusting case of a load of chicken carcasses being dumped next to a stream. We have all seen cases of tyres being dumped.

However, I have a question on amendment 202 that I would like Mr Lumsden to clear up—maybe he cannot, as it is Murdo Fraser’s amendment and not Mr Lumsden’s, although he has spoken to it. It is a very useful amendment. It would make SEPA responsible for clearing things up, but it does not say—or I cannot see that it says—within what time frame. We all know that, when things have been dumped, sometimes they are left for years and nobody does anything about it. I think that, at some point, Mr Fraser, either on his own or working with the minister, should clear that up, because we do not want to be in a position where SEPA is responsible but could say, “We will get round to it at some point.” I am sure that that is not what Mr Fraser is trying to achieve.

The Convener: Monica Lennon, I think that you want to come in.

Monica Lennon: Thank you, convener. I am grateful for your remarks. You spoke well on this group.

We all have examples of serious fly-tipping in our regions and constituencies. I was asked to speak at a Keep Scotland Beautiful conference in my region a couple of months ago. I pay tribute to the volunteers who are out trying to deal with litter and fly-tipping every weekend—in fact, every day of the week. People are frustrated and there is recognition that current regulations and enforcement practices are not robust enough.

Mr Simpson talked about SEPA. I am interested to hear what Mr Lumsden says about that. I know from my research for my proposed member's bill on ecocide that people are asking what we can do with existing powers to strengthen enforcement, but there is a big question mark about resources for SEPA and local authorities.

That leads me back to prevention and having a deterrent. We can try to save money by making fly-tipping unattractive for the criminals—let us just call them what they are. Some fly-tipping is on an industrial level and some of it is organised crime, which is a growing problem across Europe. Europol has done some interesting work on it. One of the fastest-growing areas of crime relates to waste.

We discussed the issue with Michael Matheson when he was Cabinet Secretary for Net Zero, Energy and Transport. At that point, there had been a big programme about it on the BBC. I discussed it a lot with Lorna Slater in her previous role as Minister for Green Skills, Circular Economy and Biodiversity. Like Murdo Fraser, who is not at the meeting but has done a power of work on the matter, I am grateful to Ms Slater for all her work. It is interesting to hear that he and Ms Slater had constructive talks, because that is a side of their relationship that we do not hear about often on social media or in newspaper columns. Let us get that firmly on the record, because the reality is that a lot of work goes on behind the scenes.

Fly-tipping is a universal problem across Scotland. It is very much an issue for rural communities, but it is also an urban issue. I want to speak in favour of the amendments in the group. I note that Edward Mountain will not move his amendment 121, but I am interested to hear what the minister has to say, because the amendments are about empowering our local authorities and other regulators, such as SEPA, and trying to get behaviour change on a nationwide level. Right now, the people who are responsible for fly-tipping are completely unfussed about the consequences of it. Not enough fines are dished out—I have seen that through my research.

The reaction to Murdo Fraser's bill proposal has been really positive. If it looks like the Government will not support his bill as a stand-alone piece of legislation, I would be keen to see how much of it can be brought into the Circular Economy (Scotland) Bill.

The Convener: I call the minister.

Gillian Martin: This is an important debate to have. I recognise that fly-tipping is a scourge. We have heard from members about where they have experienced fly-tipping. In my constituency, it is happening near areas of natural beauty, such as

the Bullers of Buchan. When I visited that area of natural beauty with the RSPB, we walked past a lot of rubbish that had been fly-tipped at the entrance to it. We have to do what we can to tackle the issue.

We will support Murdo Fraser's amendment 201, which is consistent with our commitment to ensure that there is an effective enforcement regime to deter and tackle the scourge of fly-tipping. The amendment allows for a future increase to a maximum amount not exceeding level 3 on the standard scale, which is currently fixed at £1,000. However, fixed-penalty notices are not the only way to tackle fly-tipping and are not intended to tackle serious waste crime. SEPA has the powers to impose up to £40,000 through variable monetary penalties. Serious or organised crime needs to be referred to the police.

09:45

The Convener: I am going to stop you for a minute because a helicopter is flying over and I am struggling to hear you.

I think it has passed. My hearing is not great at the best of times. I am sorry, minister. Would you like to continue?

Gillian Martin: We Aberdonians are used to helicopters flying overhead.

On compensation for private landowners, it is fair that those persons who unlawfully deposit waste are responsible for the costs of cleaning it up. It is important to remember that there are some important mechanisms in place that do that. For example, if an individual is convicted of fly-tipping, a compensation order can be made. All that withstanding, I absolutely understand the arguments that have been put forward.

I recognise that a flat level of fixed penalty has its limitations, so I also agree with the proposal to enable ministers to set different penalty amounts in different cases. That will allow for a sliding scale of penalties, with the maximum being £1,000. There will need to be detailed consideration and consultation with local authorities and other enforcement bodies before those powers can be used. I emphasise again that it is vital that more serious instances of fly-tipping are not addressed in that way. I think that I have set out the other mechanisms that are there.

Therefore, I urge the committee to support Mr Fraser's amendment 201.

With the greatest respect, convener, although I accept that you are not moving your amendment 121, your arguments are valid. What more can we do to deter people from fly-tipping? The Government has accepted Mr Fraser's amendment, which means that yours would have

fallen away anyway, but I appreciate that it is a conversation to be continued.

The Scottish Government cannot support Mr Fraser's amendment 202, but I stress that I want to work with Mr Fraser and he knows that. He has been working with my predecessor, Ms Slater, and I have already spoken to him in a less formal way in the corridor to say that I am happy to have discussions with him about what more we can do.

Amendment 202 would have had the effect of replacing section 59 of the Environmental Protection Act 1990 with a new provision that would give SEPA responsibility for the removal of all unlawfully deposited waste and the associated costs of that removal from any private land in Scotland. Although I absolutely recognise the frustration that private landowners feel, I do not agree that SEPA should be responsible for the removal of all waste fly-tipped on private land.

The purpose of section 59 is to give powers to authorities to address waste on land where they would otherwise be unable to do so because the land is private. Section 59 notices should only be served where SEPA or local authorities consider that the occupier fly-tipped the waste or knowingly caused or permitted the waste to be fly-tipped. Under section 59, SEPA and local authorities also have powers to remove the waste themselves when the occupier is innocent of responsibility or the waste is causing environmental harm, and those powers are at their discretion.

Monica Lennon: I am enjoying hearing your response to the amendments. I do not know whether you have the figures at hand just now, but do you know approximately how many notices SEPA is serving per year, using that power? I wonder whether it would make SEPA more proactive in this space if it had responsibility for clearing what had been fly-tipped.

My general perception is that not enough notices are being served and that people feel that the enforcement side of things is not really working. That is something that I have looked at through my research on ecocide, which is looking at much higher-level crimes. If you do not have the figures today, it would be interesting to see that, because there is a perception that the powers are not being used as often as they should be.

Gillian Martin: I do not have those figures in front of me, as I think Ms Lennon would appreciate.

There is another part to the question about the amount of fixed-penalty notices, which is that, if anyone had evidence that section 59 notices have been inappropriately or unfairly applied, that should be highlighted to me or to SEPA.

My officials have just passed me a note that says that SEPA has issued 17 section 59 notices in the past three years, so there you go—we had that information to hand; it just was not in front of me.

Under section 59, SEPA and local authorities also have powers to remove waste themselves. As I said, that power is used at their discretion, when they are convinced that the occupier is not responsible for the waste.

The Convener: I absolutely understand that that power sits in legislation, but most landowners will get a letter from their council informing them that they have a responsibility to remove the waste. In most cases, the council is not clear about the fact that the landowner has an appeal, so, invariably, it is the landowner who has to pick up the rubbish. For example, in Moray, I do not think that there has been a single example of a fly-tipping notice being issued to any individual. Do you think that councils could do more?

Gillian Martin: What I know is that repealing section 59 is not the answer. I have said on record, and to Mr Fraser privately, that I am willing to talk to him about what more we can do in this area to ensure that there is support for private landowners and occupiers in tackling fly-tipping on their land. I am open to Mr Fraser's suggestions about what that could be.

For the reasons that I have outlined, I urge the committee not to support amendment 202.

Given the importance of developing a national understanding of the level of fly-tipping in Scotland, the Scottish Government is happy to support Murdo Fraser's amendment 203 and is happy to engage with him on the proposals in amendment 204, although we cannot support that amendment as it is currently written.

We agree that amendment 203 could fill a gap in existing data. Work is already under way through the national litter and fly-tipping strategy to improve data collection from local authorities and park authorities, but it is reliant on voluntary reporting.

Graham Simpson: I would like to jump back to amendment 202. My concern is that, if we do nothing, we could end up back where we are now, with landowners—often, but not necessarily, farmers—having large-scale dumping on their land, which is not their fault. As I said earlier, I know of an example of that in my area, quite close to where I live, where dumping blocked a lane for several years—it was not the landowner's fault; somebody else just came along and, over a sustained period, used that lane as a dump.

Unless we find a solution for stage 3—I hear what the minister says in that regard—are we not

in danger of remaining in that unfortunate position?

Gillian Martin: Mr Simpson is making the same points that many people have made about the scourge of fly-tipping and the unfairness that exists when landowners have to clear it up.

It is not fair to say that nothing has been done. There is a fly-tipping forum and the national litter and fly-tipping strategy has been delivered, as have the year 1 action plan and a number of activities that are aimed at tackling fly-tipping on private land. However, I think that I have been clear that I want to work with Mr Fraser on the sentiment behind amendment 203.

The Convener: I call Douglas Lumsden to wind up on behalf of Murdo Fraser and to press or withdraw amendment 201.

Douglas Lumsden: I thank the minister for accepting some of the amendments in Murdo Fraser's name. I am happy that she accepted amendment 201. The intention behind that amendment is to increase the fines in order to stop people fly-tipping so that organisations such as SEPA do not have to get involved.

Amendment 202 involves a key point, but I am glad that the minister has said that she will work with Murdo Fraser to get it into a state that can be accepted at stage 3, so I will not move that amendment when the time comes to do so. However, as I said, the issue that it deals with is a key one. It cannot be right that innocent landowners who are doing absolutely nothing wrong are having to pick up the bill for someone else. That seems so unfair, and it probably would not happen anywhere else. I accept the comments that the minister has made on that.

I am glad that amendment 203 is also being accepted. We need a lot more data on fly-tipping so that we can see how big a problem it is. We all know that it is a problem, but we need the data behind it. I am happy that the minister is going to work on amendment 204 with Murdo Fraser to try and get it into a state where it can be—

Gillian Martin: Will Mr Lumsden take an intervention?

Douglas Lumsden: Of course.

Gillian Martin: I do not want to give any impression that we are working with Mr Fraser on repealing section 59 of the Environmental Protection Act 1990. We are working to deal with the reasons why Mr Fraser lodged amendment 202; we want to ensure better communication and to allow scope for further guidance so as to achieve what he wanted to with his amendment.

Douglas Lumsden: Absolutely—I accept that.

The Convener: Can I confirm that you are pressing amendment 201?

Douglas Lumsden: Yes.

Amendment 201 agreed to.

The Convener: I remind members that amendments 201 and 121 are direct alternatives. This sounds very odd, but I now call amendment 121, in the name of Edward Mountain, already debated with amendment 201. I am not sure if I am supposed to move chairs, but in any case I will not move amendment 121.

Amendments 121 and 202 not moved.

Amendment 203 moved—[Douglas Lumsden]—and agreed to.

Amendment 204 not moved.

The Convener: We have now come to a gap, and it is appropriate to take a short break.

09:57

Meeting suspended.

10:05

On resuming—

The Convener: I reconvene the meeting. We are making slow and steady progress with stage 2 of the Circular Economy (Scotland) Bill.

Amendment 157, in the name of Monica Lennon, is grouped with amendments 158, 159, 216 and 170. I call Monica Lennon to move amendment 157 and speak to all the amendments in the group.

Monica Lennon: I will speak to the amendments in the group, which is on free provision of reusable items.

In relation to the waste hierarchy, there is a desire for there to be more in the bill about reuse, refill and repair. Some people have unfairly called it a recycling bill, so we should make sure that it is not seen as only a recycling bill.

I do not have to speak to the amendments in any particular order, do I, convener? *[Interruption.]* In that case, I will jump ahead to speak about the amendments on nappies first, because they are grouped together. I will speak to amendments 157, 158 and 170.

In our stage 1 evidence taking, we heard that single-use nappies have been identified as a problem with regard to waste stream contamination because they are often sent to landfill with baby waste included. They can also end up in the wrong bins. We know that they cause a bit of a stink in more ways than one. A colossal number of single-use nappies go to

landfill, not just in Scotland but across the UK and, indeed, globally. It is a big issue in the UK—environmentally, it is damaging, and it is expensive. There is a convenience factor to using disposable nappies, but it is very expensive for consumers, who are largely parents and families.

I have been trying to look at the issue holistically, and I am having different conversations across Government. The Cabinet Secretary for Social Justice very kindly offered to meet me, because, as we know, there is a huge issue with hidden nappy need in families who cannot afford them. They have to ration the nappies that they can access, which results in a load of health and wellbeing issues for babies and toddlers that hinder their development.

However, today, I will focus my remarks on the circular economy aspect of the issue. The sending of single-use nappies to landfill presents a barrier to Scotland becoming a circular nation, and we know that alternatives are available. It is not a question of forcing a product on people; rather, it is about creating more awareness and more choice. The alternatives are sometimes referred to as cloth nappies, reusable nappies or real nappies. We know that they are part of the solution, and the Scottish Government agrees, because Scotland's baby box includes a voucher that allows families to try reusable nappies, and there is now a QR code that is easy to redeem. The waterproof wrap is provided, along with liners. That could be the first time that someone has seen or touched a reusable nappy; it could even be the first time that they have heard of them.

The baby box is a good vehicle, but it is not enough, because the uptake of the scheme has been static for the past few years. It is stuck at around 13 to 14 per cent. I know that the Scottish Government wants to do more and has the ambition to do more. That is why my amendments are important. The main one—amendment 170—is about the creation of a reusable nappy scheme. The amendments talk about “diapers”. I apologise for that, because no one in Scotland talks about diapers, but when I was drafting the amendments, I was advised by the Parliament's legislation team to use that word. There is good reason for using it, but as language can be a barrier, I will use the word “nappies” today. However, I am not contradicting what is in the amendments.

The scheme that I am proposing is not my idea—I have not come up with it all by myself. There is already some really good practice in Scotland. As committee colleagues know, I have talked about North Ayrshire Council's birth-to-potty scheme, which was set up in 2019 as an environmental measure, but also as an anti-poverty measure. Like the baby box scheme, it allows families to try reusable nappies, but there is

also option 2, birth to potty, which allows families to get some advice from the local authority's waste prevention team. Some families want to live more sustainably, while others are motivated to reduce their living costs. Ultimately, it is a non-judgmental service that involves the provision of advice by council officers. Families can introduce reusable nappies and use them in a hybrid way, alongside disposable nappies, or they can use reusable nappies all the time.

That scheme has been operating since 2019, when it was brought in by a Scottish Labour administration, but it has continued under a Scottish National Party administration. Along with Government officials, I and Lorna Slater, Gillian Martin's predecessor, recently visited North Ayrshire to see the scheme in action, to hear from the officers—who are rightly very proud of what they are achieving—and to hear from a parent who has been using the scheme. It is very successful, and there is a lot of demand for it.

I am frustrated that the good work that has been happening in North Ayrshire since 2019 has not been rolled out across the country. Around four other councils have schemes of some sort, but they are not as comprehensive as North Ayrshire Council's. It seems that there is not enough awareness across Scotland of the opportunity that exists for reusable nappy schemes. There is a reusable nappy awareness week every April, but it has not been prominent in Scotland, although it is quite well supported in other parts of the UK.

I have been trying to understand why other councils have not been doing it, and I think that it comes down to leadership. We need to have people who are passionate about reuse and who understand some of the issues with nappies, and local authorities need to have the time and the capacity to share good practice.

The North Ayrshire visit reinforced my view that we need to do something quite bold. Obviously, resources are tight and people are nervous about asking councils to take on work that might cost money, but the scheme is cost neutral, because the council saves money on landfill—more than 62,250kg of waste has been intercepted from landfill in North Ayrshire alone, and much more could be done.

Alongside that, I have looked at other parts of the public sector. Health boards spend quite a lot of money on single-use nappies for maternity and neonatal wards and other clinics. They have not been using reusable or real nappies, but I have had a conversation with NHS Lanarkshire, and now that it has had the idea put to it, it says that, because of its net zero targets and its goal of reducing single-use plastics, it wants to look at that, and to do something.

Again, it is a case of trying to join up the dots. We talk a lot about behavioural change, but we need to support people—

Jackie Dunbar: Will the member take an intervention?

Monica Lennon: Yes, of course.

Jackie Dunbar: I have been listening closely to what you have been saying about the NHS side of the issue; I did not even think of that. When you say that NHS Lanarkshire is thinking of taking on reusable nappies, is the idea that the nappies would follow the baby and would be taken home by the parents, or would they be reused in the NHS?

10:15

Monica Lennon: It could be either. That is a really good question. In the hospital setting, people are often told to bring in their own nappies, but sometimes babies come early and circumstances do not allow that, so hospitals provide emergency supplies, as they do with nursing pads, maternity pads and so on. If parents see what reusable nappies are and know that they will get access to them in the baby box, that creates awareness. We are not saying that those would be the only nappies that parents would be given. However, given that NHS boards are spending the money already and that, as a nation, we aim to be more circular and to do things differently, we need to consider how we can embed that across the public sector.

On the point about laundry, we have very high clinical standards around infection prevention and control in our NHS settings, but there is no reason why the nappies could not be laundered and kept for the next baby who needs them. That is happening in our communities already. At the nappy libraries, pre-owned and pre-loved nappies are being passed on. The other day, I visited a social enterprise where people could pick up pre-owned real nappies for a couple of pounds, with all the kit that they might need. Again, that is removing the stigma.

It is encouraging that Ms Slater commissioned some research on the barriers to the uptake of reusable nappies. I understand that the Government has a report coming to it from the James Hutton Institute, and it will be interesting to see what that has uncovered. It is a bit like the situation with reusable period products. Once people know that alternatives are available, they might try them.

It is important that local authorities can take a lead on the matter—that is what amendment 170 is about—because one of the barriers is cost. If families buy the birth-to-potty kit themselves, it can

cost them up to a couple of hundred pounds. Often, they also wonder what other things they will have to buy, and we need to factor in the loss of income because of maternity pay and so on. It might not be a high priority, but councils, given their procurement powers, can buy reusable nappies at volume. I will not narrate the figures that North Ayrshire Council gave me, but I was quite surprised by the rate at which it is able to buy them. It said that we should consider the potential savings if more councils did the same thing.

Douglas Lumsden: Will the member take an intervention?

Monica Lennon: Yes, of course.

Douglas Lumsden: I thank Monica Lennon for taking the intervention, because I have a few questions about her amendments. On amendment 170, I am thinking about local authorities because, let us face it, they are all struggling and every pound is a prisoner for them just now. My first question is about the scheme in North Ayrshire. Is there any more data on the costs and results that could be shared with us ahead of stage 3? I presume that the Government must have information on the workings already, or will that be in the report that you mentioned from the James Hutton Institute?

You said that the scheme is cost neutral because 62,250kg of disposable nappies are no longer going to landfill, but landfill can no longer be used for most waste anyway, so I am not sure whether that is still relevant or whether the position has changed since the figures were put together.

On amendment 157, on the healthcare side, has there been any more feedback from the Government? I do not want to sound negative, but I can see potential problems. New parents might pick up reusable nappies—I am going to call them that rather than diapers—but what do they do with them if washing facilities are not in place? Do they have to take soiled nappies home? They may then reuse them, but I can see issues there. I would like more work to be done with the Scottish Government to see whether there is potential there, because the last thing that we want to do just now is to put more costs on local authorities and health boards at a time when they are struggling for cash.

Monica Lennon: North Ayrshire Council has been clear that the scheme is cost neutral. It has operated in that way from the beginning and that continues. Therefore, it does not cost any extra money. Yes, it is buying the nappy kits to distribute to families, and any family who lives in North Ayrshire who needs nappies is eligible—I should say that the scheme is for babies and toddlers.

The authority has said that, because of commercial confidentiality, it cannot publish the

amount that it is charged at the gate for its landfill waste. That would be the same for every council—it will not give those figures—but I have no reason to disbelieve North Ayrshire Council when it says that the scheme is cost neutral. In fact, it has said that it thinks that there is potential for more savings to be made.

While I am talking about amendment 170, I want to say that the issue that it deals with relates to discussions that we have had about litter and fly-tipping. When I started working on this, I was thinking very much about trying to reduce the number of nappies that go to landfill and encouraging the use of alternatives. However, nappies are such a problem in our communities—we see them in bins in the park, at the beach and in the countryside. I know from my discussions with COSLA that, when it comes to reducing antisocial behaviour and litter, although nappies might not be one of the top five issues, they are one of the items that get disposed of irresponsibly.

I recently dealt with an issue that was raised by a local councillor in my area, who spoke about a new housing area that has a mixture of public and private sector housing. The houses are beautiful. However, someone stuck a nappy down the toilet and blocked the drains. Therefore, there is a big opportunity around education and awareness.

On the point about health boards, I want to keep this really simple. Health boards are already spending money on nappies, and the data that I have shows that none of that spend is on reusable items; it is all on single-use items. Therefore, if there was a way in which health boards could have a policy or scheme that started to shift some of that spend to reusable nappies, that would create awareness. I am thinking about not just hospitals but health visitors and midwives in the community. Having such a scheme would create visibility and start a conversation; ultimately, we are trying to bring about a change in behaviour.

Parents must have a choice. I am not saying that parents must do this or forcing parents to use a certain kind of nappy, especially if they have just given birth or they are in the hospital because their wee one is unwell. However, alongside the baby box, we need to do more. That is why, together, amendments 157 and 170 seek to create the system change that will lead to individual behaviour change.

Graham Simpson: I thank Monica Lennon for taking an intervention. She mentions the word “choice”. I am reflecting on amendments 170 and 157. Does she not think that it should be a matter of choice for health boards and councils whether they introduce the schemes that she is suggesting?

Clearly, North Ayrshire has made that choice and it says that the scheme is cost neutral, but I do not think that the committee has had the evidence of that. I think that we would need to see that evidence before deciding that the scheme was cost neutral. I imagine that several councils will conclude that such a scheme would not be cost neutral, and that health boards might similarly conclude that. Therefore, does Monica accept the general point that that should be a local decision, rather than something that is set down in law?

Monica Lennon: Graham Simpson makes some interesting points. I absolutely believe that we need a partnership approach and a collaborative approach to circular economy work, full stop. That is why I support the Government’s intent to have genuine co-production and working together.

That is not just about working with local authorities, health boards and regulators; it is about working with our communities and the third sector. That was a central theme in this committee’s net zero inquiry from some time ago.

I have identified some excellent practice, which just happens to be by North Ayrshire Council. The council has repeatedly said that the scheme is cost neutral, and I have no reason to disbelieve it. I will leave that there.

There are examples—I mentioned some of them last week—such as the Ayrshire nappy library and the Lanarkshire real nappy project, which are in the region that Mr Simpson and I represent together. I encourage him to get along to Swaddle to meet some of the parents who run that. They are looking for more support from local authorities, health boards and, frankly, the Government. I do not accept that we should just leave it to local authorities to do something if they feel like it or if they think that it is important, because we are in a climate and nature emergency. We need urgent action.

I am identifying an initiative that has been growing in North Ayrshire since 2019. There are fewer than a handful of other councils doing something similar in relation to reusable nappies. Taking such action is really important, because, on average, a child uses 5,000 nappies before the age of two and a half. The issue is substantial. The Nappy Alliance estimates that 3 billion disposable nappies a year are going to landfill, and the cost of disposal to local authorities across the UK is more than £60 million a year. The cost to Scotland is substantial.

I welcome the fact that the Scottish Government went with me—this is quite unusual, but it is to be welcomed—on a fact-finding mission to North Ayrshire, where it all seems to be happening, to discuss the scheme and to learn from it. The

Government has commissioned research, and there is a commitment to include that in the route map. However, my appeal to the committee and the Government is that we need to do more. I welcome the conversations that I had with Ms Martin when she took up her post, but I think that there are more conversations that we need to have.

There has been no objection from COSLA, and I continue to have discussions with it. It is keen to understand fully how that scheme can benefit local authorities. There will be concerns about capacity, expertise and know-how, because not every council will have a team of waste awareness officers in the way that North Ayrshire does. That council obviously feels that that investment works for it. There are opportunities for local authorities to work together. It just feels to me that we have to do more.

Amendment 158 is about reporting on access to reusable nappies. I hope that that one is straightforward.

I have different amendments in the group, which are not about nappies. If there are any questions on the nappies, I could take those now and then move on to the other amendments.

The Convener: That is not quite how it works, but the point is that you will—

Monica Lennon: I was inviting interventions on nappies. If there are none, I can move on.

The Convener: There may be interventions already stacked up, Ms Lennon. I am just looking to see whether any committee members want to say anything. No, they do not. However, I know that Maurice Golden wanted to come in. Do you want to come in now?

Maurice Golden: Yes. This is not a commentary on the amendments, in particular, but it is of concern that we are discussing the issue 20 years after talking about it previously. It has gone full circle. That is a problem of Government and, potentially, of Parliament. We are discussing what is, in essence, a real nappy campaign almost 20 years after it was initially put in the landfill, so to speak.

There is an opportunity for the Scottish Government to provide Parliament and the member with information on the policy choices in that space. We have had a real nappy campaign before, which was funded by the Scottish Government. Information on that, including on behaviour change, its effectiveness and the materials that were provided could all be published. That would be really useful.

As Mark Ruskell said, we have had recycling trials for absorbent hygiene products—not just nappies but other items. Again, a report would be

useful in relation to that space, so I hope that the Scottish Government will do that.

10:30

There has also been life-cycle analysis of the environmental impact of real nappies versus disposable ones, and the requirements around laundering a reusable nappy in order to make that better for the environment. That is another report that the Scottish Government could publish.

Another policy option that should be considered in the round is a ban on absorbent hygiene products going to landfill. The Scottish Government might want to pursue that, and it would not mean that we could not pursue the thrust of Ms Lennon's amendment. Furthermore, there are increasing numbers of biodegradable nappies coming on to the market, and, of course, they would be banned from going to landfill. Again, sales analysis of how that is working out would be useful in advance of stage 3, so that members can make an evidence-based choice on the policy interventions in that area.

On the scheme for reusable diapers, which amendment 170 deals with, it is difficult to know whether to support it without knowing more about the evidence base in the round. It might be the best policy option, but it might not be.

Similarly, although the intention of the scheme for donated mattresses that is set out in amendment 216 is important, it could be incredibly burdensome on local authorities, which would have to match up information across different databases.

Monica Lennon: I appreciate what you are saying, but I would like to speak to amendment 216 before you discuss it, as I would like to set out the context for it.

Maurice Golden: That was my only comment on it.

The Convener: I think that we have got ourselves in a little tangle here. Just to remind members, the way it works is that you speak to all the amendments in the group, and then other members come in. You cannot, halfway through your speech on the amendments, invite interventions on some of the amendments and then return to addressing the other amendments.

Now that we have clarified that, on the basis that Monica Lennon genuinely misunderstood the process, I invite her to speak to the other amendments in the group, and then I will invite the minister to speak, before coming back to Ms Lennon to wind up. I think that she has not talked about mattresses and reusable bottles yet. I will let her speak to those amendments and then come to the minister.

Monica Lennon: Thank you, convener. I apologise; I was trying to be helpful but I ended up being unhelpful. I will speak on the points about reusable nappies at the end.

Amendment 159 would have the effect of providing every school pupil in Scotland with a free, refillable bottle made from sustainable materials. Colleagues will remember Callum Isted, who made history when he came to Parliament as a seven-year-old, to speak to his petition—PE1896—at the Citizen Participation and Public Petitions Committee. Callum successfully campaigned in his school to put an end to single-use plastic bottles.

Local authorities have a duty to provide drinking water and to make that available to children during the school day, but Callum did the sums and worked out that his school was sending a lot of single-use plastic to landfill every week in the form of drinking bottles. He managed to change the policy within his school, but he wanted to solve the issue at a Scotland-wide level.

Parliament is still considering the petition. Callum is now nine and growing up fast. He had a meeting with former First Minister Nicola Sturgeon, but as far as momentum is concerned the campaign has not gone anywhere quickly enough. Callum's suggestion is an absolutely brilliant idea. This committee talks a lot about charges and what we might call "sticks", in the context of the circular economy, but this idea is about incentives and "carrots", and about giving young people opportunities.

Bob Doris: I am sure that Monica Lennon is aware that there is already lots of good practice on that front, and that reusable water bottles are given out in significant quantities. Speaking as the father of a son aged eight, I know that we have a cupboard full of reusable bottles. I am sure that when my son starts primary 4 he will want the latest bottle because of the various fashions and trends. Young people are collecting several bottles to keep up with the latest trends. Is there a wider issue about trying to encourage culture change, whereby each person would have only one reusable bottle? It is self-defeating to have 10 such bottles in a cupboard. I am probably confessing something about my home life there.

Monica Lennon: Bob Doris has made a really good point. The situation is similar to the challenges on fast fashion, where we are trying to create a culture shift towards slow fashion. I know that Graham Simpson is a big fan of pre-loved clothing, which he has spoken about in the chamber previously. I am not sure whether he is wearing something circular today.

There are things that we can do, individually, but we need to have the right systems in place. How

do we create an environment in our schools where it is normal to have more sustainable practices? Callum's proposition mentions metal bottles, but there might not be a facility to wash those properly. Sometimes, children feel that they cannot wash them properly in school or do not have the access to do so.

That important idea is not my mine; it came from Callum when he was seven years old and visited the Parliament. I know that he continues to receive support from Sue Webber, who is one of his local MSPs. I read that he felt a bit disappointed that nothing had happened after he met former First Minister Nicola Sturgeon. I am reflecting on the many young people that the committee has heard from, whether they be members of the Scottish Youth Parliament or other young people who have been involved in citizens panels. They want to know that, if they bring us good ideas, something will happen.

Graham Simpson: I want to build on Bob Doris's point. He is not the only one who has a lot of refillable bottles in cupboards. That is just what happens when people collect them. Is there not a danger that, by issuing more of them, we will just add to the landfill problem? At some point, Mr Doris, and others like him, might just have a clear-out and the bottles will end up in the bin. Mr Doris's points about fashion trends, and youngsters not wanting to use particular bottles even if they are given them, are strong. Do you accept that? Also, have you assessed what the cost of implementing the proposition would be?

Monica Lennon: These ideas are coming straight from young people in classrooms in Scotland. Callum Isted has a lot of support for his proposition, not just from environmental groups but from young people themselves. As members will know from visiting any school or speaking to any eco committee, young people are so passionate about being change makers, and they get a bit frustrated with people like us—the politicians. They know the science and the required actions but do not see system change happening quickly enough. That is on us.

There needs to be a conversation about the procurement opportunities, but our schools are well placed to implement this idea in a joined-up way. We need to consider what is already in the curriculum on climate, nature and sustainability. Learning about sustainability is a national endeavour, but if we listen to Scotland's young people we can learn something from them on this subject.

On Maurice Golden's point about nappies, what if we are sitting here in 20 years and someone says, "Why are we not routinely using refillable and reusable bottles? There was a conversation in Parliament about that 20 years ago?"

It is also an important part of reducing the cost of the school day. There is a lot of pressure on families to buy the new school bag, the new lunch box and the new water bottle with the latest theme every year. I would say to Bob Doris that that is part of, and an extension of, fast fashion. Schools are working hard to reduce the cost of the school day. I see the amendment sitting very much in that space, but it is highly relevant to having a more circular economy.

Maurice Golden kindly mentioned amendment 216. People are going to think that I am on commission with North Ayrshire Council, but when I was down visiting it in anticipation of the meeting, I found out that it operates a scheme that tackles the issue of problem mattresses.

These figures might be a little bit out of date, as they are from 2019, but Zero Waste Scotland estimated that more than 600,000 mattresses were sent to landfill in Scotland. North Ayrshire Council is partnering with a local charity to uplift used or donated mattresses. They are completely sanitised, so they can be redistributed and have a second life. We all know from our local areas, and urban areas in particular, that mattresses can be a bit of a problem when they are just dumped on the street and in other places.

Bob Doris: I apologise to Monica Lennon if I was not constructive in relation to that.

Monica Lennon: That is okay.

Bob Doris: I will refer to dumped mattresses and other items under the section on code of practice on household waste recycling in relation to bulky uplift charges. However, in relation to amendment 216, one way to avoid a bulky uplift charge for a mattress is to phone the council and say, "Come and reuse, recycle and repurpose my mattress." The mattress could be done, gone, beyond repair and just at the end of its life and people could use the scheme to circumvent local authority charges. Is that a risk? Is no mattress so far gone that it cannot be repurposed, reused and recycled and get a free uplift? Can you confirm that the intention would be that any mattress would be uplifted free of charge by any local authority if amendment 216 were to pass?

Monica Lennon: Amendment 216 provides for local authorities to make a scheme for their area to provide access to donated mattresses. Again, to draw on an example from North Ayrshire Council, there is a process for repair, safety checks and sanitisation. If it is not possible or hygienic to reuse a mattress—there will be circumstances in which that is not possible—there will not be the enforced use of that mattress. However, I hope that the way in which the amendment is drafted will provide enough flexibility. I appreciate that it is a novel idea, and I have not had time to discuss it

with the minister, although we have talked at length about other matters. However, if it is not something that could be put into the bill, we could look at how we can learn from good practice that is already happening.

North Ayrshire Council has identified an environmental and social issue and, when we have those solutions, how can we support local authorities and other partners to—

The Convener: Ms Lennon, before we go on, I beseech members to understand the difficult position in which I find myself. So far, we have spent 38 minutes discussing the group of amendments. I absolutely understand the need to debate openly and honestly. That is the point of stage 2. I understand people's passions about each of the areas. We all have passions and things that we want to achieve through the bill. However, there are deadlines, although they are quite loose, under parliamentary procedure. I am very flexible and can work until 10 or 12 o'clock at night, if that is what the committee would like to do to get through the amendments.

I just ask members to bear in mind everyone's passions at each stage and to ensure that, where possible, they ask crisp and concise questions and give crisp and concise speeches on the matters that they feel are important.

10:45

I will not say that again; I have said it twice now. I am very happy to work every hour the Parliament asks me to work to get through the amendments, but it might not suit everyone else to do so.

I guess I am saying at this stage that this meeting will probably go on until 1.30 or a quarter to 2: I give fair warning. Our meetings may have to extend into some evenings next week to get through the amendments.

I have said my piece. I promise that I will not say it again. I apologise if I have offended anyone; that is not the aim.

I invite Douglas Lumsden to come in now, and then Monica Lennon can respond.

Douglas Lumsden: I have quite a crisp question to ask Monica Lennon. A lot of her amendments in the group are about best practice. Can COSLA not pursue that, instead of having it set out in legislation?

Monica Lennon: That is a fair question. I cannot speak for COSLA. The conversations that we have had together have been really positive—and they have primarily been on nappies. COSLA has not expressed any opposition to the proposals. I was surprised to hear that COSLA did not really know about the North Ayrshire scheme.

There is something here that we need to take away about collaboration and good practice not being spotlighted enough.

I have not had time to speak to COSLA about the mattress scheme or the proposals for reusable water bottles. A lot of attention has been given to reusable bottles at the Citizen Participation and Public Petitions Committee, and there is a lot on the record about it.

The comments about what more local authorities could do are fair. It is sometimes frustrating that everyone waits to see what the legislation is going to do. We might then think, “Don’t do legislation. Put it in a plan or a strategy.” I note that Mr Swinney said that we perhaps need fewer strategies and more action.

I will leave it there in the interests of everyone’s time.

I move amendment 157.

The Convener: We will now go to the open debate—which I feel we may have had already.

Mark Ruskell: Thanks to Monica Lennon for championing a range of different, really important approaches, which are being driven by communities and social enterprises. Some of the work that has been happening around Scotland on nappies over the past 20 years is really valuable. There is certainly more that can be done to promote best practice and to ensure that it is rolled out across different councils.

Maurice Golden makes an important point. We have had 20 years, particularly on nappies, and evidence has been brought as to what the most effective way forward is to reduce waste and to treat the inevitable waste that we will continue to get from disposable nappies. We have also had evidence on what is driving behavioural change and what the barriers are to that. It is important that the Government reflects on all of that. The most appropriate way to pursue the work on reusables is through the route map, which is where the discussion with Monica Lennon and Lorna Slater got to.

Social enterprises are doing incredible work. We have some good examples of amendments being lodged involving nappies and mattresses. We could lodge a whole range of other amendments here: I would highlight bikes as being massively important, with social enterprises taking bikes out of landfill, doing them up, selling them on and generating skills and training. Those bikes can then be used in schools for bikeability training. There are lots of examples, and another one is furniture.

The question is what it is appropriate to do in the bill. Although I am reassured by some of the comments that the previous minister made about

the route map, I am wondering, ahead of stage 3, whether there is an appropriate anchor in the bill that ensures that local authorities and the Government are doing the planning around reusable items. I do not have clarity in my own head about what that might look like.

I do not think that it is the amendments that are before us from Monica Lennon, but there is something in there around having certainty that local authorities are carrying out appropriate planning on reusable items. For me, part of the discussion that is needed in the time that we have between stage 2 and stage 3 is about what might be appropriate in the bill.

The Convener: Thank you very much, Mark. Minister, I now call on you.

Gillian Martin: Thank you, convener. I want to quote Ms Lennon back. When we have good practice, how can we support local authorities to replicate it? That gets to the nub of the amendments and the debate that we have just had.

I think that we all agree that the substance behind Ms Lennon’s amendments is laudable. I am supportive of their intent, but we have had a conversation and she knows that I will not be able to support them as they are written because I want the co-design process to be the vehicle for such decisions at local authority level.

Sharing that good practice is absolutely vital. There is an improvement programme under development with COSLA and local government, which will offer a practical route to share best practice on waste prevention measures, including reuse, alongside recycling. The fact that we have had this debate today, and Ms Lennon’s efforts in bringing attention to the issue, will mean that any co-design will have to look at the issue, particularly on reusable nappies. As someone who has raised two babies, I have been reflecting on why I did not go down that route—what stopped me. Of course, the Government has commissioned research to look at the barriers, because that is also at the nub of the issue. Is there a perception that such nappies are too expensive, or that there will be an increased workload for an already struggling young mum? Whatever that research finds—it will come out in the next couple of weeks, as has been mentioned—we have had a really good debate.

The question is how to engender knowledge sharing and prompt similar schemes to happen across Scotland without taking empowerment away from local authorities through a top-down approach. I would be delighted if local authorities across Scotland replicated the North Ayrshire scheme. It sounds incredible, and I pay tribute to those involved. I am happy to consider how we can support and encourage behaviour change in

the area and the roll-out of that type of scheme, and how we can encourage that co-design. However, it must be for local authorities to make those decisions—as Ms Lennon has said.

We have already included in our draft route map a commitment to facilitate the sharing of best practice in reusable nappy schemes and to support take-up across Scotland. It is good to hear that Ms Lennon is also speaking to Shirley-Anne Somerville about what more can be done with the baby box. The committee also agreed to amendment 138, which requires having regard to behavioural change in the development of the circular economy strategy. If there is anything that can strengthen that aspect of the strategy or the co-design process, I am happy to work with Ms Lennon on it. I have made that offer to her.

We need to ask what has to be taken into account in the co-design process. Ms Lennon made an interesting point about the voices of those in communities that will be taken into account in the co-design process. Will the voices of new parents be included in that? Is there an unconscious bias in the decisions that are being made around policies? We had an interesting conversation on that in private last week.

On amendment 158, we do not need legislation to prepare the report that Ms Lennon proposes. The committee is aware that we are shortly due to publish baseline research into barriers to the uptake of reusable nappies in Scotland.

Maurice Golden: I have a question on reporting. Will the minister commit to publishing previous reports on nappies and absorbent hygiene products that have been produced but are not currently published, which would benefit both Parliament and help to inform the debate?

Gillian Martin: I am happy to look into that.

Maurice Golden: Thanks.

Gillian Martin: On amendment 159, the provision of food and drink in schools is, again, a matter for local authorities. As with the reusable nappies amendment, I regard this amendment as a detail that would restrict local decision making. Callum Isted drew much-needed attention to the issue in schools. I know that a lot of schools in my area have policies that have been co-designed with eco committees in both primary and secondary schools. We are seeing single-use drinks containers being used less and less in schools, very much as a result of the work that Callum Isted drew attention to.

Monica Lennon: I am grateful for all of your comments so far on the amendments, minister.

Only six local authorities have said that they would be interested in signing up to a national procurement scheme for making reusable bottles

available, with the caveat that the funding would have to come from the Scottish Government. Does that not reflect a general challenge in that some of the good practice that we would like and expect to see is not happening because of expectations around funding? I also think that the mindset in local authorities of making savings where they can be made so that the authority can get to cost neutral is not being properly looked at. Your point about a national procurement scheme was well made, but the appetite for it does not seem to be there—or, there is an appetite, but the funding would have to follow.

Gillian Martin: The improvement programme that I mentioned is a vehicle, and a confidential one, for those conversations happening. I go back to the reusable nappies argument about the cost neutrality of existing schemes. They do not want to publish that information, for the reasons that Ms Lennon gave, but doing so would enable those conversations to happen from local authority to local authority, and for the case to be made about why it is cost neutral. Ms Lennon also makes the great point that the more local authorities get involved in the scheme, the more the costs will come down.

With regard to amendment 216, I understand the reasons why there is an interest in such an approach to mattresses. The Scottish Government is already committed to taking further steps to tackle the environmental impact of items such as mattresses. Our draft waste and circular economy route map highlighted the potential for mattresses to be included as a priority in our future stewardship plan. It is useful to have this discussion, because there are companies that sell mattresses that operate a takeback-of-all-mattresses scheme, so when a person buys a mattress, they know that the mattress that they no longer use will be taken back by the company. When I was buying a mattress recently, I looked for companies that did that, because, frankly, it took away the hassle. I also looked into what they were going to do with the old mattress. That shows that there is a commercial aspect to that approach for those companies, so it is a useful conversation to have.

As I mentioned in previous meetings, it is vital that we take the necessary time to engage effectively in co-design of the new code of practice for household waste, in order to understand what new reuse and recycling services most benefit householders, to consider what is feasible and affordable for local authorities and to allow local authorities to make those decisions.

I ask Ms Lennon not to press her amendments. She and I have had a discussion in private about what we might put in place, as part of the co-design process, to engender those types of

decisions and the knowledge sharing that has been discussed today.

The Convener: I call Monica Lennon to wind up and to press or withdraw amendment 157.

Monica Lennon: I am grateful to the minister and all colleagues who have taken part in the debate. I am glad to hear the minister say that she supports the intention behind the amendments and that they are laudable.

We had a good conversation when we met last week, and I think that we can continue to work together and have dialogue ahead of stage 3. Many important points and questions have been raised today, and I will reflect on them. Perhaps we can think about a form of wording that might satisfy everyone for stage 3.

I am grateful to colleagues for their time, because I know that the debate on this group has gone on longer than the convener would have liked. However, it is important that we have had this debate now, because we should be in a much clearer position on these issues for stage 3. The reason why I spent so much time on the reusable nappy amendments—not just today but in the work building up to stage 2—is because of the impact that nappies have on our environment.

11:00

If the circular economy bill is to be worthy of its name, we have to look at the items that have the biggest impact. It has therefore been proportionate to spend a bit of time on this today. As others do, including Maurice Golden, I want the pace to quicken. These are not new conversations. My almost-18-year-old daughter had a cloth bum, as we say; we used real nappies in our house. That is quite a long time ago, now, but I feel as though, sometimes, we talk about the idea as if it is brand new and we have to explain what it is. There is something in that, which is why I will take up the offer to meet Shirley-Anne Somerville to talk about the baby box and what more we can do.

It is about proportionality—that item has a huge impact. It is about pace—not enough is happening. It is about partnership—we have heard about some local authorities doing excellent work in that space, but it is also about work in our communities, whether that is led through social enterprises or a small group of mums coming together, as they do in Ayrshire on Fridays, to provide peer-to-peer support.

I will not press or move my amendments in the group today, but I will continue to speak with the Government, I hope, and other colleagues, and continue discussions with COSLA.

Jackie Dunbar: You called it a cloth bum; I call it a hippin. Do you agree that there is absolutely

nothing wrong with going back in time to ensure that the future for our young ones is preserved?

Monica Lennon: That is really important. Today, we focus our remarks on the circular economy and how we become a more circular Scotland, but—I will try to keep this very brief, convener; I see that the pen is almost—

The Convener: Absolutely not, Ms Lennon.

Monica Lennon: As I said earlier, it is about looking at the issue holistically. Often, we in the Parliament or the Government are accused of working in silos, and I really do not want us to look at this in a siloed way.

It is also absolutely an issue of gender equality. Maybe if we had more women, including mothers, in decision-making positions, we would have had such policies in place a long time ago and it would just be normal.

As I said, there is a poverty dimension and a welfare issue. A charity that operates in Edinburgh takes donations of nappies and gets them out to people who need them. When I visited it, a health visitor had come in and was taking a bundle of nappies away to a young mum in the city who was at home with not very much. The conversation was about wee babies having nappy rash, and babies and toddlers who never get to go swimming because parents cannot afford swim nappies. It is about having that conversation and letting people know what is available.

I will continue to be passionate about it and talk about it way more than anyone would like, but I am genuinely grateful to the minister and the Government for the time that they have already spent on the issue. That visit to North Ayrshire was really worth while. I look forward to seeing the report from the James Hutton Institute that talks about some of the barriers, and I hope that I will have something that is much more fit for purpose at stage 3.

Amendment 157, by agreement, withdrawn.

Amendments 158, 159 and 216 not moved.

Section 10—Householder's duty of care

The Convener: Amendment 129, in the name of Jackie Dunbar, is grouped with amendments 36 to 38, 130, 39 and 44. I call Jackie Dunbar to move amendment 129 and speak to amendments in the group.

Jackie Dunbar: Thank you, convener. My speech will be like me—short and sweet—as I take on board your points about being crisp and concise. I realise that we are behind schedule.

With that in mind, I will speak only to amendments 129 and 130, in my name. Amendment 129 states:

“For the purposes of subsection (2), an occupier of domestic property may request from an authorised person a copy of any documentation or identification that authorises the authorised person to transfer household waste”,

while amendment 130 states:

“It is a reasonable excuse for a person given a notice under subsection (2) to show a constable or an authorised officer any documentation or identification obtained from an authorised person to transfer household waste.”

I will speak to the two amendments together, as amendment 130 would not work without amendment 129, and I hope that they are largely self-explanatory.

I have lodged these probing amendments in response to evidence that we took during stage 1. It became clear to me, when we were discussing the phrase “reasonable steps”, that the provisions in the bill were not as helpful to the “occupier” nor the “authorised person” in dealing with the disposal of goods as I had hoped. What is reasonable to one might not be reasonable to another, and there is a question about who defines what “reasonable” is.

My aim, with these amendments, is to strengthen the confidence of the occupier, in that the persons from whom they are seeking to obtain the service can prove that they are authorised to provide it. Should the occupier, following that, find that their goods were not disposed of in a fit and proper manner, they could provide evidence to

“a constable or an authorised officer”

that they took reasonable steps to ensure that they had done due diligence by obtaining a copy of the “documentation or identification” from the person whom they had contracted to transfer their household waste. That would, perhaps, have a knock-on effect of showing the officer who was responsible for fly-tipping, for example.

As I have said, these are probing amendments. With that in mind, I look forward to hearing the minister’s thoughts on them.

I move amendment 129.

The Convener: I call Maurice Golden to speak to amendment 36 and any other amendments in the group.

Maurice Golden: On Jackie Dunbar’s amendments, I understand that having to produce a waste carrier’s licence is exactly what happens currently. In the case of special waste, there should be pre-notification of fridges, say, and other designated materials.

I accept that these are probing amendments. Perhaps some work can be done on an enhanced duty of care and awareness raising for householders. Indeed, the person in question could be a receptionist or some other person who regularly liaises with waste carriers. There is probably quite a lot of work to do on that, so it should perhaps be looked at.

As for my amendments in this group, it might be helpful if I explain where I am coming from on bin fines. My concern is that bin fines are a red herring—or even a rabbit hole—to avoid our taking meaningful action on the circular economy. Nonetheless, what I am proposing is a series of steps for how a local authority might impose a bin fine. I hope that that provides clarity around my amendments.

The first step is to have an efficient kerbside system with appropriate bin facilities, and regular and consistent communications with householders over what can go in which bin and when. There should be bespoke interventions from waste awareness officers, and consistent contamination guidance and checking from waste operatives. Where a household is identified, the local authority should work with it. Initially, that might just involve education, but there could be alternatives such as larger bins for young families, for example, or work to address specific spatial issues that are causing the householder not to do what is required.

I would be shocked if every local authority in Scotland were carrying out all those aspects, which I would describe as best practice. However, if they have all been adhered to, you might be in the space of imposing bin fines. I gently suggest to the committee, though, that if you do get to that final step, imposing a bin fine on the householder is likely to be unsuccessful.

Monica Lennon: You have said that, sometimes, families and people with young children might need a larger bin. What is your understanding of the reasons for that?

Maurice Golden: That brings us back to nappies again, because that is generally what the reason is. I do not want to reopen that matter, convener, but it is one of the main drivers for having a larger residual bin.

For all of those reasons, we have this suite of amendments before us today.

The Convener: I would like to make a couple of points that I ask Jackie Dunbar to speak to in her summing up.

First, on the collection of household waste, we have heard about the ease of getting a certificate off the website; it takes a matter of moments, with no due diligence. We have also heard about whether it is important for licensed collectors who

use a vehicle to display their licence on the side of it, as that will automatically allow householders to see it and people following them up to ascertain whether they have one. I wonder whether the member has considered that issue and whether she could refer to it in her conclusion.

Secondly, we have heard about the problems with bin fines and the bin police, especially when bins are used by multiple residents, as happens, especially in Edinburgh. For example, as silly as it might seem, my bins at home all have to be locked; people just put stuff in them, because they are adjacent to the road. It is very difficult. Every single bin has a padlock on it, and it just seems ludicrous that you have to lock up your rubbish. I do not know whether the minister has reflected on that issue, but it would be useful to hear some comments on it.

As no other members wish to say anything, I call the minister.

Gillian Martin: I understand why members have proposed the amendments. As set out in the response to the committee's stage 1 report, we are committed to ensuring that the use of the new fixed-penalty notice powers is both effective and fair. We want to ensure that householders are fully aware of their obligations and that local authorities have appropriate and accessible guidance about how they use the power.

I agree on the importance of raising awareness of a householder's responsibility through education, engagement, communications and the provision of further guidance. In that respect, I would highlight two relevant key points. First, householders are already required to comply with the householder's duty of care. They can—and should—already check a waste carrier's registration details, and they can confirm those details on SEPA's website to ensure that they are using a legitimate service.

Maurice Golden made a point about awareness raising. In week 1 of stage 2, we said that the right information on websites can be buried under layers and layers of clicks, and there is perhaps a lot to be said for updating and reviewing how user friendly some of those communication methods are.

Secondly, ministers are required under section 34(7) of the Environmental Protection Act 1990 to prepare and issue a code of practice for the purpose of providing practical guidance on how to discharge the duty of care. The existing code of practice provides guidance to householders on how to meet their duty of care, but it will be amended to take into account the changes made through section 10 of the bill—namely, that a breach of that duty will now be an offence that

might be addressed by way of a fixed-penalty notice.

I understand why Jackie Dunbar has lodged amendments 129 and 130, and I thank her for raising the issues. Ensuring that householders are aware of their responsibility to ask for confirmation of a waste carrier's authorisation or registration to carry waste can be addressed by way of communication and will be included in the updated duty of care code of practice. However, the points that have been made in the debate about displaying that information on waste carriers' vehicles was helpful. Again, it comes down to the clarity and accessibility of that information.

11:15

Douglas Lumsden: On one of its visits, the committee heard about unauthorised waste carriers. Do you have any information on how big the problem is at present in Scotland? If you go on to Facebook marketplace, for example, you will see a lot of adverts saying, "Man with a van will pick up all your rubbish for £20 or £30". Until I was part of this committee, I had no idea that carriers had to have a waste certificate, and I imagine that that is the case for most people. I am just trying to understand how big the problem is. Do we have any data on it?

Gillian Martin: Data on unauthorised practices is really difficult to get, simply because the practices are unauthorised. However, we know that it is a big problem. Getting specific data on how many people are carrying out unauthorised waste collection would be quite difficult, because they are, so to speak, operating under the radar.

However, the wider point—and probably the most important—is that people need to understand the power they have and that they have a responsibility to ask for authorised carriers' identification and the associated certificates. Mr Lumsden is right that most people do not know that they have that power.

Douglas Lumsden: Can I come back in, briefly?

Gillian Martin: Yes.

Douglas Lumsden: There will indeed be a lot of unauthorised waste carriers that we do not know about, but I guess that there must be some that we do know about, because of prosecutions by Police Scotland. Do you have any data on that to hand, or data that could be delivered later?

Gillian Martin: If there is data on that, I do not have it in front of me. However, just to go back to fly-tipping, I point out that, as part of that strategy, the Government has funded SEPA to analyse the issue and to tackle illegal online trading. That work

has already been done, and it will give us a fuller picture.

On amendment 130, an FPN for a breach of the householder's duty of care may be issued only where there is a reason to believe that the householder has breached the duty by failing to "take reasonable steps"—

Jackie Dunbar: Will the minister take an intervention?

Gillian Martin: Yes.

Jackie Dunbar: Minister, I am listening very closely to what you are saying. My reason for lodging the amendments was genuinely to tighten up procedures.

To go back to the fly-tipping situation, I, like Mr Lumsden, did not know about the rules and regulations before I joined the committee. Even though I was a local councillor for 15 years, I still did not realise what they were. If someone were able to show that they had done their best to ensure that they had asked an authorised person to pick up their bulky waste—it was bulky waste that I was speaking about, mostly—they could, if someone came to them and said that their stuff had been fly-tipped, say, "Well, this is the certificate or licence number that I got from the person who said that they were authorised to do so." That would have a knock-on effect on trying to catch the fly-tippers. That is where I was coming from, but, given what you have been saying, I now realise that there might be a lot more work to do, and I am happy to work with you at stage 3, if you think that the amendment is feasible.

Gillian Martin: Everything that you have said is completely legitimate, and I totally understand why you have lodged the amendment. I want to work with you to get this right, because you are right: this would deter people who purport to be legitimate waste collectors but are not. It is about empowering the public to know that they can ask for proof that someone is a waste collector. Let us work together ahead of stage 3 on something that I can support that will have that effect.

I also understand the intention behind amendment 36, in the name of Maurice Golden, but it is unnecessary, as mechanisms exist to ensure that comprehensive information and practical guidance are available in relation to the duty of care obligations. That said, I go back to my earlier point: is that information good enough? Is it clear enough? Is it accessible enough? Is it buried? I think that everyone gets my point; indeed, everyone has probably looked at the issue for themselves and has seen how accessible the information is.

I want to avoid placing unnecessary burdens on local authorities. Indeed, it was a prominent

concern of the committee when it took evidence at stage 1, and I am keen not to impose any additional unnecessary statutory responsibilities on them. Again, it is all about sharing best practice, with, for example, local authorities reviewing how they display information and how they communicate with people in their areas. I therefore urge the committee not to support amendment 36, but I also reassure the committee that we will continue to work with key partners to consider implementation plans, including communication and awareness-raising activities, and to ensure that the code of practice is updated as required.

Amendment 37 seeks to amend section 10 so that it would not apply to households using communal waste bins, but, again, I do not believe that it is necessary. The obligation to "take reasonable steps", such as confirming registration details, applies only when a householder has organised an independent waste service to collect household waste. The work that we will do ahead of stage 3, particularly with Ms Dunbar, will provide a vehicle for improving householders' knowledge of their rights in that regard. As there is no reason to exempt householders who use shared or communal bins, I cannot support the amendment.

As for amendment 38, I understand Mr Golden's intention to ensure that provisions are fairly applied. It might be that, in certain cases, an enforcement officer would meet a householder to determine whether there had been a breach of the duty of care without reasonable excuse, but that would not be practical, appropriate or necessary in every case. Indeed, there might be occasions when householders would not participate in a meeting with an enforcement officer, and I do not think it appropriate to compel them to do so in relation to a suspected criminal offence. I therefore cannot support that amendment and urge the committee not to do so either, but, again, I take on board the wider point that has been made.

Amendment 39 would allow local authorities to seek recompense from ministers for any unpaid fixed penalties issued under section 10. I do not support the amendment, because it fails to recognise that payment of fixed-penalty notices is not mandatory. Instead, they provide a person with an opportunity to discharge any liability to criminal conviction by paying the penalty. I think that everyone understands that: you pay the FPN and the matter goes no further. It is a choice. The person is perfectly entitled to refuse the offer made by the FPN, with the result that the enforcement officer may choose to report the offence to the procurator fiscal. An unpaid fixed penalty under this provision is not a civil debt that needs to be recovered in any way; it is just a way in which the person who is liable can stop the

action. In other words, they can pay the fine and just move on.

Finally, I understand the intentions behind amendment 44, but I cannot support it as it is drafted. As I have indicated, the Scottish Government's intention is to work with local authorities and other enforcement bodies on guidance on the enforcement of the householder's duty and the use of FPN procedure in relation to the breaches of that duty. Although it is not essential, I agree that including a requirement to that effect in section 10 could be useful. The effect of subsection (3) of the amendment would be to call into doubt whether the inserted new section 34ZC of the 1990 act had come into force, which would occur when section 10 of the bill was commenced under the power in section 19. Obviously, we are still to come to section 19, and I can give more information on that when we do so. However, I urge the committee not to support amendment 44.

I will leave it there, convener.

The Convener: Thank you, minister. I call Jackie Dunbar to wind up and to press or withdraw amendment 129.

Jackie Dunbar: Again, I will keep it short and sweet and, like the debate, crisp and concise.

I thank the minister for taking on board what I have said and for her commitment to working with me in advance of stage 3. I had not considered the suggestion of putting the numbers on the sides of vehicles, and I am more than happy to discuss that with the minister.

With that in mind, I seek to withdraw amendment 129.

Amendment 129, by agreement, withdrawn.

Amendment 36 moved—[Maurice Golden].

The Convener: The question is, that amendment 36 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 36 disagreed to.

Amendments 37, 38 and 130 not moved.

The Convener: Amendment 106, in the name of Sue Webber, is grouped with amendments 107 to 117. Sue Webber is not here, so Douglas Lumsden will move amendment 106 and speak to all the amendments in the group, which are all in her name.

Douglas Lumsden: Thank you, convener. I can assure you that Sue Webber's speaking notes are a lot shorter than those of Murdo Fraser, which I used earlier.

Amendment 106 seeks to give local authorities more influence over the circular economy strategy, where they are affected. In particular, the amendment would require ministers to get approval from COSLA to change the level of fixed-penalty notices regarding households' incorrect disposal of waste. If the Government wanted to increase the maximum fine above £500, ministers would have to get approval from COSLA. The intention of the amendment, as with every other amendment in the group, is to ensure that ministers do not pass any regulation that affects local authorities without the explicit approval of COSLA.

Amendments 107 and 108 seek to give local authorities more influence over the circular economy strategy, where they are affected. In particular, the amendments would require ministers to get approval from COSLA before making any regulation regarding civil penalty charges.

Amendments 109, 110 and 111 would all serve the same purpose, which is to ensure that, when ministers have prepared a new code of practice on household waste recycling, the code must get explicit approval from COSLA.

Amendments 112, 113 and 114 would all serve to ensure that ministers get approval from COSLA when setting targets for local authorities' household waste recycling targets. The wording in the bill, as currently drafted, requires COSLA to be consulted, whereas the amendments would require that it "must" approve the targets.

Amendment 115 would ensure that ministers must seek approval from COSLA on any regulation relating to penalty notices that are served to individuals who litter from a vehicle.

Amendments 116 and 117 would ensure that ministers must seek approval from COSLA on regulations relating to powers to search and seize vehicles—specifically in relation to the handling of seized properties and the ability to apply enforcement.

We have the Verity house agreement, whereby local government and the Scottish Government should be working closely together, and the thrust of all the amendments is to make sure that local

authorities are more than consulted and that they are actually part of the decision-making process.

Mark Ruskell: Did COSLA approve these amendments, which would require its approval on various matters?

Douglas Lumsden: I am not aware of any agreement with COSLA, but I am sure that it would be open to being part of the process, as opposed to just being consulted.

I move amendment 106.

The Convener: Thank you. I am looking around to see whether any other members want to contribute. They do not appear to. Therefore, I move to the minister.

Gillian Martin: I understand Ms Webber's intention in lodging the amendments in the group, but I cannot support them and I will outline why. The amendments would require the Scottish Government not only to consult with COSLA, which we do regularly, but to seek its approval for any draft regulations under those powers. I want to be clear that the approval of the regulations lies with Parliament.

11:30

The Verity house agreement already underpins the approach to engagement between the Scottish Government and COSLA and the Scottish Government remains committed to that agreement. I do not see the provisions as necessary for the continued joint working that COSLA has described. It is not my understanding that COSLA had asked my predecessor for that and I certainly have not been asked for that. In fact, COSLA has said that the collaboration in the bill is

"an excellent and leading example of working in the spirit of and implementing the Verity House Agreement".

Full kudos goes to my predecessor for her engagement with COSLA leaders.

We will continue to take that approach to the co-production and development of the regulations to support the bill. In many cases, there is already a requirement to consult local government in the bill. For example, section 12, which relates to the code of practice, and section 13, which relates to targets, already set out that Scottish ministers must consult publicly and seek the views of local authorities.

Amendment 160, in the name of Jackie Dunbar, is a requirement to consult local government on the development of guidance relating to section 11 and new enforcement powers for waste contamination. We will support that amendment. More generally, our approach would be to consult

local government on any regulations and we expect that that would involve COSLA.

However, for all the amendments in the group, there is a technical concern about naming COSLA in the bill. It is not common practice. Typically, when outlining consultation duties in legislation, the phrase "local authorities" is used. Although, in practice, that often leads to COSLA being consulted, it also allows for consultation with individual local authorities or with any other organisation that is representative of local authority interests. In the past, COSLA has not been the only body that has been representative of local authorities, so it would not be correct to name it.

Douglas Lumsden: You are right. There was a group of local authorities that broke away from COSLA, but it was my understanding that the Scottish Government only consulted with COSLA and did not consult with the other local authorities that were not part of COSLA.

Gillian Martin: This is about the wording in the bill. If the term "local authorities" is used, it includes any local authority that is represented by any organisation. That is where I am coming from.

In addition, although the intention behind the amendments might not be to explicitly obtain approval from COSLA, there could be unintended negative consequences if such language is used. As I have said, for those reasons, I cannot support the amendments.

The Convener: Thank you very much, minister. I call Douglas Lumsden to wind up and to press or withdraw amendment 106.

Douglas Lumsden: I will just sum up briefly. I feel that local authorities will be impacted by everything that is in the bill, so it is only right that they have a proper seat at the table. I feel that they must be consulted. I do not think that the wording is strong enough. I imagine that, if I changed the word "COSLA" to "local authorities", that would also have been knocked back by the minister. I am happy to press amendment 106.

The Convener: The question is, that amendment 106 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 106 disagreed to.

Amendment 39 not moved.

The Convener: I call amendment 40, in the name of Graham Simpson, already debated with amendment 5. I remind members that amendments 40 and 41 are direct alternatives

Amendment 40 not moved.

Amendment 41 moved—[Graham Simpson].

The Convener: The question is, that amendment 41 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 41 disagreed to.

The Convener: I call amendment 42, in the name of Graham Simpson, already debated with amendment 5. I remind members that amendments 42 and 43 are direct alternatives.

Amendment 42 not moved.

Amendment 43 moved—[Graham Simpson].

The Convener: The question is, that amendment 43 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result the division is: For 2, Against 5, Abstentions 0.

Amendment 43 disagreed to.

Amendments 44 and 45 not moved.

Section 10 agreed to.

Section 11—Household waste requirements

The Convener: Amendment 46, in the name of Maurice Golden, is grouped with amendments 105, 57, 118 and 65.

I call Maurice Golden to move amendment 46, and to speak to all the amendments in the group.

Maurice Golden: I think that we have already covered the substantive argument behind amendment 46, which I will be happy to move.

Amendment 65 is an additional ask for Scottish ministers to provide the funding to local authorities for auditing receptacles of household waste under amendment 46. It is very important that the inspection scheme for proper disposal is funded and appropriate.

Amendment 57 is based on the reflection that, if we went back 20 years, we would know that it is really simple to get a recycling rate of 60 or 70 per cent without breaking sweat: all you need to do is to roll out consistent collections with the same-coloured bins across the vast majority of Scotland. Ultimately, you get more bang for your buck in terms of communications, because it is all very similar.

Unfortunately, however, we are not sitting here 20 years ago. We have had a real lack of motivation from the Scottish Government in relation to applying the waste hierarchy and recycling, particularly over the past decade. It started out so well, I should add. Given that we know what should have happened, I am keen to understand how we get to that point from the starting point of now. What other solutions are being put in place? It is easy for me to say that we want the same-coloured bins and that that is the right way. However, given that there have been deviations across local authorities, what are the costs around that? The Scottish Government will have them to hand—unlike me, it can work out the costs of all that. What, therefore, is the reasonable ask in that space?

What is the evidence-based approach around achieving the targets that the Scottish Government has set previously—not my targets, but its own targets? I recognise that it is very easy to achieve the 2013 target. However, as we go higher and higher, issues such as that addressed by amendment 57 become far more prevalent. The Scottish Government will have all the evidence. It could release that and say, “Well, actually, we cannot go to those colours, because it will cost certain local authorities X, Y and Z.”

Monica Lennon: I am trying to understand the amendment. I understand the aim and the issues around lack of consistency. The desire is to simplify, but would it apply only to new bins? What would happen to existing bins in the different

colours that we already have? I will not narrate the colours of my recycling bins, but they are probably different from your recycling bins. What would happen with the existing bins, of which we have many across Scotland right now?

Maurice Golden: That is my point. The Scottish Government will have an exact cost for that. There might be changes. It might be impossible for the colours of the bins to be standardised and it may not work. The purpose of the amendment is for the Scottish Government to say, "Look, this is where we are at. We can't turn back time. Therefore, this is how we are going to meet our own targets." I am just trying to help the Scottish Government to meet its targets more than a decade late. I can get to the 50 per cent household waste recycling target on my own, so I am sure that the Scottish Government can. Beyond that, things will get more challenging. That is why we need the information that the Scottish Government will have access to in order to answer your question. I do not know how much it will cost. I know that it can be done, but I do not know how much it would cost individual local authorities.

Graham Simpson: Would Maurice Golden agree that it is not so much about the colour of the bins—it is about what is recycled and how much the local council is recycling? Would he agree that the colour of someone's bins is neither here nor there; rather, it is a question of how much can be put in the bins to recycle?

Maurice Golden: That is important but having the same colours would make it easier. Glasgow did a television ad with the message, "Put X into your blue bin" that bled into East Renfrewshire and Renfrewshire. East Renfrewshire residents were confused, because that was not what they needed to put into their blue bins. That speaks to the importance of my amendment 57. It is about the Scottish Government saying, "This is how we are going to achieve very basic targets."

I will put the discussion in play and relate it to tackling net zero: if we cannot get kerbside recycling right, we should forget net zero. We may as well all go home; there is no point. My suggestions are basic things and we can lift and lay the ways in which to do them from other regions in the UK and other countries. I think that it is important to highlight some of these aspects, because I am increasingly seeing local authorities doing different things, such as Angus Council taking glass out of its dry mixed recycling bin and asking people to take glass to bring sites. There are pros and cons with all these things, but it is clear that the guidance that is given to local authorities on achieving targets will be important.

Monica Lennon: For clarity, you mentioned that we could learn from other regions and other countries. Are you aware of countries that have

shifted towards having a uniform approach to recycling, whether that is through the colour of the bins or providing information that goes alongside them—for example, with a sticker that indicates what can go into which bin and what cannot go into it?

Maurice Golden: We do not need to go far for those examples. England did not have the same positive narrative on recycling or the same ambitious targets as Scotland, and, broadly, it has a very similar recycling rate. Wales took a different approach. It had the Scottish version of, if you like, positivity about recycling and words, but those have been linked to actions, which is why its recycling rates are so high.

That is not the only way to do it. That is the central point of my amendment: the easiest thing to do would have been to start with the Welsh approach 15 or 20 years ago, and to roll it out in that manner. We need to ask what we do now: can we lift and lay the Welsh approach? We have a patchwork quilt, and it will be more challenging.

Douglas Lumsden: I presume that these amendments are about standardisation so that we can have a national campaign and better education, which would drive up recycling rates?

Maurice Golden: It would, but I want to know from the Scottish Government whether that is possible. In response to Monica Lennon's question, we know that the Welsh model works. I want to know whether that can be imported. I cannot answer that question without the information that the Scottish Government and local authorities have.

I move amendment 46.

The Convener: Thank you, Mr Golden. The next amendment is Sarah Boyack's amendment 105. Monica Lennon, will you speak to that amendment on her behalf?

11:45

Monica Lennon: Yes—I am afraid that it is back to me. Sarah Boyack sends her apologies, as she is away on parliamentary business.

The intention of amendment 105 is to exempt from the penalties in section 11 residents who are living in a tenement or flat, under the definition of those properties in the Tenements (Scotland) Act 2004. As we have heard before—usually from the deputy convener, who I hope will speak to the issue, because he knows much more about it than I do—there were concerns, which we put in our stage 1 report, about those penalties being applied to people in communal properties. The committee was keen to get more clarity on that.

As a member for Lothian, Sarah Boyack is keen to highlight that Edinburgh has a number of tenements and flats where waste and recycling bins are shared among a number of properties. Other MSPs with tenements and flats in their areas also have that interest. When properties have a factor, the factor will often arrange for disposal of waste that has been left next to bins or deal with recyclates that have been put in the wrong bin, and the cost is then divided among the properties. Sarah Boyack lodged amendment 105 because of the concern that residents could be hit twice in the pocket. The amendment aims to ensure that there is protection for residents of flats and tenements.

The Convener: Thank you. I call myself to speak to amendment 118 and other amendments in the group.

Amendment 118 is similar to an amendment that Maurice Golden suggested. It came about because we heard in stage 1 evidence about the importance of separating waste. What happens if you do not separate waste? When we visited Binn Group, we saw a big pile of waste that was impossible to sort through because it had not been sorted properly when it was first disposed of. Binn Group and other recyclers said clearly to us that, if people separate their waste properly, it can be used better and the recycling of it can generate income to cover the costs.

The aim of my amendment is to standardise waste separation across Scotland. I was aware when I wrote the amendment that it would not work on the islands, because a lot of the waste there is incinerated, and they have a procedure for that. However, I felt that the evidence suggested that we should have a standard procedure across the 32 authorities in Scotland, which, clearly, we do not. There are probably in excess of 20 variations of the scheme, such that there are different colours of bins and different recycling is taking place.

We have all seen great examples—for example, Moray Waste Busters collects stuff and resells it at recycling centres, but that does not happen everywhere. We have to recycle on our doorsteps if we have recycling bins—which I do not have yet, because the lorry cannot get up the narrow road to where the bins are, so I have to recycle things myself. I am happy to do that, as are other people. They do it with clarity when they know which bin material is to go into, but there is some confusion.

I took the opportunity to speak to the minister prior to the debate. I stopped her on the way to lunch, and she said, “No—this is a bad idea. I am not going to support the amendment because of the cost involved.” I think that she was happy with the principle; maybe she will come back on it.

I suggest that this does not have to be just about bin colours. The bin lids could simply be changed so that everyone knows how to do things. I will press for that approach if amendment 118 fails to be agreed to.

Monica Lennon: I have a question. This point has been made in the committee’s evidence on recycling and, elsewhere, I remember having a discussion ahead of COP26—the 26th United Nations climate change conference of the parties—with an organisation that was supporting people with learning disabilities to be engaged in that conference. The question arose about why we have all the different colours of bins. People were saying that, if they work in one area, learn in another and visit families in another, they get confused. That is particularly the case for people who have additional support needs.

There would be a cost and a lot of faff—that is not a technical word—or work involved even in changing the lids, and I do not know who would do that. However, could a remedy not be a sticker that could be placed on bins? Could that work?

The Convener: The solution could be anything, but Ms Lennon is right that the point, and the evidence that we heard, is that the more standardisation that we have, the more likely people are to ensure that they put the right things in the bin. It was not until I went on some of our visits, including the visit to Change Waste Recycling, that I realised that “Plastic bottles” means just plastic bottles; it does not necessarily mean other plastic containers. The fact that we have separation in this Parliament for waste is extremely helpful, and it is interesting that the Government buildings in Edinburgh do not use the same system.

I am all for recycling where we can and for educating people. The easiest way to do that is to have a standard scheme, which we see in countries such as Norway and Sweden, I believe, which are more diverse.

I have sympathy with Sarah Boyack’s amendment 105, which is on tenements. My problem is that the issue goes further than tenements. If you drive round the countryside, you see bins at every single road end, all lined up neatly, because waste authorities’ collectors of waste no longer travel down to the properties; they want the bins stacked at the roadside. If you stack them at the roadside, you get all sorts of waste put in—that is what most of us get. Dog poo bags appear in every single recycling bin, and I am not sure that any of that is recyclable.

Maurice Golden made the same point that I wished to make. If I have misquoted the minister, I have no doubt that she will correct me—she will be strong on that and will no doubt support my

amendment. I will conclude there and move to the deputy convener, who wishes to speak about the amendments.

Ben Macpherson: As we heard in our stage 1 evidence, section 11 is intended to improve household recycling and household waste management and, through that, to improve the quality of the recycle that is administered by our local authorities. That is a challenging exercise. We all know that contamination of recycle not only frustrates the citizens who take the time to sort their recycling but means that local authorities do not get the reward of high-quality recycling and means that it is difficult for those who process the recycle to do so effectively. I commend the Government for trying to improve the quality of recycle and, therefore, deliver more recycling. However, we need to be careful in using punitive measures on households and individuals; the amendments in this group are helpful probing amendments in that regard.

On Sarah Boyack's amendment 105, I will speak as a representative of a constituency that has a large amount of tenement housing. If you walk past the communal bins that serve the tenements in my constituency and lift the lids, as I do from time to time, you will see a high degree of contamination, much of which will have been perpetrated by passers-by, not by the tenement residents in the households that those communal bins serve. I seek reassurance from the Government that communal bins will be considered and that we will ensure that those who live in tenements are not unfairly penalised if passers-by contaminate their recycle. Sarah Boyack's probing amendment is helpful in that regard.

Amendment 118, in the name of Edward Mountain, reflects the evidence that we took at stage 1 on creating consistency in how recycling is done in the majority of Scotland. Perhaps the drafting can be improved ahead of stage 3, but the principle of having a consistent position across Scotland would be helpful in encouraging better recycling and less contamination and, through that—importantly—attracting more investment. There is a huge amount of commercial incentive to invest in recycling across the UK and beyond, and we want to attract that to Scotland. To do that, we need to reduce contamination and improve the recycle. Consistency in terms of people knowing which bin to put what in would be helpful.

The Convener: I am looking round to see whether any other members want to come in. I think that Graham Simpson does.

Graham Simpson: I want to comment on Sarah Boyack's amendment 105, which I hope is not a probing amendment, because it is very sensible. It is on rubbish from tenement buildings, and Ben

Macpherson outlined the issues well. I have lived in a couple of flats in Edinburgh, and I have seen the situation that Ben Macpherson outlined. In both those cases, recycling bins were often chock-a-block and usually had contaminated waste in them. It would be really unfair to have a provision that could penalise a resident of a tenement if their bins were contaminated. I do not know who on earth you would fine, because Ben Macpherson is absolutely right about what can happen if the bins are on the street. Sometimes, even if they are not on the street but in a bin store, people can access that if it is not locked. People can just wander along and put their rubbish into bins.

The Convener: Will the member take an intervention?

Graham Simpson: Yes, of course.

The Convener: I totally understand that point, which the deputy convener brought up during stage 1. Does the member concede that, in rural areas where bins are at road ends, the contamination is just as likely to occur as it is with tenement buildings?

Graham Simpson: Yes, and I bow to your expertise on that. I do not live in a rural area, but I can see that there is the same problem. If you leave a bin somewhere that is not right next to your house, people can just come along and put their rubbish in it. In fact, even in a town, where I live, it is perfectly possible for that to happen. If you put your bins out to be collected, which is usually overnight, anyone can come along and put the wrong things in your bin. That can happen in my bin, or in Monica Lennon's bin, or in anyone else's bin—even in Mr Ruskell's bin. I do not know where he lives, but there is that issue.

Mark Ruskell: Will the member give way?

Graham Simpson: Yes.

Mark Ruskell: I live in a rural area. There is a difficulty in carving out a particular type of property from the enforcement provision. It needs to be applied proportionately and in a way that recognises that communities are different and that waste collection is different.

We heard throughout the stage 1 evidence that, when local authorities are doing their educational piece and looking at how they support householders, that is important work, and applying a sanction is an absolute last resort. I appreciate that there are complexities with tenements, but there are complexities and risks of contamination with any form of bin collection at a road end or bin collection with shared use. It is good practice to work these things through. Local authorities are generally good at that, and it would be difficult to carve out a particular exemption.

12:00

Graham Simpson: To answer Mr Ruskell's point, there are issues—full stop—with penalising people for putting the wrong stuff in their bins. You can really only do so if you catch them at it and have evidence.

Monica Lennon: The conversation is interesting. Amendment 105, in the name of Sarah Boyack—others also have an interest in the issue—recognises the particular challenges that face people in tenement housing, not on a rare occasion but on a fairly typical occasion. I mentioned factoring; residents of tenement housing are already familiar with having to chip in and cover costs for disposal of waste, for which their factor sends a bill. A penalty alone will not be a disincentive, because the residents are already getting charged, and the problem is not necessarily coming from the residents—sometimes, incidental stuff happens because people pass by and use their bins. Does Graham Simpson agree that Sarah Boyack's amendment 105 is right to focus on tenement housing, because there are particular challenges for people who live in those homes?

Graham Simpson: I was about to say that it is absolutely right, because we can identify a particular type of property where there is an issue. As the convener and Mr Ruskell have pointed out, other properties can also be affected, but Sarah Boyack was absolutely right to lodge amendment 105. Let us be frank that, sometimes, it is the residents who are doing the wrong thing. However, sometimes it is not.

I hope that Monica Lennon will move amendment 105. If the minister is not in agreement, she needs to explain why not, and I would be interested to hear about that, because the issue is serious.

The Convener: Minister, this is your chance to correct me as well as to respond to the debate.

Gillian Martin: Convener, I very much enjoy our private conversations in the lunch queue, and it would be a shame if we could not have those conversations without me being misrepresented. I say that gently because the convener, as a gentleman, has allowed me the chance to come back on that point, and I will address it. I think that I said something slightly different, but we can discuss that when I come to it.

The amendments in this group relate to two themes that have been a specific focus for the committee: first, the importance of ensuring that the new regime for enforcement of household waste requirements is fairly applied; secondly, the potential to standardise the colour of receptacles that are used to collect household waste and recycling. I will address those themes in turn.

Amendment 46 from Maurice Golden and amendment 105 from Sarah Boyack would introduce exemptions from the civil penalty regime, and I will explain why I am not going to accept those amendments.

I agree that, in guidance, we need to consider carefully the intended enforcement approach for communal bins because, clearly, specific factors need to be taken into account. Members have expressed their concerns, and Mr Macpherson expressed his concern about the contamination of waste by passers-by in urban areas. Places such as Edinburgh have a lot of tourists, who might not be familiar with the regime, particularly if the instructions have worn off the bins, as happened in the area of Edinburgh where I live when I am down at Parliament. Some neighbours and I got in touch with the local council to ask whether we could have better signage on the bins, because even I was beginning to get confused about where I should put my waste. Therefore, I completely take that concern on board.

However, I cannot support amendments that would simply exempt a type of householder. If amendment 105 created a blanket exemption for everyone who lives in tenement housing, that would go against the purpose of trying to increase recycling rates. It would be quite a loophole. The provision in relation to civil penalties outlines a clear process and requirements. First, a written warning is issued. It is about tackling persistent, gross, deliberate contamination.

Douglas Lumsden: Will the minister take an intervention?

Gillian Martin: Before I do so, Mr Lumsden, I will continue with my point.

First, a written warning would be issued. Then, only if the failure to comply continues or there is a new but similar failure to comply, a notice of intent to require payment of a civil penalty is issued, with a period of time for representations to be made as to why the civil penalty charge should not be required. After consideration of any representations, a final notice to pay a civil penalty may be served. Again, it is about tackling persistent and deliberate contamination of waste.

A penalty would apply not to a situation where somebody has put something in the wrong bin by mistake but to a situation where there has been evidenced, deliberate contamination.

Graham Simpson: Will the minister take an intervention?

Gillian Martin: You will need to join the queue, Mr Simpson. I will take Douglas Lumsden first.

Douglas Lumsden: I am trying to work out how that would work in practice. Would a written warning go to everyone in the tenement building?

Would the final notice be sent to everyone in the tenement building? Would the civil penalty be divvied out between people in the tenement building? How would it work in practice? That is why excluding people who live in tenements is part of that amendment.

Gillian Martin: In any situation where somebody is given a penalty, there has to be evidence behind that. A penalty would be a result of evidence of an individual being identified as deliberately contaminating or failing to comply with the legislation. Mr Lumsden describes a situation where there is a big blanket penalty on the whole block, but that could not be evidenced. Therefore, after consideration of any—

Graham Simpson: Will the minister take an intervention?

Gillian Martin: I will continue my point and then I will come to Mr Simpson.

Local authorities, Mr Lumsden, would use those new powers only as a last resort, after other options to engage with and support householders have been attempted. Should the written warning be heeded, there will be no penalty to pay.

Graham Simpson: My point is very similar point to the one that Douglas Lumsden made. If people live in flats, how on earth will we identify a persistent culprit? What is the minister saying? If there is a persistent culprit, which there might be, how will we identify the individual? If the minister's stance is that she is not after everyone who lives in the block, should she not spell that out in the legislation?

Gillian Martin: Guidance on the approach to enforcement, including the approach to communal bins, will be created in consultation with local authorities. Some local authorities are probably doing well with their levels of contaminated waste, so it is important to share good practice in how they manage that. That is the right way to go about it, rather than a top-down approach from me. It is about enabling co-production in the spirit of the Verity house agreement.

Graham Simpson: Will the minister take an intervention?

Gillian Martin: No, I will not, because I think that the convener would like me to move on.

Ben Macpherson: Will the minister take an intervention?

Gillian Martin: Convener, are you open to me taking more interventions?

The Convener: The stage 2 debate is meant to be entirely a debate so, if you are happy to continue it, I have no time constraints.

Gillian Martin: It is becoming a little back and forth between me and Mr Simpson, so I will take Ben Macpherson's point. I want to get to the end of my points, but I want to take a new point that is going to be made by Ben Macpherson, which might advance the debate.

The Convener: I would like to see debate happen at this stage, and I will not get involved in any debate on which intervention you take, because that is up to you, but I acknowledge that you are going to take an intervention from Ben Macpherson.

Ben Macpherson: I thank the minister for taking my intervention; that is appreciated.

It has been helpful to hear your feedback on those matters. The nature of communal bins in tenement properties is that they will often serve more than one tenement block on a street. The fact that you have been able to outline that the guidance will take in feedback from specific local authorities for their area, and that a process of investigation will take place before any warning, let alone civil penalty, is served, reassures me. From what you have said that the guidance will entail, the power will only be used when a household or a number of households in a wider tenement area have been identified as contaminating those communal bins.

Given the feedback from my constituents over the years, if people are identified as contaminating shared waste facilities on their street, other residents of the tenemental properties who want to see those bins used appropriately would support action being taken against those individuals who are contaminating the waste for a number of properties.

Gillian Martin: I agree with Mr Macpherson on that point, but I also agree that local authorities know best how to work together on how they enforce that.

I come back to Mr Macpherson's earlier point: all those householders are doing their best to wash the items to be recycled, to ensure that they are not contaminated, and to put them in the right bins, so there will be considerable anger when individuals are contaminating that waste. However, it is right that that is evidenced.

Householders will not be fined for simple mistakes or if someone else puts the wrong item in a bin. That would be completely disproportionate. A civil penalty or a written warning will be issued as a result of an individual's having been identified as responsible for failing to comply with the requirement. I come back to that deliberate, gross and wilful contamination. The powers would not allow for an enforcement officer to issue warning notices or penalty notices for simply everyone who uses a particular communal bin. This is about

persistent, gross, deliberate contamination and evidence thereof.

I move to the issue of the consistency of the colours of bins throughout Scotland. Convener, I want to clarify the arguments that I gave you privately when you initially talked about that. I said that I was concerned about a couple of things. First, a mainland Scotland approach, in which, no matter which local authority area you are in, everyone knows the score with regard to which bin to put things in, is laudable. The co-design process might arrive at that point, and I would congratulate local authorities on arriving at it, but it would be for them to decide whether that is the approach that they want.

I said to Mr Mountain that I would be concerned about the associated plastic waste if that consistency were compelled. Ms Lennon made the point in the debate about the plastic waste of councils if they were compelled to change their bin colours by a certain point. The co-design process might come to a point at which all local authorities agree that they want to standardise the colour, but they might need to take into account when that is done.

For example, Aberdeenshire Council has recently introduced a separate colour of bin—an orange bin. It is newly rolled out, and we are all getting used to it. We have three recycling bins—four including food waste. Those are new bins. If the council had made a procurement choice for all those bins and decided on that colour, and I said that we would now standardise everything—that everything would have to be the same colour and there would have to be the same number of bins as in another local authority—the council would justifiably turn around and say, “That is our decision to make, so why are you taking away that power from us? How much plastic waste will be made as a result?”

Maurice Golden: Will the minister give way?

12:15

Gillian Martin: I will keep making my point.

That was the initial thing. However, the idea of having a standardised approach across Scotland might be something that the co-design process arrives at, which would be a great thing. It could be that standardisation with the other local authorities kicks in at the point when a local authority is making a procurement decision.

The cost of such an approach was mentioned, too. If that is debated among those who are involved in the co-design process, they can evaluate that cost during that process.

Maurice Golden: I have two questions. First, given the investment that local authorities have

made, I appreciate your comment about the colours of bins. Would the Scottish Government consider coloured stickers that are linked to numbers or letters as part of a standardisation process?

Secondly, the co-design process that has been articulated is essentially the same process—as far as I can tell—that has gone on for a decade or more and that has resulted in a flatlining of recycling rates. How will doing the same thing again drastically change the outcome?

Gillian Martin: I absolutely get the frustration that Maurice Golden has articulated. If we leave it all up to local authorities to decide what they do in that area and they keep making the same decisions that do not improve recycling rates, we might have a problem. However, the bill articulates what we expect to happen. We want the recycling rates to improve and local councils to work together to decide how they can best do that work. It is about that knowledge sharing. Going back to Ms Lennon’s point—although I do not want to reopen the nappies debate—it is about sharing our best practice.

I do not want to prejudge the outcome of that co-design process, but I imagine that those who will be involved in it are listening carefully to Mr Mountain’s and Mr Golden’s points, and even to mine. Is standardisation the way to go? I will not say that it is, from the top down; I want that to be part of the process.

The Convener: I very much take the point that the minister has made. However, as I understand it, if we do not do something now, the process will keep evolving without control. You have suggested that Aberdeen—I am not sure whether it is Aberdeen or Aberdeenshire, so I apologise to Aberdeen—produced an orange bin. If that happened in Moray, there would be five bins and I would be totally confused. With green, blue, pink, brown and orange already, we will run out of colours before we get to a standardised process.

Having heard from—I think—the deputy convener that standardising the waste would get people to invest in the process and recycle that waste, does the minister not believe that it would be better to have a plan of action in the bill now rather than to let it evolve? We have heard that evolution does not work—it is too diverse.

Gillian Martin: First, the code of practice is voluntary at the moment. Whatever is decided, the bill will make that code of practice mandatory.

Secondly, I have faith that those in local authorities will react to incentives around statutory targets and to a code of practice that is mandatory, not voluntary. They will decide together how best to achieve those targets, and we need to give them a chance to do so.

All too often, in this place, the Scottish Government gets criticised for a top-down approach on things. That is not in the spirit of the Verity house agreement; it is not in the spirit of working with our local authority partners or of empowering local authorities. However, the arguments that everyone has made today about standardisation were made very well, and those involved in the co-design will probably listen to them. I would be surprised if standardisation were not a main focus of the co-design process.

Mark Ruskell: I accept a lot of the arguments that members have made on standardisation, but is there also an element of responding to innovation? Recycling technology will, presumably, improve over time. In the future, there might be an economic argument for introducing kerbside collection of certain materials that does not exist now. There might be a need to segregate materials in the future.

I am not sure what that would look like, but baking standardisation into law feels a little bit excessive. A code of practice that could be developed further with local authorities might be the most appropriate way to drive things forward. I am a little bit nervous about saying that we must use a specific colour and size of bin. In my local authority, collection systems have changed over time due to the price of recycle, not because of any lack of willingness to standardise. Perhaps it is a hostage to fortune to bake in a fixed model, because that is what we think will drive things forward.

Gillian Martin: My argument, which you have articulated well, Mr Ruskell, is that we do not want to do anything in primary legislation that is inflexible, does not take into account innovation and would cause a problem if there was a change in the trends in the types of recycling that are required. I absolutely take on board that point. You just made my argument even stronger. We all agree that local authorities and those involved in the co-design process need flexibility, but they also need to bring their experience to bear in that process.

Amendment 65, from Maurice Golden, proposes that the Scottish Government provides resources for an audit of household waste receptacles. I am not sure what benefits would be derived from such an endeavour or, indeed, what the costs to the public purse would be. As part of the co-design process with COSLA and local authorities, research requirements and any gaps in our knowledge will be identified. That could include an audit of the number and types of waste receptacles, but I will leave that to them to identify those gaps. Legislating for such a project before the design process has even begun is

counterproductive and potentially a waste of resources.

The Convener: I ask Maurice Golden to wind up and press or withdraw amendment 46.

Maurice Golden: The bin fines are, unfortunately, a rabbit hole. They might be worthy of consideration, but, as we heard from the minister, would be used only in the most unusual cases, based on the evidence that is likely to be presented. Therefore, I respectfully suggest that any length of time spent on that measure by the team is a distraction from transformational changes that could be worked on. That is what the Scottish Government wants to make part of its agenda for a circular economy, but I fail to see the argument for that.

Nonetheless, there are opportunities to standardise bin colours or to introduce a more consistent approach. As a result of the approach that is being taken, a cynic might think that the question that is being answered—certainly not by the minister but by a series of previous ministers and cabinet secretaries—is: how do we ensure that recycling flatlines for as long as possible in Scotland? It is another example of how Scotland does that—and there is a long list of them.

Douglas Lumsden: Does the member share my frustration? As he mentioned, recycling has flatlined. We are making suggestions about how we improve recycling and, last week, suggestions were made about targets for recycling, but the Government is rejecting them all. Does he feel, as I do, that we will be in the exact same place in the next 10 years?

Maurice Golden: Yes, and it is embarrassing that the committee thinks that meeting a recycling target 12 years late is too onerous. If we are in a climate emergency, we should act quickly. The opposite has been proposed and consistently voted on by the committee on a series of measures.

I do not intend to move amendment 57, but there is more work to be done on the possibilities for standardisation. In broad terms, on segregating waste, the industrial reprocessing infrastructure, which has a lifespan of 25 years, is already future proofing the recycling capacity for households as well as commercial and industrial concerns. Without some major public funding to change it, that system will remain locked in—rightly or wrongly. Therefore, it is already future proofed, so we could get standardisation across a host of local authorities and increase our recycling rates quickly and easily if anyone wanted to do so.

The Convener: Sorry, I did not quite catch whether you are pressing or withdrawing amendment 46, Maurice.

Maurice Golden: I will press it.

The Convener: The question is, that amendment 46 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 46 disagreed to.

The Convener: Amendment 105, in the name of Sarah Boyack, has already been debated with amendment 46. I call Maurice Lennon to move or not move.

Monica Lennon: Did you call me Maurice Lennon?

The Convener: I did. I do not know what is happening. I need lunch. I need more food. Monica, I apologise profusely, and I apologise profusely to you, Maurice.

Monica Lennon: I might need a stiff drink.

The Convener: I am trying to go too quickly. Thank you both for your understanding and for forgiving me.

Amendment 105 moved—[Monica Lennon].

The Convener: The question is, that amendment 105 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 105 disagreed to.

Amendment 107 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 107 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 107 disagreed to.

The Convener: I remind members that amendments 47 and 48 are direct alternatives.

Amendment 47 not moved.

Amendment 48 moved—[Graham Simpson].

The Convener: The question is, that amendment 48 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 48 disagreed to.

The Convener: I remind members that amendments 49 and 50 are direct alternatives.

Amendment 49 not moved.

Amendment 50 moved—[Graham Simpson].

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

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 50 disagreed to.

Amendment 108 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 108 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 108 disagreed to.

The Convener: I remind members that amendments 51 and 52 are direct alternatives.

Amendment 51 not moved.

Amendment 52 moved—[Graham Simpson].

The Convener: The question is, that amendment 52 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 52 disagreed to.

The Convener: I remind members that amendments 53 and 54 are direct alternatives.

Amendment 53 not moved.

Amendment 54 moved—[Graham Simpson].

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

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 54 disagreed to.

The Convener: It is approximately an hour and a half since the last break, so it seems to be a good point to take a five-minute break before we move on to the next section. I hope that, by that time, I will have got the names sorted out in my head. I apologise to members whom I confused earlier by confusing myself.

12:31

Meeting suspended.

12:38

On resuming—

The Convener: We will move straight back in to the session. I will say now, so that members are aware, that we will push on for as long as we can this morning and see how far we get. However, an application was made to the Parliamentary Bureau to extend the deadline for the stage 2 debate to allow us to also debate next week, if we need to. The Parliamentary Bureau has approved that, but it will be up to Parliament to agree that. Therefore, I will do everything in my power to keep things moving and I would appreciate any support that committee members and the minister can give me, without stifling debate, which is important.

Amendment 55, in the name of Maurice Golden, is grouped with amendments 160 and 56. I call Maurice Golden to move amendment 55 and speak to all the amendments in the group.

Maurice Golden: Amendment 55 means that ministers must, rather than may, issue guidance on the operation of the household duty of care. It appears that the Scottish Government is supportive of that. Amendment 56 means that fines can come into play only after the guidance is published.

I move amendment 55.

The Convener: I call Jackie Dunbar to speak to amendment 160 and the other amendments in the group.

Jackie Dunbar: I have lodged amendment 160 in response to recommendations that were made

in the committee's stage 1 report. This amendment aims to ensure that Scottish ministers are required to consult local authorities in their role as waste collection authorities during the preparation of any guidance in relation to the new fixed penalty and civil penalty regime for the enforcement of household waste requirements. Local authorities will be responsible for delivering the enforcement action that will be enabled by those new powers, and their input will be critical to ensuring that guidance is practical and effective. Guaranteeing that local government is consulted ensures that that valuable perspective is captured and reflected. I urge the committee to support amendment 160.

The Convener: Thank you very much. Does any other member want to contribute?

Monica Lennon: I want to put on the record the fact that I think that amendments 55 and 56 are good amendments that will strengthen this part of the bill, by requiring the preparations to be made and the guidance to be published before the section comes into force. Those are welcome improvements to the section.

Amendment 160, in the name of Jackie Dunbar, is also a good amendment. Again, it speaks to that whole set of work around co-design with relevant authorities, which is crucial to the bill's success. They are good proposals.

The Convener: Thank you very much, Monica. I am looking around the room but I see that no one else wishes to comment.

Gillian Martin: In the spirit of getting us over the finish line, I will not go over the reasons why I support amendment 55, but I am supporting it. I am also supporting Jackie Dunbar's amendment 160.

However, on amendment 56, in response to Mr Golden, I cannot support an attempt to restrict consultation with local authorities. The guidance on the approach to enforcement will be created in consultation with local authorities and ensure that enforcement officers have comprehensive and practical guidance on the application of those provisions, including the steps that must be taken in relation to any enforcement action, as I have already mentioned. Therefore, I will not be able to support that amendment as it stands.

The Convener: Thank you very much, minister. I call Maurice Golden to wind up and to press or withdraw amendment 55.

Maurice Golden: After, I think, three sessions and almost 15 hours, I thought that I might have something that the Scottish Government agreed with. I am a little puzzled as to what is wrong with amendment 56, but, nonetheless, I will take what

has been said as supportive. I hope that I have not made a mistake somewhere along the line.

Amendment 55 agreed to.

Amendment 160 moved—[Jackie Dunbar]—and agreed to.

Amendments 56 and 57 not moved.

The Convener: I call amendment 118, in the name of Edward Mountain, already debated with amendment 46. I am asked to move or not move the amendment. I am not moving amendment 118.

Amendment 118 not moved.

Section 11, as amended, agreed to.

Section 12—Code of practice on household waste recycling

The Convener: Amendment 161, in the name of Maurice Golden, is grouped with amendments 89, 162, 217, 218, 58, 59 and 163. I call Maurice Golden to move amendment 161 and speak to all amendments in the group.

Maurice Golden: Amendment 161 adds reuse and repair to the code of practice on household waste recycling. A lot of the time, quite rightly, recycling is considered and is the focus of our attention. However, recognising the waste hierarchy, I note that prevention and preparation for reuse and associated activities are more important than recycling in terms of our ambitions. Therefore, I have lodged amendments 161 and 162 to recognise that. I think that we can do more in this space, but that is a starter for 10.

12:45

Amendment 58 references the code of practice, which it says

“must be prepared and published by the end of the year 2025.”

That is also easy to put in place. It is a very simple date.

Amendment 59 is about having sufficient funds for local authorities. Amendment 163 is about consultation with “the general public”; as we know, public participation is a key environmental objective.

The Convener: I call Douglas Lumsden to speak to amendment 89 and other amendments in the group.

Douglas Lumsden: I will speak briefly on amendment 89. As a committee, we have heard in evidence that some local authorities will be fairly different with regard to recycling from others—I am thinking of some of the island communities, for example. The amendment is to give the code the

flexibility to note that some local authorities might significantly differ from others.

The Convener: Bob Doris will now speak to amendment 217 and any other amendments in the group.

Bob Doris: I lodged amendments 217 and 218 as probing amendments. I am sorry, minister, that I have not had time to discuss them with you in any detail, but I will say a little more about that at the end of my speech.

Section 12 of the bill, entitled “Code of practice on household waste recycling”, is aimed at producing greater consistency and co-ordination across local authorities. We have heard much debate on that already. The bill states that the code of practice “may” address receptacles used for collection, frequency of collection, items for recycling and composting, management of contamination of household waste and communication with the public on collections and recycling. What is not contained in that code of practice, from what I can see, is the relationship between any potential strategy and bulk uplift or garden waste items, which amendments 217 and 218, respectively, refer to. I believe that that is an omission. My amendments would not compel local authorities, or the strategy, to contain provisions for those items, but the amendments would allow those items to be included in the strategy. I hope that those things would be looked at during the co-production process that the minister has been speaking about.

Douglas Lumsden: I thank Mr Doris for taking an intervention. I just want to be clear in my mind. I know that some local authorities pick up garden waste, for example, and some do not. Am I correct in saying that the amendments do not compel the ones that do not pick it up to start picking it up?

Bob Doris: Mr Lumsden is absolutely right. I will say a little bit more about that later. I also note that everything that I just listed that the Government suggests could be in the strategy would not have to be in it either; those things “may” be included. Likewise, in my amendments 217 and 218, bulk uplift and garden waste “may” be included, but there would be no compulsion. As I said, I believe that not listing those items is an omission. Ideally, they would be in a code of practice that would empower action in that area, if it is considered appropriate.

To be fair, I believe relatively strongly that, in an ideal world, they would be in any such code of practice. I am increasingly concerned about small-scale, often every day, fly-tipping in urban areas, particularly in the area of Glasgow that I represent, Maryhill and Springburn. I have spoken to colleagues in the Parliament, and I know that there is a wider issue with that. Some of it is unintended

fly-tipping, where people put out mattresses, couches, fridges and other items in a place that five or 10 years ago was the collection point for bulk uplifts, although that service no longer exists in the local authority area. Some of it, I have to acknowledge, is unintentional in that way. I also believe that charges are an issue.

Although there is no statutory duty for local authorities to offer bulk uplifts or garden waste provision, they all have strategies on it already. Thirty-one of 32 local authorities charge for bulk uplifts; Fife is the only local authority that does not. Of those 31 local authorities, two have an annual fee—you pay your fee and you get a bulk uplift over the course of the year—and the rest have a variety of methods. Some are per item and some are for bundles of items. Glasgow City Council, the City of Edinburgh Council and East Lothian Council, for example, charge a household £5 per item for bulk uplifts, but East Renfrewshire Council, among others, has bundled charges, where uplift of up to five items is £40 and six to 10 items is £50. It varies across the country; for example, Inverclyde Council and Aberdeenshire Council have similar models to East Renfrewshire's. There is a patchwork of provision.

I should point out that seven councils have reductions or exemptions for low-income households or households that are local authority tenants, but most councils do not. I say bluntly that, if someone is in a flat, has no garden, has no car and is on a low income, and there are charges in place, when they have to get rid of a carpet, a sofa, a mattress, a fridge or whatever, which maybe that household struggled to purchase in the first place, there is always a chance—although I would hope that it would not—that occasional fly-tipping might happen as a result.

There will be a relationship between the charging regime in each local authority area and the pattern of fly-tipping that we see across the country. We have already heard about issues with data on fly-tipping. There is not enough data on it more generally, and this will be another area on which we do not have enough information.

Earlier, we also heard about a householder duty of care when they have contracted a “man with a van”—I think that that was the expression used—or a person with a van, to discard their bulk-uplift items. We are putting the duty of care on householders for what those contractors do, but they are effectively competitors with the local authority, if it offers a similar service. Again, there is a direct connection to local authority strategies.

We need greater consistency in this area. We need to look at that relationship when local authorities offer bulk uplift and garden waste removal.

I should also point out that six local authorities offer no garden waste service whatsoever. In six local authorities, there is no garden waste service, and seven offer it for free. Again, there is a patchwork of provision across the country.

I do not suggest that having a consideration of bulk uplift and garden waste in the code of practice would change all that. I merely ask that during the co-production process these issues are looked at as a matter of course, as what should be in the code of practice is decided.

I started off by saying that these are probing amendments, and they remain probing amendments. However, the more that I have heard of the debate, the more I feel compelled to say that this matter must be resolved somehow. If that is not done through these amendments, I would certainly welcome further conversation with the minister.

Douglas Lumsden: Will the member take an intervention?

Bob Doris: I was about to conclude, but okay.

Douglas Lumsden: I was just thinking about the use of the word “may”. Do you not think that it would have been better to compel local authorities to do something about garden waste and bulk uplifts?

Bob Doris: I do not agree, Mr Lumsden, but that is a helpful intervention. These amendments are not about placing further statutory obligations on local authorities—absolutely not. For the other areas that could be included in the code of practice, the language that is used in the bill is “may” and not “must”. I would not agree with giving those things an undue status compared with the other areas that can be in the code of practice.

However, there is a meeting of minds about the need to resolve some of the issues that I have outlined. Amendments 217 and 218 might not be the way to resolve them, but they have to be discussed by Parliament. I raised them during the stage 1 evidence session, and Mr Macpherson, the deputy convener, also had a concern in relation to some of this.

I am happy to keep these as probing amendments, but I would like further discussions with the minister ahead of stage 3 to see whether there is a more appropriate way for me to get assurances that we can tease out the relationship among charging regimes, the mixed approach across the 32 local authorities and the strategy that will be produced by co-production.

The Convener: Thank you. Do any other members have comments? I call Mark Ruskell.

Mark Ruskell: I recognise that the focus of the bill is on co-production with local authorities. We

have had a number of debates about targets and putting more certainty in the bill. However, I believe that the best way forward and the best way to drive up recycling rates is to really double down on areas such as the code of practice and to get local authorities working together to try to deliver that. There should be uniformity where it makes sense to deliver that.

I am sympathetic to what Maurice Golden is looking to insert in the bill with amendment 161. I was thinking along the same lines. However, I am interested to hear the minister’s response to that.

There is a need to ensure that there are proper facilities for reuse and repair not just in one local authority area or a handful of exemplar local authority areas, but across the whole of Scotland. Embedding that into the bill is really important. I am interested to hear the minister’s response to that and how, if that cannot be supported today, it can be taken forward for stage 3.

Likewise, there is a need to get on with the code of practice. Maurice Golden’s amendment 58 would introduce a date of the end of 2025. I do not know whether that will be welcomed by local authorities, but we need clarity on what that date is and progress in relation to the code of practice.

To be honest, I am less clear about Bob Doris’s amendments, because there are some quite big choices for local authorities in that space. I speak as a former councillor—albeit that I was a councillor some time ago now, before I entered Parliament in 2016—when I say that the decision on whether to invest in a household garden waste service is a difficult one. Driving around in big trucks and picking up garden waste is not always the best environmental option. It is also important that councils configure household bulk uplift services in a way that is just. Those are important choices that councils need to make.

I am not entirely sure about the extent to which all of that can be codified in a code of practice. I am also not entirely sure that consistency is always the best approach.

Bob Doris: Mark Ruskell may, in fact, be right. Certainly, things are less clear in relation to garden waste. I accept that. That is why I separated the matter into two amendments.

In relation to domestic bulk uplift waste, I think that the approach would be desirable. I could, of course, be wrong. The amendment would simply ask the co-production model to consider and not to compel.

Given the testimony that we have heard from witnesses and in our own caseloads across Scotland, occasional fly-tipping from domestic waste, the potential relationship with charging

regimes and what services are offered at the local authority level are very real issues.

Does Mr Ruskell think that it would be no bad thing for the co-production model to at least consider bulk uplift regimes across 32 local authorities?

Mark Ruskell: Bob Doris makes a good case. I do not know to what extent that is already under discussion and whether there is a desire in local authorities and COSLA to move towards something that is more consistent and unified across Scotland or whether there are cases for local authorities to take slightly different approaches. I am not aware of the details of that.

I will certainly listen to what the minister says, and I hope that there will be more discussion ahead of stage 3. If there is some uncertainty about whether that option is being treated seriously within the development of the code of practice, it might be appropriate to put something into legislation.

However, what we have heard in relation to this group of amendments—indeed, in relation to considering amendments over the past couple of days—is calls from members of the committee and people outside the committee for more certainty about how things are being developed, what the state of play is among those who are involved in co-production, and what assurances we can have that certain key things, such as reuse and repair, will not be dropped because they are not in the legislation. That is where the frustration and residual concern are coming from—certainly from me, and from a number of members of the committee.

The Convener: There does not appear to be anyone else wishing to speak, so I will move to the minister.

Gillian Martin: In general, it is about a balance between having things in the bill that compel, and trusting and enabling a co-design process in which the people who will have to deliver better recycling rates on the ground are actively involved. That is what I am striving to do and what my predecessor strived to do, and that is what the committee recommended that we do.

I will talk about amendments 161 and 162. Reuse and repair are, of course, important to achieving a circular economy—and, frankly, there is not enough of it going on. That has been a common theme over the past three weeks, as it was at stage 1.

The bill already makes provision for the code to address preparation for reuse. I envisage that the development of the new code, alongside wider work through the route map, will enable further consideration of how we can maximise local

authorities' contribution across and further up the waste hierarchy, including reuse and repair.

A number of members have made that point throughout the process. It would not be appropriate for the new code to provide mandatory requirements in relation to the provision of wider reuse or repair services, as those do not fall within local authorities' statutory waste management functions. That is why I cannot support the amendments as written, and I hope that Mr Golden understands that.

13:00

The committee should note that, in the current voluntary code of practice, there is guidance on desirable reuse activities, approaches and communication that local authorities should consider in their ways of working. I would be keen to build on that approach through the planned co-design of the new code and to explore opportunities to enhance local authority activities to promote reuse and repair on a voluntary or recommended basis, even if those do not become statutory.

We are currently developing the improvement programme as an alternative to financial penalties for local authority recycling targets. That could offer a more practical route to share best practice on waste prevention measures, which I think are the first line in a circular economy—it is about prevention of waste in the first place. For those reasons, I will not be able to support amendments 161 and 162.

On amendment 89, local flexibility is very much in the spirit of the Verity house agreement, so I will support the amendment, and I urge the committee to support it as well.

On amendment 58, I understand the desire to ensure that the new code of practice is available as soon as possible. However, I cannot support the amendment, because I do not want to set a statutory deadline that could potentially prevent meaningful co-design and consultation on the new code. Again, it comes back to the balance.

Mark Ruskell: When does the minister think that the code will be produced?

Gillian Martin: [*Interruption.*] The end of March 2026 is the indicative date. I thank my official for stepping in there, because I did not have that at the front of my brain.

It is a priority action for the Scottish Government to continue progress, and I am happy to keep the committee informed of that. Again, I say that prioritising measures that prevent waste is a real opportunity for the co-design process.

On amendment 59, I recognise that there are limitations on the resources of local authorities. We have considered previous amendments where we have not been able to put in the bill anything about the funding associated with local authorities. The new code will be agreed with local government, which is best placed to indicate whether it is sufficiently funded for the measures that are jointly agreed. That will then be fed into the annual budget process. I cannot support the amendment.

Bob Doris's amendments 217 and 218 raise the important issue of bulky waste and garden waste. I understand the intention, and I am happy to work with the member on what we can do on that, but I will not be able to support the amendments as they stand. The consultation on the draft circular economy and waste route map set our intention to undertake a review of waste and recycling service charging by next year. We intend to conduct that review to ensure that we have the right incentives to reduce waste.

Mr Doris made important points about people on lower incomes who do not have access to a vehicle and do not have a garden. What do they do? I point to some of the initiatives that are happening in the private company space where vendors of, for example, electrical items have an uplift service for items that are being replaced. That is to be welcomed, and we should encourage more companies to do it.

The bill already enables bulky and garden waste services to be considered and included in the new code of practice. We need to work with local authorities to decide and put in place arrangements that increase recycling and reuse but reflect local circumstances. I think that Mr Doris made that point.

Bob Doris: I agree with the minister about local circumstances, and I am pleased that we can have further discussions ahead of stage 3. The minister said that the bill as drafted does not technically preclude the issue from being in the code. Is that because there is nothing in the bill that says what is not allowed to be in the code so, theoretically, anything could be in it?

Gillian Martin: Indeed. The code will be co-designed by those who will have to deliver on this, but they will also have to meet statutory targets, so the code will have to be robust.

On amendment 163, the bill already provides that the Scottish ministers must consult publicly on the draft code of practice, so I do not think that the amendment is necessary.

I will stop there, convener.

The Convener: I call Maurice Golden to wind up and say whether he wishes to press or withdraw amendment 161.

Maurice Golden: This is no reflection on the minister, who has been in post for a very short time, but trusting to deliver is a theme in this area, where there is very little trust, based on the Scottish Government consistently setting targets that it makes no attempt to meet. Next year, it will be interesting to see whether the food waste target of a one third reduction by 2025 is met. I agree with the minister that that is the first line of the waste hierarchy.

I have concerns about the date of March 2026 for the production of the code because, as members will be aware, if there is a short delay, there might be only a few of us who are here to pick up the issue in the next session of Parliament—although I wish everyone well in that election. That is a genuine concern. Again, this is no reflection on the minister, but there is a genuine concern over the multiple delays to the bill. However, we are where we are.

Gillian Martin: Will Mr Golden take an intervention?

Maurice Golden: I am happy to.

Gillian Martin: I agree that we need to go faster and harder in improving our recycling rates, but does Mr Golden agree that it is a matter of fact that our recycling rates at the moment are the best that they have been since records began? The 62.3 per cent recycling rate is not as good as we want it to be, but it is certainly the highest that it has been.

Maurice Golden: We are conflating two different things. I think that you are speaking about the overall recycling rate, for which the target is 70 per cent. There is an opportunity to meet that, which is certainly to be welcomed. The focus of discussions here—rightly or wrongly—is household recycling rates, which are clearly different. Most of our discussions have been on that, and they are quite separate discussions. When you start talking about the overall recycling rate, you bring in commercial and industrial waste, and you might be looking at special waste. We are then down a whole different track although, actually, it is a track that I would welcome. Separately, we have household waste, where we are flatlining and where some very simple measures can be put in place to improve the figures. That has been the general theme of the discussion. In this group of amendments, the focus is on that, although I think that there is room for both.

Contextually, when we are talking about overall recycling rates or household recycling rates, we are talking about the first rung on the ladder of net

zero. We need to quickly bank what I hope will be successes and move on to some really difficult conversations. If you think that this discussion has been difficult, I suggest that the future conversations on net zero—around transport, sustainable consumption and heating our homes—will be even more challenging. That is where I would like us to be now, but we are not there, and we still have some of the early work to do. As I said, that is no reflection on the current minister.

I will press amendment 161.

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

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 161 disagreed to.

Amendment 89 moved—[Douglas Lumsden]—and agreed to.

Amendment 162 moved—[Maurice Golden].

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

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 162 disagreed to.

Amendments 217 and 218 not moved.

Amendment 58 moved—[Maurice Golden].

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

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 58 disagreed to.

Amendment 59 moved—[Maurice Golden].

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

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 59 disagreed to.

Amendment 109 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 109 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 109 disagreed to.

Amendment 110 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 110 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 110 disagreed to.

Amendment 111 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 111 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 111 disagreed to.

Amendment 163 not moved.

Section 12, as amended, agreed to.

After section 12

Amendment 205 moved—[Monica Lennon].

The Convener: The question is, that amendment 205 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 205 disagreed to.

Section 13—Targets for local authorities relating to household waste recycling

Amendment 164 moved—[Maurice Golden].

The Convener: The question is, that amendment 164 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 164 disagreed to.

Amendment 60 moved—[Maurice Golden].

The Convener: The question is, that amendment 60 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 60 disagreed to.

Amendment 90 moved—[Douglas Lumsden].

13:15

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

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 90 disagreed to.

Amendments 165 and 166 moved—[Gillian Martin]—and agreed to.

Amendment 167 moved—[Maurice Golden].

The Convener: The question is, that amendment 167 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 167 disagreed to.

Amendment 112 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 112 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 112 disagreed to.

Amendment 113 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 113 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 113 disagreed to.

Amendment 114 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 114 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 114 disagreed to.

Amendment 168 not moved.

Amendment 206 moved—[Monica Lennon].

The Convener: The question is, that amendment 206 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 206 disagreed to.

The Convener: I remind members that amendments 61 and 62 are direct alternatives.

Amendment 61 not moved.

Amendment 62 moved—[Graham Simpson].

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

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 62 disagreed to.

The Convener: I remind members that amendments 63 and 64 are direct alternatives.

Amendment 63 not moved.

Amendment 64 moved—[Graham Simpson].

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

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 64 disagreed to.

Amendment 91 moved—[Douglas Lumsden].

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

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 91 disagreed to.

Section 13, as amended, agreed to.

After section 13

Amendment 65 not moved.

The Convener: Amendment 66, in the name of Maurice Golden, is grouped with amendment 67.

Maurice Golden: Amendment 66 seeks to protect front-line waste operatives from assaults, via guidance. I lodged the two amendments in the group because changes could be made to the terms and conditions of waste operatives as a result of the bill. In case there are any changes as a result of bin fines or contamination inspections, I seek to ensure that ministers must get approval from trade unions and local authorities before implementing legislation to get waste operatives to inspect bins.

Clearly, our front-line staff are out there already and, under their current terms and conditions, they may on occasion, depending on the local authority, be required to engage in certain practices. However, based on our earlier discussions, it appears that there could be a significant change to work practices as a result of the bill. It is important that workplace safety and working conditions are to the fore when we consider the legislation, and that is what the amendments in the group are about.

Mark Ruskell: Will the member take an intervention?

Maurice Golden: I am happy to.

Mark Ruskell: If Scottish ministers issued such guidance, would that cut across any collective bargaining that the unions might put in place with COSLA on issues related to terms and conditions? That is a genuine question.

Maurice Golden: I hope that it would not, because the amendments are about standing up for trade unions and the workers whom they represent. It strikes me that, ultimately, the bill could result in changes to terms and conditions. I am quite happy to work with the committee or the Government to make any changes to the wording, because that is the ultimate intention of the amendments.

Monica Lennon: Will the member take an intervention?

Maurice Golden: I am happy to, Monica.

Monica Lennon: I am grateful to Maurice Golden for lodging his amendments. It is important that we have a culture of zero tolerance of violence against any worker, but people who work in waste disposal sometimes get abuse that many of us do not realise goes on, and safety is crucial.

I am interested to know what discussions Maurice Golden has had with the relevant trade unions. I put on the record my membership of Unite and the GMB, which represent workers in the sector, as does Unison. I also note that I chair the Scottish Labour trade union group in the

Parliament. Has Maurice Golden been able to have discussions with either the STUC or individual unions about the way in which his amendments have been drafted? I have a few questions on the language, but I agree with the sentiment.

Maurice Golden: I have not, but I would be happy to do that. Obviously, there will be front-line workers who are not represented by trade unions. As the grandson of a front-line waste operative—or bin man, as I called him—I understand the practical realities that the bill could change. It might sound a small thing, but if someone is looking to build a strong case of evidence, they could ask front-line operatives to check bins beyond a cursory glance, which could lead to confrontation. The provision of training might be required beyond what is normally expected of our front-line waste operatives.

There are a host of areas where a seemingly small change could lead to drastic changes in the skills that are required and in terms and conditions—maybe not in every local authority area, but in certain areas—for certain parts of the workforce. I am trying to flush out any unintended consequences of an additional policy interaction from this place. That is what we need to achieve.

Bob Doris: I am sorry if you answered this in your response to Mark Ruskell's intervention but, for clarity, do you have an example of anything in the bill that will cut across long-standing processes in relation to terms and conditions in the trade union movement? That is a genuine question. I cannot see such an example in the bill, but I am open to hearing more.

Maurice Golden: If we consider bin fines, it seems from the evidence that we have heard today that quite a high level of evidence will require to be built. It will vary between local authorities but, at present, some front-line operatives might be asked to take a cursory glance at the top of the bin, so contamination will be identified only if it is at the top. If we are to ensure that there is a full audit of the bin—we do not know whether we are looking at that, because we have not seen the guidance—further evidence might be required that is deeper in the bin. That could lead to a host of unintended consequences. There could be a drastic change to practices and new ones might be required. Perhaps front-line operatives, if they notice contamination at the top of the bin, will be required to look throughout the bin to establish whether it was a mistake or whether it is part of a pattern of behaviour.

We can see how creating bin fines could drastically change some work practices. The issue therefore needs to be fully considered before the provision is put in place.

I move amendment 66.

The Convener: I am looking around to see whether any other members want to contribute to the debate on the group. It seems not, so I will bring in the minister.

Gillian Martin: Amendment 66 would require ministers to issue guidance to waste collection authorities on how to respond to assaults, as we have heard. I understand the motivation for the amendment, but assault is already a serious offence and we would expect that it would be reported to the police. Statutory guidance that was issued by the Scottish Government in that area could contradict or otherwise interfere with the duties of Lord Advocate as head of the Crown Office and Procurator Fiscal Service. That is why I cannot support amendment 66.

I want to pick up some of the points that have been made. The current voluntary code of practice, which includes sections on workforce development and operational delivery, sets out measures to involve staff members in the planning and preparation for service delivery and ensures that staff are properly equipped for the necessary tasks. That includes training. I expect local authorities to continue to uphold those standards, given the importance of the issue.

I also point out how seriously we take violence against waste staff. In 2022, we provided grant funding to the Scottish waste industry training, competency, health and safety forum—the SWITCH forum—to support a campaign against violence and aggression towards recycling industry staff. We take that very seriously.

On amendment 67, I acknowledge the importance of working with employee representatives on safe working conditions and workforce development for waste workers. Councils have serious responsibilities as employers. However, Mark Ruskell and Bob Doris made important points about the relationships that already exist between trade unions and local authorities, and I would not want to do anything to jeopardise those.

There is also a serious constitutional point, which is that industrial relations, employment law and health and safety law are all reserved matters. Imposing a duty on ministers on those reserved matters via amendment 67 would fall outwith the legislative competence of this Parliament. I do not think that that is what Mr Golden intends. The amendment is well meant but, if it was agreed to, it would jeopardise implementation of the entire bill.

Monica Lennon: I thank the minister for taking an intervention. Some really important points and principles have been raised. There are other relevant workstreams that are outside the committee's remit, such as Scotland's aspiration to

be a fair work nation by 2025. Recently, senior figures in the trade union movement have cast a lot of doubt on whether we are on track in that regard.

Given the obligations that Maurice Golden narrated and given that we will have workers in situations that could become quite confrontational, there needs to be guidance and co-design work around that. I encourage Maurice Golden to speak to relevant unions and the STUC. I note that the Parliament passed legislation on the protection of retail workers. Notwithstanding issues around the reserved nature of employment law, could we look at that legislation as a template to see whether any learnings can be taken from it? Maurice Golden has really good intent with his amendments, but some of the wording—how we frame the point—needs to be looked at. Will the minister take that away and speak to colleagues with responsibility for the economy?

13:30

Gillian Martin: I am happy to look at that point. I am always wary of putting something in legislation that is already against the law. It is already against the law to assault somebody, regardless of where they work. However, the review of the code of practice and the new code of practice can take into account whether employees have the correct training and empowerment around, and knowledge of, how to deal with a situation.

Ms Lennon has made the important point that Mr Golden might want to speak to the unions to come up with something workable, but it will have to be competent and not impinge on reserved matters. We butt up against that issue all the time in the Parliament. You know my views—I believe that we should decide on employment law in this place, because the fact that our hands are tied in that area comes up time and again from all parties, regardless of the bill.

Douglas Lumsden: I go back to the point that Monica Lennon made. Given that something was put in place for retail workers, why is our looking at waste operatives suddenly a constitutional matter?

Gillian Martin: Industrial relations, employment law and health and safety law are reserved. That is just a fact, Mr Lumsden. I return to the point about things that are already illegal, such as assault. In the retail workers legislation, Daniel Johnson put in place particulars—I think that they were aggravating factors, but I cannot really remember as it was in the previous session of Parliament, which seems an awfully long time ago.

I am happy to reflect on what has been said but, as it stands, Mr Golden's amendment is impossible for me to support, for the reasons that I have stated.

Mark Ruskell: Will the minister take an intervention?

The Convener: Have you finished, minister?

Gillian Martin: Yes.

The Convener: You have. I am sorry, Mark—it is the minister's call, not mine.

I ask Maurice Golden to wind up and press or withdraw amendment 66.

Maurice Golden: Amendment 67 does not seek to change any reserved law. It just recognises that changes from the employer, which could be the local authority, need to be recognised. That is ultimately a result of the Scottish Government's policy to change the terms and conditions of the front-line operatives. That is the key point. It is the Scottish Government—not the local authorities—that is seeking to change terms and conditions.

It is within the scope of what the Scottish Government has defined that I have suggested that trade unions should be involved. This has nothing to do with Westminster. Otherwise, the Scottish Government should remove all its amendments in relation to bin fines. I am just commenting on the pitch on which the Scottish Government has decided to play.

With that, I will not press amendment 66.

Mark Ruskell: Will the member take an intervention?

The Convener: Mark, I am sorry. It is up to Mr Golden whether he wants to take an intervention.

Maurice Golden: I will not press amendment 66. Thank you, convener.

Amendment 66, by agreement, withdrawn.

Amendment 67 moved—[Maurice Golden].

The Convener: The question is, that amendment 67 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 67 disagreed to.

The Convener: Very sadly, I will call a halt there, just as we were going to talk about littering

from vehicles and civil penalties. I was about to get my moment in the sun. That will be something to look forward to next week.

I thank members and particularly the minister for our five hours of debate. It has been a marathon session. I think that the only person to mangle any of their speeches was me, when I mentioned people's names. I apologise again for that.

Next week, we will start at 8.45 with a pre-brief for committee members. We will start the meeting and continue our discussion of stage 2 amendments at 9 o'clock. Once we finish that, we will have an evidence session with the Cabinet Secretary for Net Zero and Energy and we will consider our annual report.

I remind members of the important Scottish Parliament information centre seminar tomorrow morning, where the Climate Change Committee will lead a discussion on carbon budgeting. I am sure that everyone will find that interesting.

Meeting closed at 13:36.

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