PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO. 3) BILL

(Except clauses 5, 6, 8, 9 and 10; clause 15 and schedule 3; clause 16 and schedule 4; clause 19; clause 20; clause 22 and schedule 7; clause 23 and schedule 8; clause 38 and schedule 15; clauses 39 and 40; clauses 41 and 42; clauses 46 and 47; clauses 61 and 62 and schedule 18; clauses 68 to 78; clause 83; clause 89; clause 90; any new clauses or new schedules relating to tax thresholds or reliefs, the subject matter of any of clauses 68 to 78, 89 and 90, gaming duty or remote gaming duty, or tax avoidance or evasion)

Ninth Sitting

Tuesday 11 December 2018

CONTENTS

Clauses 79 to 82, and 84 to 88, agreed to.
Schedule 19 agreed to.
Clauses 91 and 92 agreed to.
New clauses considered.
Written evidence reported to the House.
Bill, as amended, to be reported.

PBC (Bill 282) 2017 - 2019

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 15 December 2018

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The Committee consisted of the following Members:

Chairs: †Ms Nadine Dorries, Mr George Howarth

† Afolami, Bim *(Hitchin and Harpenden)* (Con)
† Badenoch, Mrs Kemi *(Saffron Walden)* (Con)
† Black, Mhairi *(Paisley and Renfrewshire South)* (SNP)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Charalambous, Bambos *(Enfield, Southgate)* (Lab)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Dowd, Peter *(Bootle)* (Lab)
† Ford, Vicky *(Chelmsford)* (Con)
† Jenrick, Robert *(Exchequer Secretary to the Treasury)*
† Keegan, Gillian *(Chichester)* (Con)
† Lamont, John *(Berwickshire, Roxburgh and Selkirk)* (Con)
† Lewis, Clive *(Norwich South)* (Lab)
† Reynolds, Jonathan *(Stalybridge and Hyde)* (Lab/Co-op)
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Sobel, Alex *(Leeds North West)* (Lab/Co-op)
† Stride, Mel *(Financial Secretary to the Treasury)*
† Syms, Sir Robert *(Poole)* (Con)
† Whately, Helen *(Faversham and Mid Kent)* (Con)
† Whittaker, Craig *(Lord Commissioner of Her Majesty's Treasury)*

Colin Lee, Gail Poulton, Joanna Dodd, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 11 December 2018

[Nadine Dorries *in the Chair*]

Finance (No.3) Bill

(Except clauses 5, 6, 8, 9 and 10; clause 15 and schedule 3; clause 16 and schedule 4; clause 19; clause 20; clause 22 and schedule 7; clause 23 and schedule 8; clause 38 and schedule 15; clauses 39 and 40; clauses 41 and 42; clauses 46 and 47; clauses 61 and 62 and schedule 18; clauses 68 to 78; clause 83; clause 89; clause 90; any new clauses or new schedules relating to tax thresholds or reliefs, the subject matter of any of clauses 68 to 78, 89 and 90, gaming duty or remote gaming duty, or tax avoidance or evasion)

Clause 79

Offshore matters or transfers: income tax and capital gains tax

9.25 am

Kirsty Blackman (Aberdeen North) (SNP): I beg to move amendment 105, in clause 79, page 53, line 26, leave out from "tax" to end of line 28.

This amendment would delete paragraph (b) of section 36A(7), which is being inserted into the Taxes Management Act 1970.

The Chair: With this it will be convenient to discuss the following:

Amendment 139, in clause 79, page 53, line 28, at end insert—

"(7A) But an assessment under subsection (2) may not be sought by the Commissioners unless they are satisfied that the liability to tax is in excess of £50."

This amendment establishes a de minimis threshold for the extended time limits of £50.

Amendment 140, in clause 79, page 53, line 42, at end insert—

"36B Public register of persons affected by change made by section 36A(2)

It shall be the duty of the Commissioners to publish a register of persons liable to tax by virtue of the provisions of section 36A(2)."

This amendment requires HMRC to create a public register of those paying tax as a result of the extended time limit.

Amendment 106, in clause 79, page 54, line 1, leave out "2013-14" and insert "2019-20".

This amendment would mean that new section 36A does not apply retrospectively.

Amendment 107, in clause 79, page 54, line 5, leave out "2015-16" and insert "2019-20".

This amendment would mean that new section 36A does not apply retrospectively.

Amendment 141, in clause 79, page 54, line 6, at end insert—

"(6) The Chancellor of the Exchequer must review the characteristics of persons affected by the changes made by this section to TMA 1970 and lay a report of that review before the House of Commons within six months of the passing of this Act.

(7) A review under subsection (6) must in particular consider those persons in relation to their—

(a) age,

(b) income,

(c) legal status, and

(d) primary language."

This amendment would require the Chancellor of the Exchequer to review certain characteristics of those affected by the main provisions of Clause 79.

Amendment 142, in clause 79, page 54, line 6, at end insert—

"(6) The Chancellor of the Exchequer must, in respect of each tax year from 2013-14 onwards, review the revenue effects of the changes made by this section to TMA 1970 and lay a report of that review before the House of Commons within six months of the passing of this Act."

This amendment would require the Chancellor of the Exchequer to review the revenue effects of the main provisions of Clause 79 in respect of each tax year.

Amendment 143, in clause 79, page 54, line 6, at end insert—

"(6) The Chancellor of the Exchequer must review the effects of the changes made by this section to TMA 1970 on incentives on persons to comply with requirements imposed by the Commissioners, whether under TMA 1970 or otherwise, and lay a report of that review before the House of Commons within six months of the passing of this Act."

This amendment would require the Chancellor of the Exchequer to review the effects of the main provisions of Clause 79 on incentives to comply with tax rules.

Clause stand part.

Amendment 144, in clause 80, page 55, line 19, at end insert—

"(6) The Chancellor of the Exchequer must review the characteristics of persons affected by the changes made by this section and lay a report of that review before the House of Commons within six months of the passing of this Act.

(7) A review under subsection (6) must in particular consider those persons in relation to their—

(a) age,

(b) income,

(c) legal status, and

(d) primary language."

This amendment would require the Chancellor of the Exchequer to review certain characteristics of those affected by the main provisions of Clause 80.

Amendment 145, in clause 80, page 55, line 19, at end insert—

"(6) The Chancellor of the Exchequer must review the revenue effects of the changes made by this section and lay a report of that review before the House of Commons within six months of the passing of this Act."

This amendment would require the Chancellor of the Exchequer to review certain characteristics of those affected by the main provisions of Clause 80.

Clause 80 stand part.

Kirsty Blackman: Once again, it is a pleasure to be in the Finance Bill Committee, where everything is calm, smooth, predictable and a little different. However, I hope the Minister will go away from predictability and choose to agree to the Scottish National party's amendments 105, 106 and 107.

We have tabled the amendments because of representations we received from the Chartered Institute of Taxation's low incomes tax reform group. On amendment 105, the

group believes there is nothing to prevent Her Majesty's Revenue and Customs from relying on proposed new section 36A(7)(b) to claim, for example, that owing to internal resource constraints, it was unable to make the assessment within the normal time limits, which is the argument used for the introduction of the measure in the first place. That could render the safeguard provided in subsection 7(a) ineffective.

If paragraph 7(b) is to be retained, the low incomes tax reform group recommends that "reasonable" be defined clearly, possibly by the Minister here, but preferably on Report. For example, we consider it reasonable for HMRC to make any assessment no later than within 30 days of receiving the relevant information, rather than, in effect, within a variable time period that potentially depends on the size and complexity of the dataset received. We ask for that provision to be deleted, as the group believes it is unnecessary.

Amendments 106 and 107 would ensure proposed new section 36A did not apply retrospectively. Again, the low incomes tax reform group fails to see how the Government can claim that these rules do not have a retrospective impact, since subsection (5) makes it clear that the changes apply to 2016-16 and subsequent years, or 2013-14 where the loss of tax is brought about carelessly. The original consultation stated in paragraph 4.13 that

"the new legislation will not apply retrospectively",

so to effect the legislation as intended, subsection (5) should be amended such that the rules apply only from tax year 2019-20 onwards.

We want HMRC to consider carefully the language used in taxpayer communications, to minimise distress to the taxpayer in any communications about the changes. As a minimum, HMRC should provide taxpayers with guidance on any relief that may apply to offset any potential liability, and avoid at all costs language that is not appropriate for a taxpayer who conducts their affairs in good faith.

Amendment 107 is about the retrospective nature of the clause. The Government have talked throughout the Committee about having done what they feel is adequate consultation. We have challenged that many times, and so have the official Opposition. If the Government consult and then do something different from what they consulted on, they need to lay out why or, at the very least, justify why they are doing something different from what they consulted on. If they hold a consultation on something and ask experts to get in touch with the information they think would make the best possible legislation, the Government need to consult on what they intend to do, not make changes to that legislation as it comes through.

I hope the Minister looks carefully at the amendments we have put forward. If he gives reassurances that he will look at this before Report to ensure that the Bill applies as intended, and that it does not have clauses that muddy the waters and apply provisions retrospectively, I would be keen not to push the amendment to a vote. However, that would require the Government to make it clear that they will consider the matter before Report and consider tabling their own amendments so that the tax professionals, who best know how the legislation will be applied, will have comfort that it is workable and will achieve what the Government intended. I will not speak any longer, because I know that the Committee has to move on, but I would appreciate some comfort from the Minister on that issue.

Anneliese Dodds (Oxford East) (Lab/Co-op): It is a pleasure to see you in the Chair again, Ms Dorries. I agree with many of the comments of the hon. Member for Aberdeen North. I will first speak to our amendments that push in a similar direction to the Scottish National party's, before moving on to those that highlight other shortcomings of the clause.

To address the effect of the extended time limits on vulnerable taxpayers, our amendment 139 would introduce a de minimis threshold of £50 for the extended time limits, pushing in a similar direction to SNP amendments 105, 106, 107, 137 and 138. It follows the advice of the Chartered Institute of Taxation's low incomes tax reform group, which raised concerns about the clause. Its written evidence states:

"LITRG remain deeply concerned about the impact of these changes on low income, unrepresented taxpayers."

Our amendment seeks to restore a sense of balance to the new procedures set out in the clause. Given the serious restrictions on amending this legislation, which we have raised many times in this Committee, we are not able wholly to reform the process, but we think our amendment would improve the clause by making a moderate change that has been requested by groups that have lobbied Committee members. LITRG's written evidence continues:

"In order to reduce the impact of the measure, the Government should introduce a *de minimis* threshold for the extended time limits to apply. For example, the approach taken by HMRC in assessing trivial amounts under the Worldwide Disclosure Facility (WDF), e.g. where the *net* amount due after applicable reliefs is no more than £50, may be suitable."

Why might a de minimis threshold be necessary? LITRG points out that the changes

"only affect those who have acted non-deliberately and they erode the distinction…between those who take reasonable care and those who are careless."

It further notes:

"Threatening letters from HMRC cause a great deal of unnecessary distress"—

particularly to vulnerable people who may not understand why they have been contacted. Surely it would be sensible to focus HMRC's resources on dealing with large-scale tax evasion, rather than on people—especially older people—who may accidentally have failed to pay a very small amount of tax. I hope that the Minister will consider accepting amendment 139 in the spirit in which it was intended: as a genuine improvement that would protect vulnerable people.

Amendment 140 would introduce a public register of companies included under the changes. It relates to Labour's wider policy, which we have pushed several times in this Committee, of having a public register of offshore trusts. It would be wonderful if the Government decided that they wanted to accept that policy now. Perhaps they will do so in this potentially final sitting. Who knows? We can always hope.

To further address the potential effect on vulnerable people, amendment 141 would require the Chancellor to review the impact of the changes in relation to characteristics including age, income, primary language and legal status. That would help us to better understand how they may affect individuals or organisations, because we need to get a sense of who the measures focus on and who HMRC will be chasing as a result. It is essential that all tax owed is paid, but given the impact

[Anneliese Dodds]

on the Exchequer of the large tax breaks and sweetheart deals that the Government have engaged in, it seems unlikely that the measures will affect those who have avoided the largest amounts of tax. It would be helpful if we understood more about that, which is what our amendment pushes for.

In its briefing, LITRG has some interesting information about this point. It says:

"Many people assume that 'offshore' tax matters relate only to the wealthy. However, 24% of daily enquiries to the charity Tax Help for Older People in September 2018 were related to the Worldwide Disclosure Facility. The average age of the callers was 76 and they had small amounts of foreign bank interests and/or pensions."

It continues:

"In our experience and from insight garnered from THOP, the vast majority of taxpayers who have undisclosed liabilities related to offshore investments will want to be compliant upon simply being made aware of the error".

LITRG also makes a point about accessibility for non-native English speakers:

"Migrants, whose first language is unlikely to be English and who may therefore struggle to navigate the complex rules on the taxation of offshore income and gains, are another group likely to be affected because they are more likely to have offshore investments prior to their arrival in the UK."

The measures are significant because they change the conventions on how long taxpayers would anticipate having to save information about their tax affairs. The LITRG briefing states:

"The measure adds complexity to the question of taxpayer certainty on when a tax year is 'closed' and impacts on a taxpayer's record-keeping obligations—effectively requiring people to keep records for 12 years just in case they need to make a disclosure to HMRC. This is well beyond the current statutory time limit for keeping records."

Most of us, I think, would assume that seven years is the normal period for which one would be sure to keep those records, and 12 years is a significant extension. The Government's equalities impact statement on the proposals makes no attempt to understand how those different individuals would be affected. We think it is necessary for the Government to look carefully at the question.

As to amendment 142 and amendment 145, which pushes in the same direction, more information is necessary about the proposed revenue effects of the clause. We have spoken many times in Committee about the importance of publishing full and transparent information on policy changes, to allow for proper opposition. We have often felt that there has not been adequate scrutiny of the Bill. Of course, I am saying this on the day that was set for the meaningful vote, which has been cancelled, when we were hoping for a chance to scrutinise another area.

The policy papers accompanying the clause point to "negligible" revenue effects from the change, for at least three years, along with some costs, also described as negligible. I have said many times that it is essential that all tax due should be paid, but one must wonder what the Government are doing when they say that there will be only a negligible impact on revenue from the changes, given the scale of the wider tax gap, and the avoidance going on in certain sectors. It would be helpful to have more information about that, so that we can understand why the Government are prioritising in this direction.

We also need an understanding of the measures in relation to incentives to comply with tax rules, which is what amendment 143 would provide for. The issue is once again eloquently set out by LITRG, which states:

"the proposals erode a general feature of the current law that the circumstances leading to the error determine the length of time which HMRC have in order to raise a discovery assessment. The incentive to take reasonable care is therefore reduced under the proposals, because an individual will have the same time limit applicable when they make a non-deliberate error, whether or not that error is careless."

So it seems that, according to the experts, the changes may make it less likely that HMRC will collect its full due of tax, and that, instead, incentives not to comply will be created. It would be helpful to hear the Minister's comments on the LITRG assessment. What provisions have the Government put in place to ensure that incentives are not weakened by these measures? If the Government have not put policies and protocols in place, they should accept the amendment and conduct the review the Opposition ask for.

Amendment 145 would apply a review of revenue effects to clause 80, which is similar to what amendment 142 would do. The two clauses need to be taken together, because both impose longer time limits, in relation to income tax and inheritance tax. However, a big area has arguably been missed out—corporation tax. As I understand it, both measures taken together are forecast to raise £15 million in the scorecard up to 2022-23, which is, as I have said, a quite small amount. We feel that that could be because of the decision to restrict this measure to income tax, inheritance tax and capital gains tax, and not to apply it to corporation tax.

That is peculiar, because there was a commitment in the consultation document to potentially apply the extended time limit to corporation tax as well, dependent on the result of the consultation. The consultation document stated:

"given that many offshore structures involve corporate entities, the government is considering, and would welcome views on, applying this proposal to CT".

Doing so would have made a lot of sense, because there is currently exact alignment between assessing time limits for companies and individuals—four years for innocent error, six years for carelessness and 20 years for deliberate error or fraud.

However, the Government's response to the consultation, issued this summer, said that, while the extended time period for assessment will apply to income tax, inheritance tax and capital gains tax, the Government would, as a result of feedback, not apply the measure to corporation tax at this stage. That leads to many surprising anomalies. In the future, assuming that these measures are enacted, HMRC will have at least 12 years to investigate the affairs of small, unincorporated businesses involved in offshore transactions, but it will have only four years to do so if identical transactions are undertaken by corporates. A small sole trader or partnership whose business involves offshore transactions will be subject to investigation for at least 12 years, while a huge company such as Google or Amazon that is engaged in similar activities will have finality after just four years, unless fraud or carelessness are involved.

At this stage we surely need to know why the Government decided to reject a longer assessment period for corporation tax. There were only 11 responses to the consultation in

total, including from some very large firms that work with very large corporates. The response document stated that

"the majority of respondents were not in favour of applying ETL—

extended time limits—

"to corporation tax (CT) and raised concerns about the possible impact on increasing administrative costs if this was done."

The document said that "12 years of uncertainty" were

"a particular concern for corporates with complex affairs."

It added that some existing anti-avoidance measures relating to offshore structures do not apply to corporates—it did not state which ones, and corporates are generally subject to more stringent anti-avoidance rules for offshore transactions than individuals—and that applying them would create inconsistencies.

The response document also noted that respondents were concerned about the 12-year time limit applying to those groups subject to controlled foreign company—CFC—rules, even though such rules are designed to apply only to the most egregious avoidance structures, so not the kind that would be targeted by this measure. The document states:

"CFC legislation applies to corporates and their offshore subsidiaries. The application of a 12 year assessment time limit was seen by the majority of respondents as creating major complications for corporates with CFCs who might need to keep records for each subsidiary for many years as a precautionary measure."

[Interruption.] Ooh, I am about to be beamed up. Anyway, I will continue. In the light of those concerns, the Government said in the response document that they would not apply the extended time limits to corporation tax.

The rationale offered for extended time limits for income tax, inheritance tax and capital gains tax in the original consultation document was that the existing time limits are inadequate for HMRC to investigate the full facts, because of the complexity of offshore structures. At the same time, the response document says that the reason the measure will not be applied to companies is that the affairs of large companies are so complex that it would represent an unacceptable administrative burden for them to be subject to the same time limits as smaller, unincorporated businesses. I hope the Committee is picking up on some of the paradoxes in this response document.

The response document also asserts that applying extended time limits to companies would create inconsistencies, yet at the moment, as I mentioned, assessing time limits for individuals and companies are aligned. It is this measure that creates the inconsistency by making small businesses subject to new time limits three times longer than those applicable to corporates.

In practice, complex offshore structures are rarely used by small businesses. However, they are routinely employed by multinational enterprises as a way of minimising their tax—for example, the type of structures known to be used by the likes of Google and Amazon that put their profits into territories where no or little tax is paid. Having extra time to investigate the affairs of such companies seems a proper response to their use of these offshore structures, yet they will be unaffected by the new extended time limit rules. On the other hand, small, unincorporated businesses will be subject to them, as well as, potentially, elderly individuals with few resources to draw on to fully understand the complex impact of tax rules.

As well as being unfair, the exception for corporates provides an easy way around the rules. Simply transferring an existing offshore structure into a corporate body means the measure will have no impact. This arguably makes the measures a trap for the poorly advised, while having no impact on those from whom any yield might be expected to derive—multinational enterprises and the wealthy, who can create corporations to avoid potential investigation.

Because of the limits within which the Bill has been set, we cannot directly table an amendment that would push in the direction of including corporates. However, we do ask for a review of revenue impacts because it would enable us to get further into the question of how much revenue this measure could raise as against other measures.

9.45 am

The Financial Secretary to the Treasury (Mel Stride): It is a pleasure to serve again under your chairmanship, Ms Dorries. I thank the hon. Ladies opposite for their contributions, and I will deal with some of the specific points that were raised and then deal in more general terms with the measures and the amendments.

The hon. Member for Aberdeen North raised the issue of retrospectivity. I can assure her that the Law Officers have confirmed that there is nothing retrospective about the measures in the clause. It is the case that no investigation that has been closed, for example, will be reopened as a consequence of the measures here. At the point that the measures come into effect, no one who is, at that point in time, out of scope of the changes would be brought into scope.

On the issue raised by the hon. Members for Aberdeen North and for Oxford East on consultation, we held a public consultation on the details of the reform on 19 February 2018. The consultation closed on 14 May, and the response to the consultation and the draft legislation were published on L-day, on 6 July.

The hon. Member for Oxford East raised the issue of the de minimis amount and referred to LITRG. It is not true that we are not securing significant amounts from the most wealthy, whether individuals or corporations. For the last year for which we have records, 2017-18, HMRC secured £1 billion in tax from the wealthiest individuals and £9 billion from the largest and most complex businesses operating in the UK—tax that would otherwise have gone unpaid.

The hon. Member for Oxford East also raised at length the important issue of why corporation tax is not included along with inheritance tax and income tax. As she said, we consulted on this aspect at some length. The vast majority of responses did not support extending the measure to corporation tax and raised a number of new practical and legal issues with such an extension. The hon. Lady identified some of them, although I know she was not persuaded by the arguments that were put. However, there were a number of them.

For example, the rules that identify offshore issues were not designed for corporates and would result in a wide range of genuine commercial transactions being caught that were never considered when the rules were

[Mel Stride]

originally designed. Tax indemnity agreements on the sale or purchase of businesses could also be affected retrospectively, as a 12-year time limit was never anticipated. The 12-year time limit could create major complications for corporates with control of foreign companies—the hon. Lady spoke about that at length. Some corporates are also subject to other rules, such as the senior accounting officer rule, so it was seen as unnecessary to extend the measure to such companies.

The hon. Lady also specifically mentioned Google and Amazon, or a similar type of business, in this context. She should not overlook the fact that we are right at the forefront of looking at a digital services tax to make sure that those companies pay their fair share of tax in the United Kingdom.

Anneliese Dodds: Will the Minister explain whether those firms were strongly in favour of the measures that have been taken in relation to them and others, such as the diverted profits tax, or whether they have argued against them, potentially in consultations? Is consulting those who may, or whose clients may, have a revenue hit as a result of the measure and only listening to them really the appropriate way to make policy?

Mel Stride: I was making a slightly different point. It was not so much about what the response may or may not have been—I do not know the answer to that, regarding the measure that is under consideration by the Committee—but rather about our push to make sure that just those companies pay the appropriate level of taxation in the United Kingdom. Frankly, I think the businesses themselves want to be seen to be paying a fair level of tax. That is the impression that I get from the Treasury perspective. We are not on the back foot on this; we are very much on the front foot, pushing within both the OECD and the European Union to make sure that we can come up with a multilateral solution, which has particular advantages over going it alone. However, we have made it clear, as the Chancellor set out in the recent Budget, that in the event that there is not a multilateral solution, we will of course act unilaterally by 2020.

Kirsty Blackman: Before the Minister goes on to his next point, can I bring him back to the issue of retrospectivity? I am concerned that the Government's definition of retrospectivity seems to be different from that of the CIT and the LITRG. Will the Minister write to me with his definition of retrospectivity in advance of Report, so that we can see whether we should press the amendment at that time?

Mel Stride: Yes, of course. I would be very happy to do that and in some detail. As I have already suggested, the general point is that those businesses that would not be in scope of these new arrangements, at the moment that they come into effect, would remain out of scope of these arrangements. That is the important point, I think, but I will certainly write to provide further detail.

My final point is about whether we are going soft on larger businesses, which I think was the overarching implication of the hon. Member for Oxford East. She should bear it in mind that at any one time, about half the 210 largest businesses in the United Kingdom are under active investigation. That does not mean that they are doing anything wrong—it may be far from it—but I sincerely believe that HMRC are very good at making sure that those businesses are thoroughly engaged with, particularly the large ones, because that is where a lot of yield lies.

Anneliese Dodds: We are not talking about whether those large businesses are taxed at all, are subject to new tax measures or are investigated at all. What we are talking about are the time limits for that investigation. There is an anomaly in what the Government are presenting between the time limits for corporates against individuals. Surely that is what needs to be addressed.

Mel Stride: I am reflecting the fact that while corporation tax is not covered by these measures, that is not the same thing as saying that we do not have an appropriate regime overall for making sure that large businesses pay their fair share. I was giving some examples such as the diverted profits tax, common reporting standards and all sorts of things, including base erosion and profit shifting, that the hon. Lady will know feed into that particular argument.

To turn to the generality of the measures, clauses 79 and 80 make changes to help ensure that everyone pays the tax they owe. Individuals under inquiry by HMRC for offshore non-compliance will now face assessment for 12 years of back taxes for income tax, capital gains tax and inheritance tax. It applies only to cases where tax losses arise in respect of offshore matters or offshore transfers.

Those clauses will affect only individuals with offshore structures who are not paying the correct amount of tax. The measure is not retrospective as it does not give HMRC the power to reopen any currently closed cases. It is right and fair that everyone pays the tax they owe. It can take longer for HMRC to establish the facts where offshore non-compliance is involved. In some complex offshore cases, tax cannot be collected as the time limits for HMRC to assess the tax run out before the facts can be established.

The changes made by clauses 79 and 80 will ensure that HMRC is able to deal with offshore cases effectively, where the facts are often difficult to establish. The time limit for assessment by HMRC will be extended for non-deliberate behaviour from four years in ordinary circumstances and six years in cases where there was carelessness, to 12 years. The time limit for assessment will remain at 20 years for deliberate behaviour. This measure will help to prevent individuals from avoiding a full investigation by HMRC because of the difficulty in assessing information on offshore structures and investments.

The new extended time limits will not enable HMRC to assess any tax that can no longer be assessed under current rules at the time the legislation comes into force. That was the point at the heart of the concerns expressed by the hon. Member for Aberdeen North. The new time limits will not apply where HMRC has received information in accordance with certain international agreements from other tax authorities, on the basis that it was reasonable to expect an assessment to be made within the existing time limit. The clauses will raise £30 million by 2024.

Amendment 105 would unbalance the safeguards that ensure that the new time limits only apply if HMRC already has the information to make an assessment and could reasonably make it within the current time limits. If the amendment was passed, HMRC could receive information on a tax compliance case that it would be unable to act on. If, for example, information was provided from overseas immediately before the end of the current time limit, HMRC would be timed out of collecting the lost tax. That could incentivise slow responses from overseas intermediaries when partner jurisdictions gather information in response to HMRC requests.

Amendments 106 and 107 would change the years for which the clause would have effect. Where loss of tax is brought about carelessly, that would change from 2013-14 to 2019-20, and where brought about in any other case from 2015-16 to 2019-20. The amendments would water down the Government's commitment to tackling offshore non-compliance now and delay, for at least a further four years, the additional time that the provision gives HMRC, so that the time limits would only begin to extend from tax year 2023-24. The Government are clear that the provision should start helping HMRC's compliance work as soon as possible.

Amendment 139 would insert a de minimis threshold of £50 tax loss before the time limit applied. As currently drafted, the clause ensures that HMRC has the time necessary to conduct complex investigations. It is right therefore that HMRC can collect the tax due, regardless of the amount, once it has been calculated. It would be fundamentally unfair if the de minimis principle applied to offshore cases but not to onshore cases.

Anneliese Dodds: Forgive me, but is there a 12-year time limit for onshore cases for individuals?

Mel Stride: No is the short answer.

Anneliese Dodds: I am grateful to the Minister for very generously giving way again. He said that it would be unfair to create an anomaly between the tax affairs of those with offshore and onshore business, but we have just established that there is not a 12-year time limit for those onshore. Is there not therefore an anomaly?

Mel Stride: This is probably a classic case of me speaking too quickly and the hon. Lady not being given the fair opportunity to digest exactly what I said, which I will repeat, because it is a slightly different point. We are talking about the £50 de minimis, not the 12-year extension. I will reiterate exactly what I said for the hon. Lady's benefit, so she is absolutely certain that I am not bamboozling her on this point. I said that it is right therefore that HMRC can collect the tax due, regardless of the amount, once it has been calculated. It would be fundamentally unfair if the de minimis principle—I am referring to the £50 threshold—applied to offshore cases but not to onshore cases. In other words, it is her amendment that would create the anomaly.

Anneliese Dodds *rose—*

Mel Stride: I am happy to give way again if the hon. Lady desires.

Anneliese Dodds: I thank the Minister for allowing me to comment on this again. We are surely talking about very different cases. One deals with the normal process of tax collection and investigation, which most individuals assume would apply for seven years, and people need to keep papers for that long. The other is fundamentally different, and deals with the extension of the time limit to 12 years. If we were to do that onshore, then we may also wish to introduce a de minimis for that process, which would, as his measure introduces, go back between seven and 12 years. That is a point that needs to be made.

10 am

Mel Stride: I sense that the hon. Lady might have accepted my earlier point that my reference was actually to the £50 de minimis rather than the time limit. She has now introduced another argument, which she prosecuted during her opening remarks—that somehow we should not have a difference in the amount of time to investigate such matters pertaining to whether they are offshore or onshore-related. The whole crux of what we are doing rests on the, I think, fair belief that offshore transactions are less transparent. Those situations are more complicated and often involve dealing with different jurisdictions and intermediaries in order to establish the information that is required for HMRC to carry out its duties. That lies at the heart of why there should be a longer period for offshore entities than for those that are onshore.

Anneliese Dodds: I was talking about the application of a de minimis. I was trying to say that, if the Government were looking, for example, to extend the investigation period for domestic tax affairs beyond the existing time limits, they might even wish to consider a de minimis of £50. I was cognisant of the de minimis—my confusion was caused by the Minister's remarks. He seemed to suggest that having a de minimis only in relation to offshore tax affairs and not to domestic affairs would be peculiar. We are talking about a de minimis only in those cases of that very long period, not in relation to general tax affairs. I would never say that we should have a de minimis on tax generally, which would mean that we could not pay tax on anything—VAT and so on. That is not what I suggested at all.

Mel Stride: This is probably a discussion for another day, in the sense that the hon. Lady is asking that, in the event that we revisit the issue of the time limits for onshore investigation, we should on that basis consider her amendment anew, because it might dispense with the different treatment between onshore and offshore. We might come to that in another world on another occasion, in another Finance Bill.

I am anxious to make progress—the hon. Member for Bootle sits there looking like he has got all day, but we have to make progress. Amendments 141, 142 and 143 on clause 79, and amendments 144 and 145 on clause 80, would require the Government to review the impact and effectiveness of the clauses within six months of the passing of the Act. Such reviews, however, would not have the intended effect: no data in relation to the characteristics of persons affected, the revenue effects of the changes, or the effects of the changes on incentives on persons to comply, will be available after six months. That is because it is unlikely that a full assessment of any relevant cases will be conducted within the six months after Royal Assent. Thus a report would likely be impossible or meaningless.

[Mel Stride]

On that basis, I commend the clauses to the Committee.

Kirsty Blackman: If the Minister writes to me with the comments about retrospectivity, it may be that we will not press our proposal to a Division on Report, but I will not press it now in anticipation of receiving that letter.

Anneliese Dodds: I appreciate the Minister's remarks, but we believe there is still an anomaly, and we remain concerned about the potential treatment of elderly taxpayers and so on. We will press our amendments to the vote.

Kirsty Blackman: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: 139, in clause 79, page 53, line 28, at end insert—

'(7A) But an assessment under subsection (2) may not be sought by the Commissioners unless they are satisfied that the liability to tax is in excess of £50.'—*(Anneliese Dodds.)*

This amendment establishes a de minimis threshold for the extended time limits of £50.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 39]

AYES

Black, Mhairi
Blackman, Kirsty
Charalambous, Bambos
Dodds, Anneliese
Dowd, Peter
Lewis, Clive
Reynolds, Jonathan
Smith, Jeff
Sobel, Alex

NOES

Afolami, Bim
Badenoch, Mrs Kemi
Ford, Vicky
Jenrick, Robert
Keegan, Gillian
Lamont, John
Stride, rh Mel
Syms, Sir Robert
Whately, Helen
Whittaker, Craig

Question accordingly negatived.

Amendment proposed: 142, in clause 79, page 54, line 6, at end insert—

"(6) The Chancellor of the Exchequer must, in respect of each tax year from 2013-14 onwards, review the revenue effects of the changes made by this section to TMA 1970 and lay a report of that review before the House of Commons within six months of the passing of this Act."—*(Anneliese Dodds.)*

This amendment would require the Chancellor of the Exchequer to review the revenue effects of the main provisions of Clause 79 in respect of each tax year.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 40]

AYES

Black, Mhairi
Blackman, Kirsty
Charalambous, Bambos
Dodds, Anneliese
Dowd, Peter
Lewis, Clive
Reynolds, Jonathan
Smith, Jeff
Sobel, Alex

NOES

Afolami, Bim
Badenoch, Mrs Kemi
Ford, Vicky
Jenrick, Robert
Keegan, Gillian
Lamont, John
Stride, rh Mel
Syms, Sir Robert
Whately, Helen
Whittaker, Craig

Question accordingly negatived.

Clause 79 ordered to stand part.

Clause 80 ordered to stand part.

Clause 81

Construction industry scheme and corporation tax etc

Anneliese Dodds: I beg to move amendment 146, in clause 81, page 55, line 39, at end insert—

"(3A) No regulations may be made under this section unless the Commissioners have issued guidance on the conditions necessary for an officer of Revenue and Customs to be satisfied that the requirement for security is necessary for the protection of the revenue (for the purposes of the provisions of regulations made in accordance with the duty in subsection (2))."

This amendment would require the Revenue and Customs Commissioners to issue guidance on how it is determined that security is necessary for the protection of the revenue.

The Chair: With this it will be convenient to discuss the following:

Amendment 147, in clause 81, page 56, line 25, at end insert—

"(3A) No regulations may be made under this paragraph unless the Commissioners have issued guidance on the conditions necessary for an officer of Revenue and Customs to be satisfied that the requirement for security is necessary for the protection of the revenue (for the purposes of the provisions of regulations made in accordance with the duty in sub-paragraph (2))."

This amendment would require the Revenue and Customs Commissioners to issue guidance on how it is determined that security is necessary for the protection of the revenue.

Amendment 148, in clause 81, page 56, line 44, at end insert—

"(4) The Chancellor of the Exchequer must review the effects of the changes made by this section on the construction industry and lay a report of that review before the House of Commons within six months of the passing of this Act."

This amendment would require the Chancellor of the Exchequer to review the effects of the provisions of Clause 81 on the construction industry.

Clause 81 stand part.

Anneliese Dodds: The overall aims of the clause appear sensible, providing HMRC with powers to make secondary legislation to require a person to provide security for corporation tax liabilities and construction industry scheme deductions that are or may be liable to HMRC. Under the clause, failure to provide security when required will be a summary offence and a person who has committed it will be subject to a fine.

As I understand it, securities may be required where a taxpayer has a poor compliance record, and in phoenix-type cases where a business accrues a tax debt, goes into liquidation or administration and the person responsible for the operation of the business sets up again, with the risk of running up further tax debts. Sadly, we have seen far too many of those cases.

The measure is effectively an extension of HMRC's powers to require security in relation to some areas of business tax—the powers it has currently—to include VAT and PAYE, as well as national insurance contributions, insurance premium tax and some environmental and gambling taxes.

The Government maintain that the clause will be specifically targeted at the minority of businesses that seek financial gain from non-compliance with their tax obligations rather than those that are genuinely unable to pay. They argue that it will not affect those who are managing their debts with HMRC under agreed time-to-pay arrangements with which they are complying—we have touched on that subject previously.

The Government argue that the power will apply only where an HMRC officer considers that the provision of a security is necessary to protect revenue. None the less, we believe that the changes merit further scrutiny, and therefore have tabled a number of amendments.

Amendment 146 seeks to introduce a requirement for HMRC officials to issue guidance on their use of securities to protect revenue. It is a probing amendment that seeks to clarify the circumstances under which a security will be requested for revenue protection. We do not in principle object to the measures being taken to protect revenue—they appear essentially sensible—but we seek to understand better the scope offered to HMRC officials in making such a judgment or, conversely, the guidance they are offered by the Department in making such a decision.

Will the Minister clarify what guidance will be offered and undertake to publish it later? After all, in the Government's consultation, the feedback was pretty clear. The feedback document stated:

> "Most respondents wanted to see clear guidance put in place to support the introduction of the securities and ensure that securities will only be used where it's appropriate and proportionate to do so. Two thought that legislation should be expanded to provide the rules under which the securities regime should operate."

How have the Government responded to that point? It is clear that more transparency is needed.

With amendment 147, which follows the previous one, we are likewise seeking to determine what guidance HMRC commissioners would receive. As I said, we do not object in principle to the use of securities to protect tax revenues; we simply seek to understand how and when they will be applied and whether the guidance is determined by Government policy or subject to the discretion of officials. I hope the Minister will either provide that information to the Committee or accept our amendment, which would ensure that further information is provided before these powers are enacted.

The policy papers relating to the clauses suggest that that is necessary. They state:

> "Experience from the existing securities regime has shown that, when used in a carefully targeted manner, securities can be very effective in changing the behaviour of non-compliant businesses and protecting future revenues against the risk of non-payment. Currently these powers apply only to certain taxes and duties."

We need to understand how these powers will be targeted and which criteria will be used. I hope the Minister will respond to that reasonable request.

Through amendment 148, we seek to understand how the new measure will affect the construction industry. As I said, this is an extension of the security deposit legislation to the construction industry scheme and companies chargeable to corporation tax. The documents on the impact of the policy do not discuss the construction industry in detail. The expectation should be that anyone avoiding tax should pay, but it is clear that providing a security could reduce capital stock in some companies, so we need a sense of the impact on those who may be required to pay a security. Again, that was reflected in the Government's consultation, which stated:

> "Several respondents commented specifically on the implications for insolvency and commented that HMRC should give careful consideration in cases where viable businesses were struggling financially and a security could force the business into insolvency. Similarly, respondents did not want the use of securities to limit the rescue environment for financially distressed businesses. One respondent suggested that before extending the security deposit regime, HMRC should commission independent research into its current approach and the effect that demands for a deposit have on struggling businesses."

The context is that HMRC has lost a large number of its experienced staff, who might have had expertise in security regimes in relation to other taxes. Therefore, we need to know what the impact is likely to be on businesses that may have to deal with HMRC officers who have less understanding of the construction industry than previously would have been the case.

Finally, I note that we are informed by the tax information and impact note that HMRC will need to make changes to its IT systems to process the new security cases. The cost of the changes is estimated to be in the region of £840,000. It will also incur operational costs currently estimated to be in the region of £5 million. Those costs seem fairly high to me. I hope the Minister will explain why they are of such a significant magnitude.

Kirsty Blackman: Very briefly, if the Labour party chooses to press these amendments to a vote, we will support it, because we think that what it is trying to achieve is very sensible.

Mel Stride: I thank the hon. Member for Oxford East for her questions, most of which I will come to in my general statement on the clause. It is good to hear that she broadly welcomes the general thrust of what we are doing. I think she said that amendments 146 and 147 are probing amendments, and raised various issues about the guidance. Of course, those who are to be affected by the measures will have a right of appeal—they will be able to go to a tribunal to dispute the imposition of advance payments. During the period of dispute, the payment is not required to be made. That is an important point. They will also be invited to comment with HMRC—and have a right to do so—on the proposed level of payment being sought during the process by which it is determined. If their circumstances change at any point in the process or thereafter, that is an opportunity for further discussion and potentially change in the amounts that might be involved. I will pick up one or two other points on guidance in my general remarks.

10.15 am

Clause 81 allows HMRC to require a security from businesses where there is a serious risk that they will not meet their corporation tax or construction industry scheme liabilities. It also makes it a criminal offence not to provide a security when one has been requested. This change addresses gaps in the coverage of the existing

securities legislation and strengthens HMRC's ability to deal effectively with deliberate defaulters, who pose a serious risk to revenue.

The clause also includes a technical amendment to the existing pay-as-you-earn securities legislation. That reflects changes made by the Legal Aid, Sentencing and Punishment of Offenders Act 2012, but does not alter the effect of the existing provisions. HMRC can already require a security—effectively, an upfront payment—for various taxes, including VAT, PAYE and the others that the hon. Lady referred to, when a significant amount of revenue is at risk and there is an established history of non-compliance.

Experience shows that when they are used in a carefully targeted and proportionate way, securities can be very effective in changing behaviours and protecting future revenues against the risk of non-payment. The non-compliant behaviours that trigger security interventions are not usually limited to a specific tax or duty, but are typically seen across all aspects of a business's tax affairs. Extending securities to corporation tax and construction industry schemes deductions will therefore close the gaps in the current securities regime and prevent losses to the Exchequer in these areas of the tax system.

The changes made by clause 81 will affect only a minority of businesses that are determined not to pay, rather than cannot pay, tax that is due. The measure will affect businesses that are involved in phoenixism or contrived liquidations, and those that build up significant tax debt and fail to respond to contact from HMRC. Compliant businesses and those that are experiencing genuine difficulties will not be targeted by this measure. It is estimated that the reform will bring around 500 more cases within the scope of security action each year. Over the next five years, it will ensure that around £825 million of taxes that otherwise would not have been paid will go to fund vital public services.

Regulations made under these powers will be based on those for PAYE securities and will include the same extensive rights of appeal and robust taxpayer safeguards, some of which I have already identified. As it does now, HMRC will consider every security intervention on a case-by-case basis to determine whether there is sufficient evidence to justify security action and, if so, whether it would be proportionate and effective in the individual circumstances. Where appropriate, alternatives such as time to pay arrangements will be considered, and HMRC will engage with the taxpayer to ensure that decisions take into account all relevant factors.

Amendments 146 and 147 would require HMRC to set out in guidance the conditions for a security to be considered necessary for revenue protection. HMRC publishes its detailed operational guidance on securities online, and that will be updated to include corporation tax and construction industry scheme securities before they are introduced. The guidance sets out the process for risk assessing whether there is likely to be a loss of revenue if security action is not taken, and provides examples of risk indicators, such as evidence of phoenixism or businesses being run by disqualified shadow directors or those convicted of tax fraud. However, whether a security is necessary or proportionate will always be determined by the individual circumstances. It is important that officers working within the existing strict governance structures can decide whether a security is necessary for the protection of revenue by considering all the elements of each case in the round. It would be impractical for guidance to specify every relevant factor, or to stipulate rigid criteria that could be applied fairly and effectively across all cases.

Amendment 148 would require the Government to review the effects of this measure on the construction industry. That would be disproportionate and unnecessary. The highly targeted nature of the measure, and the degree of diligence required by HMRC, will mean that the number of businesses that will potentially be affected by it is extremely small, representing less than 1% of total construction industry businesses.

Securities have been a feature of the tax system for many years and experience has shown that they can be a very effective way of driving change in customer behaviour and protecting revenue at risk when they are used in a targeted and proportionate manner. Clause 81 will help HMRC to tackle the minority of businesses that choose not to meet their tax obligations at the expense of the compliant majority. I therefore commend the clause to the Committee.

Anneliese Dodds: In the light of the Minister's response, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 81 ordered to stand part of the Bill.

Clause 82

RESOLUTION OF DOUBLE TAXATION DISPUTES

Kirsty Blackman: I beg to move amendment 137, in clause 82, page 58, line 9, leave out from "section" to "may" in line 10.

This amendment provides for all regulations under the new power to be subject to the affirmative procedure.

The Chair: With this it will be convenient to discuss the following:

Amendment 138, in clause 82, page 58, leave out lines 13 to 17.

This amendment is consequential on Amendment 137.

Amendment 149, in clause 82, page 59, line 15, at end insert—

"128D Review of effects of EU withdrawal

(1) The Chancellor of the Exchequer must review the expected effect on the exercise of the power to make regulations under section 128A in the event that—

(a) the UK leaves the European Union without a negotiated withdrawal agreement,

(b) the UK leaves the European Union following a negotiated withdrawal agreement.

(2) The Chancellor of the Exchequer must lay a report of the review under subsection (1) before the House of Commons within two months of the passing of the Finance Act 2019."

This amendment would review the impact of the main powers under clause 82 in the event the UK leaves the EU under (a) no deal or (b) a withdrawal agreement.

Amendment 150, in clause 82, page 59, line 15, at end insert—

"128D Review of revenue effects of section 128A regulations

On each occasion the Treasury exercises the power to make regulations under section 128A, the regulations (or, as the case may be, the draft regulations) must be accompanied by a statement by the Chancellor of the Exchequer of the expected revenue effects of the regulations."

This amendment would require any regulations to be accompanied by a statement on expected revenue effects.

Clause stand part.

Kirsty Blackman: I will come to amendments 137 and 138, but first I would like to speak briefly to Labour amendments 149 and 150.

We have seen the complete and total shambles over the past 24 hours—and not just over that period, but over the past two years. The past 24 hours have highlighted where we are in relation to EU withdrawal. Various people are suggesting that no deal is more and more likely, so it is incredibly important we know the potential effects of any changes that the Government propose to make to legislation in the event of a negotiated deal or no negotiated deal. We have a clear idea of the effect of retaining the status quo, which is the Scottish National party's preferred position, and the revenue effects would be much easier to calculate. We are comfortable supporting Labour's amendment 149 on that subject and amendment 150, which is about the expected revenue effect of the regulations.

I turn to the two SNP amendments. Amendment 138 is consequential on amendment 137, so I will focus on amendment 137. Given what has happened in recent times, trust in the Government is possibly at its lowest ever point. We are being asked to agree to give the Government power to make changes without going through proper scrutiny procedures. The Government are basically asking us to trust them, and we feel that we cannot trust pretty much anything they say right now, so more scrutiny is sensible.

When people who support leave talk about the European Union referendum and Brexit, they talk about taking power away from faceless bureaucrats in Brussels and returning it to Parliament. A lot of the legislation that is being considered just now does not return that power to Parliament in any meaningful way, and it does not allow Parliament proper scrutiny of the range of things that could come through. We are talking here about just one small area, but that problem has been highlighted in a huge number of things that have come out of the European Union (Withdrawal) Act 2018. There is massive concern from members of the general public, who now understand what Henry VIII powers are—we are in unprecedented times. There has been a power grab from the Scottish Parliament, and this is one more small thing the Government are trying to do to take power away from where it should sit.

Given that the Government cannot command a majority in the House; given that they folded on SNP amendments to the Bill—that was, clearly, because the SNP amendments were wonderful, rather than because the Government did not have a majority—and given that they cannot get legislation through, the level of Executive power needs to be tested. We need to make the Government use their majority if they want to get powers through the House, rather than relying on the fact that because they are the Government, they can do what they like. That is why the SNP has tabled amendment 137, which would require the Government to ensure that more of the regulations made under clause 82 go through the proper scrutiny procedure, rather than relying on the Treasury to make some of them without proper scrutiny.

Anneliese Dodds: I will speak briefly to the clause. The hon. Lady has set out the SNP's reasons for tabling amendments 137 and 138. The official Opposition agree with those reasons, and it seems highly sensible to require regulations to be subject to the affirmative procedure. We have argued for that consistently in relation to our future relationship with the EU and the no deal process. We are concerned about the wholesale power grab that unfortunately appears to be continuing apace. We would support SNP Members if they decided to press their amendments to a vote.

We have tabled two amendments, and I am pleased to hear that the SNP support them. Under the Prime Minister's proposed withdrawal agreement, the UK would initially, at least, continue to align itself with EU regulations, but little information has been provided alongside the clause to indicate how the Prime Minister's Brexit deal would impact on Council directive 2017/1852, particularly if there was divergence later on. Similarly, the Treasury's policy note offers no guidance about whether the EU's resolution mechanism would be upheld for all future double taxation disputes in the event of a no deal Brexit.

That is of a piece with the general lack of information about the Government's anticipated future relationship on tax matters with the EU. I have consistently asked whether we would seek to be a member of the code of conduct group, for example, and I have had no indication of the Government's views on that matter. With that in mind, the Opposition have tabled amendment 149, which would require the Chancellor to publish a review of the impact of the powers under clause 82 in the event that the UK leaves the EU under a no deal Brexit or under the current withdrawal agreement—or whatever it becomes. It is unclear whether it will be changed or whether assurances will simply be produced in relation to it. Whatever happens, we may or may not be voting on it at some point, hopefully in the near future. Amendment 149 would require the Treasury to offer a clear indication of how the EU's dispute resolution mechanism for double tax disputes would be maintained, and the likelihood of the different possibilities.

Amendment 150 would require the Chancellor to undertake a review of the revenue effects of the measure. The Treasury policy note states that the measure will raise no revenue and will have no economic impact on taxpayers. That is rather hard to believe, given that even the most benign change to the tax system can have far-reaching and unseen consequences. They may be unpredictable, but surely it would be better to say that than to say that the change will have no impact. The Chancellor would therefore be required to outline in the review the possibility of any unforeseen economic impacts, and the revenues that are likely to be raised from this measure after the Treasury makes regulations to use the powers.

Sir Robert Syms (Poole) (Con): Had we had a meaningful vote today—we are not going to have one—I would have voted with the hon. Members for Oxford East and for Aberdeen North. However, I find it a little strange that those who intend to vote against the agreement should criticise the Government for a no deal Brexit, because ultimately that is not the Government's position.

There are about 800 statutory instruments for leaving the European Union. About 600 of them are negative, and a hundred and something are affirmative. It is perfectly possible for the Opposition to pick any number of negatives to pray against. If the Opposition have a problem with something, they can pray against it when it appears on the Order Paper and get a debate. There is

[Sir Robert Syms]

a remedy for hon. Members' concerns, but the reality is that so many of these things are modest and technical, and there are more important matters of principle for us to discuss. I do not think we want to spend a lot of time in this Committee or others debating minor, technical issues.

Kirsty Blackman: I am on the European Statutory Instruments Committee, as are other Committee members. Sifting the proposed negative statutory instruments and changing some of them into proposed affirmatives has been a really interesting and useful process, which has shown us that the Government do not always make the right decision. Something like that for the long term would probably allay some of our concerns.

10.30 am

Sir Robert Syms: I come back to my basic point that there are certain matters of principle that are good for parliamentary debate, and there are minor, technical matters, such as those dealing with the Inland Revenue. I am not sure that debating the latter would bring much to the sum of human happiness. I also make the point that, although the Conservative party does not enjoy a majority in the House of Commons, the Scottish National party does not enjoy a majority in the Scottish Parliament, so we are all sort of in the same boat.

Peter Dowd (Bootle) (Lab): I take the hon. Gentleman's point about technical matters and grander principles. However, given that the Government have not allowed us to amend the law in any significant way, the Committee is left at this point poring over the detail—the grander principles are being brushed aside by the Government. We are unable to scrutinise the Bill at the grander level or at the specific level.

Sir Robert Syms: The hon. Member makes his own point. We have discussed Budgets and Finance Bill Committees before. The Bill has been on the Floor of the House and will go back there. There will be endless debates, and I am perfectly sure that he and his formidable Front-Bench team will be able to make their points when the Bill goes back to the House. Ultimately, the Government have taken a perfectly pragmatic view, and I look forward to the Minister's reply.

Mel Stride: An interesting observation: as soon as "EU" appears in a clause, we suddenly have more interest from the Committee than for other measures. Ms Dorries, I will endeavour not to stray into too much detail around the pros and cons of the current deal and the White Paper and all that kind of stuff, and will stick to the clause.

The clause enables the Government to make changes to bring into force the regulations and administrative provisions necessary to comply with the EU directive on tax dispute resolution mechanisms within the European Union. Double taxation arises when the same profits are taxed twice by two different tax authorities. It can create serious obstacles for businesses operating across borders by creating excessive tax burdens, leading to inefficiencies and an economic disincentive to trade. An effective tax dispute resolution system can help to alleviate double taxation.

The UK is a signatory to the convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises within member states of the European Union, known as the arbitration convention. The UK has also entered into bilateral tax treaties with every EU member state for the purpose of eliminating double taxation. Following a review, it was concluded that the mechanisms currently provided for in bilateral tax treaties and the arbitration convention might not achieve the effective resolution of double taxation disputes between member states in all cases in a timely manner. Consequently, the directive was adopted to build on existing systems. The UK supported the aims of the directive and agreed the adopted text in 2017.

The powers contained within the clause are necessary to enable the Government to introduce secondary legislation to implement the directive. Some proposed amendments would apply the draft affirmative procedure to all regulations made under the clause. As it stands, the Bill ensures that the scrutiny procedures applying to the exercise of each power are appropriate and proportionate. The primary purpose of these powers is to give effect to an EU directive that has already been published. The exercise of the powers will therefore be a largely technical exercise—a point made by my hon. and gallant Friend the Member for Poole (Sir Robert Syms), who also raised the important point that Committee members who wish to further debate a negative SI can of course can pray against it—to transpose the agreed text into UK law. It would not be appropriate to apply the affirmative procedure to all the regulations.

An amendment has also been tabled that asks for a review of the effect on the exercise of the power contained in the clause of the UK leaving the EU with or without a negotiated withdrawal agreement within two months of the Finance Act 2019 being passed. The Government's intention is for a negotiated withdrawal agreement to apply to the UK, and therefore an implementation period, so that we can use the powers in the clause to implement the EU directive. As a responsible Government, we are also planning for the unlikely event of leaving the EU without a deal. Given the reciprocal nature of double tax dispute resolution, it is difficult to see how legislation implementing the directive can work in a no-deal scenario, but we do not think it would be beneficial to commit to producing a report so close to EU exit, and before the transposition deadline of the directive in June 2019.

A further amendment asks for a statement by the Chancellor on the revenue effects of the exercise of the power under the clause. The Government intend to publish a tax information and impact note for the draft regulations. That will include an assessment of the expected revenue effects of the regulations. I am pleased to say that my hon. and gallant Friend the Member for Poole thoroughly approves of the tax information and impact notes regime which, as he knows, is rigorous and helpful. As a result there will be no need for the Chancellor to make an additional statement to the House.

Kirsty Blackman: I do not have much to add other than that I still want to press amendment 137 to a vote.

Anneliese Dodds: Briefly, the Minister referred to TIINs. I wonder whether, for the next Finance Bill, he will commit to ensuring clear linking from the Bill

website to the different TIINs so that we can quickly see which one applies to each clause. It has been quite a waste of time having to search for them randomly.

As to the question whether the provisions should be examined using the affirmative procedure or should have to be prayed against using the negative procedure, I take on board the points made by the hon. Member for Poole. However, we all know that, when measures are dealt with by the affirmative procedure by default, much greater attention needs to be given to them. That is the reality. Generally, I fear that attention is not always paid to matters that may superficially appear technical but that, when one delves into them, may be discovered to have a concrete impact on different groups. Even with the affirmative procedure, the level of debate on taxation matters has, I would argue, traditionally been quite limited. I note that, for the first time in Parliament's history, we have recently had votes in relation to tax treaties. I was pleased that we motivated those votes, yet UK tax treaties with other countries have never been subjected to proper scrutiny in the House.

Many matters covered by Delegated Legislation Committees are not purely technical. In fact, this has been talked about by my hon. Friend, who represents Leeds—help me out. [Hon. Members: "Stalybridge!"] I am sorry, I am not great at the memory game. In talking recently about some of the no-deal planning, my hon. Friend the Member for Stalybridge and Hyde has been talking about the potential for some of those measures to have such a significant impact that the Government themselves are not au fait with it. Given the time allotted, they seem to expect the Opposition to pass them with a rather cursory glance. I am afraid, therefore, that the suggestion that we already have a failsafe system for dealing with some of those significant matters is simply incorrect, so if the SNP presses amendment 137 to the vote, we shall support it. However, we will not press our amendments.

Mel Stride: Perhaps I may quickly respond, Ms Dorries, just to say that on the important matter of the TIINs, and the link from the website, I know that the hon. Lady raised that on a previous clause, and I should be happy to look into it for her. If she has any specific ideas that she would like to put to me in that respect, I should be grateful to receive them.

Finally, on the matter of negative SI procedure, and prayers against such measures, in the event that we have an effective, strong, organised, united and well led Opposition, I am sure that that will not be beyond them.

Question put, that the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 41]

AYES

Black, Mhairi
Blackman, Kirsty
Charalambous, Bambos
Dodds, Anneliese
Dowd, Peter
Lewis, Clive
Reynolds, Jonathan
Smith, Jeff
Sobel, Alex

NOES

Afolami, Bim
Badenoch, Mrs Kemi
Ford, Vicky
Jenrick, Robert
Keegan, Gillian
Lamont, John
Stride, rh Mel
Syms, Sir Robert
Whately, Helen
Whittaker, Craig

Question accordingly negatived.

Clause 82 ordered to stand part of the Bill.

Clause 84

Interest in respect of unlawful ACT

Jonathan Reynolds (Stalybridge and Hyde) (Lab/Co-op): I beg to move amendment 151, in clause 84,page 62, line 5, at end insert—

"(11) The Chancellor of the Exchequer must review the effectiveness of the remedy introduced by this section, together with section 85, and lay a report of that review before the House of Commons within one year of the passing of this Act."

This amendment would require the Chancellor of the Exchequer to review the effectiveness of the new statutory remedy one year after its adoption into law.

The Chair: With this it will be convenient to discuss amendment

Amendment 152, in clause 84, page 62, line 5, at end insert—

"(11) The Chancellor of the Exchequer must review the expected effect of the remedy introduced by this section, together with section 85 on corporation tax receipts and lay a report of that review before the House of Commons within one year of the passing of this Act."

This amendment would require the Chancellor of the Exchequer to review the impact of the new statutory remedy on corporation tax receipts.

Clause stand part.

Clause 85 stand part.

Jonathan Reynolds: It is lovely to see you in the chair again today, Ms Dorries. I will speak to clause 84 and our amendments which, as you described, also cover clause 85, which is a supplementary clause.

Clause 84 relates to a somewhat historic issue—the payment of advance corporation tax known as ACT. ACT was payable when companies distributed dividends to shareholders before main corporation taxes were due. These payments could then be offset in profit and loss calculations potentially to reduce the overall tax bill. ACT was abolished under Gordon Brown's tenure as Chancellor in 1999 to prevent its abuse mitigating revenues to the Exchequer, and to encourage reinvestment rather than excessive dividend payments.

However, there are some legacy cases relating to ACT claims. The clauses are the result of a legal judgment from the Supreme Court test case that impacts those claims—that of Prudential Assurance Company Limited and HMRC on 25 July 2018. This case gave rise to a number of judgments in relation to ACT. I will not read it in full—

Peter Dowd: Oh!

Jonathan Reynolds: I know. Prudential put the case that it was entitled to compound rather than simple interest on the repayment, given that some of the tax that was levied, it claimed, was in breach of EU law. However, the Supreme Court disagreed with this analysis and subsequently found in favour of HMRC. The amounts at stake are very significant—they were listed as £4 billion to £5 billion according to media reports at the time. Therefore, the Supreme Court decision is clearly welcome when public finances are under such severe pressure.

The test case has helped to clarify outstanding issues relating to ACT. It is important that the Statute book reflects this decision and is fully up to date to remove any uncertainty for taxpayers with historic claims. It is an additional bonus that the Supreme Court decision has not created a further liability for HMRC in repaying compound interest.

However, we must be clear whether this change, while it relates to a legacy tax, will have any impact on current taxation matters. This is especially pertinent when it relates to corporation tax receipts.

Labour has tabled two amendments. We may not necessarily press them to a Division, but they will be useful to our discussions. Amendments 151 and 152 would, respectively, call on the Government to review the effectiveness of this new statutory remedy one year after its adoption into law and review its impact on corporation tax receipts. These reviews would play an important role in judging the overall impact of the judgment. As I have outlined, the liabilities at stake are very significant. It is essential that we have a clear understanding of whether the provision will give rise to any changes in revenue collection. I call on Members to look at the amendments and ensure we have the clarity and transparency needed to scrutinise the measure in full.

Is the Minister aware of any further issues that may relate to historic ACT claims that we should be aware of? Given that the numbers at stake are so large, we seek reassurance that no other potential liabilities could arise for HMRC in relation to legacy challenges.

Mel Stride: I thank the hon. Gentleman for his contribution. On his specific question of whether any other issues related to ACT might give rise to liability to HMRC, I am not immediately aware of any, but I will write to confirm whether that is the case.

The advance corporation tax or ACT system, which was repealed as long ago as 1999, has been found to be unlawful in certain circumstances. Clauses 84 and 85 provide a new legal remedy for claims against HMRC in limited circumstances. A number of cases involving ACT have been argued before the courts over a lengthy period. This litigation continues but it is now clear that some ACT was paid unlawfully.

Earlier this year, the Supreme Court overruled an earlier decision of the House of Lords from 2007. That has created uncertainty as to what remedies might be available where unlawfully paid ACT was repaid or set against corporation tax before claims against HMRC were started. The law requires that in those cases there needs to be a remedy. The courts are able to consider that but, given the uncertainty, it is desirable for Parliament to consider what that should be in order to provide a fair and balanced outcome.

10.45 am

Clauses 84 and 85 help to deal with the uncertainties by providing a remedy aimed at those circumstances. The new remedy takes the form of an order requiring HMRC to make interest payments according to specified calculation rules. The clauses provide that interest is payable on the overpaid tax at an appropriate rate. There is no need to provide for the tax itself to be repaid because, in all of the cases affected by the clause, tax has already been repaid or offset against corporation tax that was otherwise due.

The interest rate is specified in the legislation and is in line with rates applied to tax repayments during the relevant period. The effect is to make a remedy available in line with the other repayments of overpaid tax and to ensure that an appropriate and fair remedy is available to claimants in this litigation.

Amendments 151 and 152 seek a review within one year of the passing of the Bill of the effectiveness of the remedy and the effect of the remedy on corporation tax receipts. The remedy provided in clauses 84 and 85 is a limited one to address a specific area of uncertainty following a Supreme Court decision, and where there is ongoing litigation. The litigation has been under way for many years and may well be ongoing for a number of years yet. The remedy is not exclusive and the court may award a different remedy. It will be potentially unhelpful, and may not be possible, to seek to comment on the effectiveness of the statutory remedy when relevant litigation is still ongoing. We have already published a tax impact and information note, which sets out the expected impacts, including on the Exchequer. The new remedy is designed to remove uncertainty to the benefit of both HMRC and the claimant companies, and I therefore commend the clauses to the Committee.

Jonathan Reynolds: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 84 ordered to stand part of the Bill.

Clause 85 ordered to stand part of the Bill.

Clause 86

Voluntary returns

Jonathan Reynolds: I beg to move amendment 153, in clause 86, page 64, line 45, at end insert—

'(9) The Chancellor of the Exchequer must review the effectiveness of the changes made to the Taxes Management Act 1970 and the Finance Act 1998 by this section and lay a report of that review before the House of Commons within one year of the passing of this Act."

This amendment would require the Chancellor of the Exchequer to review the effectiveness of the provision for voluntary tax returns.

The Chair: With this it will be convenient to discuss the following:

Amendment 154, in clause 86, page 64, line 45, at end insert—

'(9) The Chancellor of the Exchequer must review the revenue effects of the changes made to the Taxes Management Act 1970 and the Finance Act 1998 by this section and lay a report of that review before the House of Commons within six months of the passing of this Act."

This amendment would require the Chancellor of the Exchequer to review the effectiveness of the provision for voluntary tax returns.

Amendment 155, in clause 86, page 64, line 45, at end insert—

'(9) The Chancellor of the Exchequer must review the resources that Her Majesty's Revenue and Customs needs to implement the measures in this section relating to tax returns delivered otherwise than in pursuance of a requirement to do so and lay a report of that review before the House of Commons within two months of the passing of this Act."

This amendment would require the Chancellor of the Exchequer to review the HMRC resourcing needed for the provision for voluntary tax returns.

Clause 86 stand part.

I call Anneliese Dodds to move amendment 153—*[Interruption.]* I am sorry: Jonathan Reynolds.

Jonathan Reynolds: Thank you, Chair. The most exciting clauses have been taken from me. I am very grateful to have been allowed to take this on voluntary returns. On occasion, individuals submit returns to HMRC before a statutory notice requiring the return has been delivered. That applies to many different types of individuals, including those carrying out an income tax self-assessment, and individuals on PAYE who believe they are due a return.

HMRC has historically accepted such returns, given that it would be a considerable drain on resources to reject them and ask taxpayers needlessly to resend them. However, following a ruling by the first-tier tribunal in April 2018, it has been decided that that policy is not supported by law. Therefore, to ensure that the practice can continue, we understand the clause will bring about the legislative change needed so that the position is supported in law. An HMRC appeal is under way because it is possible that this could invalidate historical returns if it is refused by a higher court.

We are talking about significant numbers of returns, as was revealed during the tribunal hearing by HMRC. The Government receive about 350,000 returns of this type each year. Those are in the main from PAYE taxpayers who do not need to complete the self-assessment return but who are seeking a repayment. In its statement accompanying the case, HMRC stated:

"This policy provides a mutually beneficial administrative arrangement for customers and HMRC. The alternative would be that HMRC would have to reject returns submitted voluntarily, issue a formal s8 notice and the customer would have to resubmit the return. This would add unnecessary administrative burdens to both customers and HMRC, causing unnecessary delay in HMRC processing returns, claims and repayments."

As part of the ambition to put the customer at the heart of what HMRC does, it has introduced a simple assessment for 2016-17 onwards, to enable HMRC to send customers with straightforward tax affairs a simple assessment notice of their liability, without the need for them to resubmit a self-assessment return. It expects that this will significantly reduce the number of voluntary returns it receives each year, and PAYE customers who are not already in self-assessment will not need to complete a self-assessment tax return to get a refund. HMRC also has long-term plans to abolish annual tax returns as part of the Making Tax Digital strategy.

As we are near the end of the Committee, I do not think we need to go through the long history of issues relating to Making Tax Digital, but we have made these points many times before, both in this Committee and in previous Finance Bill Committees. For smaller businesses, Making Tax Digital will add a significant reporting burden by requiring them to switch from one report a year to four. Making Tax Digital will still be being implemented in April 2019, coinciding with our departure from the EU, and putting a significant compliance burden on businesses if there are also VAT changes.

In addition, according to HMRC's own figures, a shocking 4 million calls to HMRC went unanswered in 2017. As my hon. Friend the Member for Bootle said in the previous Finance Bill Committee, if people call up to pay their taxes, they should be able to get through. Given that the deficit has not yet been eliminated, one would think that the Government would welcome people voluntarily ringing up to pay more tax. Therefore, this change to legislation seems sensible. It would avoid any further costs or administrative pressures on HMRC at an already challenging time for the organisation. I can only imagine the enormous burden it would present if the historical treatment of 350,000 returns was judged to be invalid.

We need more insight into how HMRC resources might be affected to ensure that this measure does not have any unintended consequences. Therefore, Labour has tabled three amendments to give us the information needed to assess this properly. Amendment 153 would require the Government to review the effectiveness of this provision for voluntary tax returns within one year. It seems that the process of submission for voluntary tax returns is working reasonably effectively at present. This review would allow us better to understand whether moving into a more formal framework has any potential negative impacts.

Amendment 154 would allow us to make the same assessment, but with regard to the effects on revenue. If the provision has any impact on tax collection, it is important that it is quickly identified and remedied.

Finally, amendment 155 would require the Government to review the HMRC resourcing needed for the provision of voluntary tax returns by publishing a document to that effect within one year. As I have outlined, HMRC has faced severe cuts at a time when demands are increasing across several fronts—particularly as the UK leaves the European Union. Therefore, it is critical that we understand whether there will be any further draws on HMRC resources over the course of the provision's implementation. I urge hon. Members to support the amendments and Labour's efforts to guarantee that we have an HMRC that functions effectively, both for taxpayers and for tax collection.

Mel Stride: Clause 86 makes changes to HMRC's ability to treat tax returns sent involuntarily like any return on a statutory basis with retrospective and prospective effect. It is necessary because these returns have been accepted and treated in the same way as any other tax return received by HMRC for more than 20 years using its collection and management powers. However, a tax tribunal ruled earlier this year that this policy was not supported by the law.

HMRC receives about 600,000 voluntary tax returns each year. They are voluntary because they are made without any requirement or request from HMRC to do so. People in businesses send them in because they want either to pay tax or to make tax repayment claims. HMRC has always accepted those returns and treated

[Mel Stride]

them like any other return. This policy is helpful for taxpayers who send in returns because they are concerned that their affairs are not up to date. If HMRC did not accept voluntary returns when a taxpayer sent in a return, it would have to formally ask them for a return, and they would need to refile it.

Amendments 153 and 154 would require the Government to publish reports about the effectiveness and revenue effects of the clause. Such reports are unnecessary. The purpose of the clause is not to change existing practice but to give it legal certainty. Reporting on its impact is therefore unnecessary, as there will be no change in either practice or revenue. Amendment 155 would require the Government to lay a report into the resources that HMRC needs to implement the clause. The clause will have no impact on HMRC's resources and will not change HMRC's practice of accepting returns sent in on a voluntary basis. I therefore commend the clause to the Committee.

Jonathan Reynolds: I wish to press the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 42]

AYES

Black, Mhairi
Blackman, Kirsty
Charalambous, Bambos
Dodds, Anneliese
Dowd, Peter
Lewis, Clive
Reynolds, Jonathan
Smith, Jeff
Sobel, Alex

NOES

Afolami, Bim
Badenoch, Mrs Kemi
Ford, Vicky
Jenrick, Robert
Keegan, Gillian
Lamont, John
Stride, rh Mel
Syms, Sir Robert
Whately, Helen
Whittaker, Craig

Question accordingly negatived.

Amendment proposed: 154, in clause 86, page 64, line 45, at end insert—

"(9) The Chancellor of the Exchequer must review the revenue effects of the changes made to the Taxes Management Act 1970 and the Finance Act 1998 by this section and lay a report of that review before the House of Commons within six months of the passing of this Act."—*(Jonathan Reynolds.)*

This amendment would require the Chancellor of the Exchequer to review the effectiveness of the provision for voluntary tax returns.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 43]

AYES

Black, Mhairi
Blackman, Kirsty
Charalambous, Bambos
Dodds, Anneliese
Dowd, Peter
Lewis, Clive
Reynolds, Jonathan
Smith, Jeff
Sobel, Alex

NOES

Afolami, Bim
Badenoch, Mrs Kemi
Ford, Vicky
Jenrick, Robert
Keegan, Gillian
Lamont, John
Stride, rh Mel
Syms, Sir Robert
Whately, Helen
Whittaker, Craig

Question accordingly negatived.

Amendment proposed: 155, in clause 86, page 64, line 45, at end insert—

"(9) The Chancellor of the Exchequer must review the resources that Her Majesty's Revenue and Customs needs to implement the measures in this section relating to tax returns delivered otherwise than in pursuance of a requirement to do so and lay a report of that review before the House of Commons within two months of the passing of this Act."—*(Jonathan Reynolds.)*

This amendment would require the Chancellor of the Exchequer to review the HMRC resourcing needed for the provision for voluntary tax returns.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 44]

AYES

Black, Mhairi
Blackman, Kirsty
Charalambous, Bambos
Dodds, Anneliese
Dowd, Peter
Lewis, Clive
Reynolds, Jonathan
Smith, Jeff
Sobel, Alex

NOES

Afolami, Bim
Badenoch, Mrs Kemi
Ford, Vicky
Jenrick, Robert
Keegan, Gillian
Lamont, John
Stride, rh Mel
Syms, Sir Robert
Whately, Helen
Whittaker, Craig

Question accordingly negatived.

Clause 86 ordered to stand part of the Bill.

Clause 87

INTEREST UNDER SECTION 178 OF FA 1989 AND SECTION 101 OF FA 2009

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

New clause 15—*Review of late payment interest rates in respect of promoters of tax avoidance schemes*—

"(1) The Chancellor of the Exchequer must review the viability of increasing any relevant interest rate charged by virtue of the specified provisions on the late payment of penalties for the promoters of tax avoidance schemes to 6.1% per annum and lay a report of that review before the House of Commons within six months of the passing of this Act.

(2) In this section, "the specified provisions" means—

(a) section 178 of FA 1989, and

(b) sections 101 to 103 of FA 2009."

New clause 16—*Review of late payment interest rates in respect of promoters of tax avoidance schemes (No. 2)*—

"(1) The Chancellor of the Exchequer must review the appropriateness of any relevant interest rate charged by virtue of the specified provisions on the late payment of penalties for the

promoters of tax avoidance schemes and lay a report of that review before the House of Commons within six months of the passing of this Act.

(2) In this section, "the specified provisions" means—

(a) section 178 of FA 1989, and

(b) sections 101 to 103 of FA 2009."

New clause 17—*Review interest rate equalisation*—

"(1) The Chancellor of the Exchequer must review the viability of equalising any relevant interest rate charged by virtue of the specified provisions for the specified purposes and lay a report of that review before the House of Commons within six months of the passing of this Act.

(2) In this section—

"the specified provisions" means section 101 of FA 2009,

"the specified purposes" means the charging of interest for—

(a) late payment, and

(b) repayment.".

Mel Stride: Clause 87 is designed to clarify legislative provisions in relation to interest charged by HMRC across several tax regimes. The changes will ensure that the provisions apply as Parliament intended, and provide legal certainty for HMRC and taxpayers.

New clauses 15 and 16 would require the Government to report on the level of interest charged on penalties for promoters of tax avoidance schemes, and specifically on the viability of increasing interest rates on the late payment of penalties for those promoters. That is not necessary and, in explaining why, it may be helpful if I set out the rationale behind the rates.

Interest is charged on these penalties in the same way as it is charged on other overdue payments to HMRC; it is not affected by what the penalty is for. The penalty itself is designed to be the punitive measure tackling tax avoidance promoters. Interest is designed simply to give commercial restitution on all amounts that are paid late and, as such, it is currently set at 3.25% across HMRC and is linked to the Bank of England base rate. Reviewing the level of interest charged on overdue promoters' penalties would therefore be of limited value in addressing avoidance.

New clause 17 would require the Government to report on the viability of equalising late payment and repayment interest on penalties charged under the promoters of tax avoidance scheme rules. Charging different rates of interest to those paid out is similar to commercial practice and in line with the policy of other international authorities. A higher rate of repayment interest would over-compensate those who pay the wrong amount. A lower rate of late payment interest would be an insufficient deterrent and unfair to the majority, who pay on time. The difference encourages people to pay the right amount at the right time to HMRC.

I urge the Opposition not to press their new clauses and I commend clause 87 to the Committee.

11 am

Jonathan Reynolds: As the Minister has said, the clause relates to two legislative changes that would alter the way that interest can be charged and paid on tax under section 178 of the Finance Act 1989, as well as setting interest rates for certain purposes, including retrospectively for diverted profits tax, and providing for interest to be charged under section 101 of the Finance Act 2009 on particular penalties for PAYE from 6 May 2014.

The charging of interest is an important source of revenue to the Exchequer. It is a fundamental principle that the same rules apply to all taxpayers and there may therefore be circumstances in which it is appropriate to charge interest on late payments in the same way that HMRC offers interest on tax refunds that exceed a period of one tax year. That charge is an important tool and deterrent for tax avoidance and late payments.

The diverted profits tax in particular, which was introduced in 2015 as the so-called Google tax, is at least a step in the direction of ensuring that large multinational companies pay their fair share. As the Committee has discussed in previous clauses, certain multinational companies, through dint of their presence in multiple jurisdictions and the armies of tax planners at their disposal, have used a variety of tactics to minimise their tax obligations. While we welcome DPT as step in the right direction, the public are clear that more action should be taken.

My hon. Friend the Member for Oxford East spoke in depth about DPT in an earlier sitting of the Committee. She explained that the diverted profits tax focuses on two forms of tax avoidance. The first is where a company with a UK-taxable presence uses arrangements lacking economic substance to artificially divert profits from the UK. The second is where a person carries out activities in the UK for a foreign company that are designed to avoid creating a permanent establishment through which they would be taxable. The Minister promised to lay before the House a report on the impact on revenue made by the mechanics of the application of DPT. When that information is made available, the Opposition will carefully consider it to assess the efficiency of the diverted profits tax. It must be considered in the round, in the light of the incoming digital services tax, which will struggle to be effective if it is not carefully planned around the unique structure of digital companies across multiple jurisdictions.

In relation to PAYE penalties where interest may be chargeable, I ask the Minister to provide further clarity around the changes. While I reiterated previously that there must be a fair and equal application of the rules, interest and penalty charging can cause serious hardship for individuals, especially when applied retrospectively for unintentional and unwitting errors committed by the taxpayer. Can the Minister elaborate on what consultation has taken place with low-income groups on the provision, to give us a sense of whether an impact assessment has been carried out? To which sections do the retrospective aspects of the legislation apply?

In the current situation with the 2019 loan charge, which stretches back over many years having been applied retrospectively, there is ample evidence that it causes serious hardship for individuals who, in some cases, say that they have been induced into such a scheme by a third-party, without full knowledge of its application. We must therefore exercise the utmost caution when applying any retrospective rules that cover individuals. I was pleased to read, however, that the legislation allows for interest charging on promoters of tax avoidance, in line with section 101 of the 2009 Act. We must ensure that we are pursuing promoters with the full force of the law, to tackle the root causes of avoidance and evasion.

[Jonathan Reynolds]

The Opposition have therefore tabled a number of new clauses to the Bill. New clause 17 would require the Chancellor to review the viability of equalising HMRC's late payment interest rate with the repayment interest rate. The new clause attempts to address a clear imbalance and perceived unfairness in the current interest rates set by HMRC. As it stands, if a taxpayer owes HMRC tax and is late in paying it, a charge of 3.25% interest is added. That is in stark contrast to HMRC's own repayment rate, which, when paying things back, stands at just 0.5%. That double standard is exacerbated by the Government's recent raising of late payment interest rates for all taxpayers by 0.25%.

The ACCA accountancy body has described that imbalance over late payments as "simply unfair," and called for a level playing field to ensure that HMRC sets the same late payment rate as it charges. That is certainly something that the Opposition believe that the Government should review because it is ultimately a question of fairness. There should not be one rule for taxpayers and another for HMRC, as that simply breeds dissatisfaction with the tax system and those who enforce it.

Labour Members are committed to a tax system with justice and fairness at its heart, and we recognise the Government's clear failings on the handling of HMRC's powers, which were recently recorded extensively by the Lords Economic Affairs Committee. I hope that all sides of the House will consider supporting this review.

The Opposition's new clause 16 would require the Chancellor to review the interest rate on late payment of penalties for the promoters of tax avoidance schemes. New clause 15 would require the Chancellor to consider raising the interest rate on late payment of penalties to 6.1%. The introduction of penalties for the promoters of tax avoidance schemes is relatively new. However, it is rather depressing to think that the promoters of tax avoidance schemes, who are then issued penalties, will pay less interest on late payments than the interest currently applied to student loans. Surely it says something about the Government's priorities that they would allow a lesser interest rate on the late payment of penalties by those who advertise and encourage people to use tax avoidance schemes than the 6.1% interest rate that is charged to students in the UK.

New clause 15 would instead force the Chancellor to review the interest charged on late payments of penalties by the promoters of tax avoidance schemes and consider raising them to 6.1%. This would act as a deterrent when it comes to the late payment of penalties and it would also force the Government to consider the absurdly high interest rates that student loans are currently subject to. I call on Members to support the Opposition's amendments on these issues today, to ensure that HMRC can operate fairly and effectively. I would also be grateful to hear some clarity and reassurance from the Minister about the retrospective elements of this legislation.

Mel Stride: There is no need for consultation on this measure because, as the hon. Gentleman will know, it was just putting beyond doubt what has been established practice over a very long period. He raised the issue of retrospection. The measure is retrospective, inasmuch as it is putting beyond doubt the fact that these rates were appropriate in the past. We are just bringing the long-standing practice out of any sense of uncertainty.

The hon. Gentleman suggested that the loan charge was retrospective. It is not, because the arrangements entered into under the loan charge scenario were always defective. They never worked at the time when they were entered into, and therefore the tax was due in the past. It is being collected in the present.

Anneliese Dodds: In that case, when advisers advised individuals to undertake these schemes, were they promoting illegal schemes? It would help to have a clear answer on that.

Mel Stride: They were in many cases promoting schemes that did not work and were defective, and in many cases promoting schemes that had been taken through the courts by HMRC—and, in a case involving Rangers football club, through the Supreme Court. On each occasion, they have been found defective.

Anneliese Dodds: The Minister says those schemes were defective; is he saying that they were illegal?

Mel Stride: I am saying that the schemes were taken through the courts and were found defective; they were found not to work. As this is the third exchange between us, let us be clear about what lies at the heart of the way in which these schemes operate. If as an employer I said to an employee, "Instead of paying you normal earnings, from which you would pay your national insurance and your income tax—as the employer, I would pay the national insurance—I will pay you by way of a loan. You and I know it is not really a loan, as there is no intention of you ever repaying it. I may well send that loan to an offshore trust"—as many of these schemes do—"before sending it back to you. The consequence is you pay no, or next to no, tax, because it is treated as a loan, not earnings or income." That lies at the heart of these schemes. That model never worked, and the schemes were always defective at the time they were entered into.

Anneliese Dodds: However, those taxpayers who are required to face the loan charge have been told that they have done something illegal. I am asking the Minister whether those who advised them to undertake these schemes were advising them to do something illegal, because the advisers have not faced anything as a result of this, whereas the taxpayers have.

Mel Stride: The enablers and promoters of those schemes have been subject to various pieces of legislation, going back a number of years. In almost every Finance Act, or every year, there has been legislation clamping down on them. They are subject to a penalty of up to £1 million as a consequence of that kind of behaviour. Where they have acted inappropriately, the legislation is there, and HMRC has the powers to pursue them.

Question put and agreed to.

Clause 87 accordingly ordered to stand part of the Bill.

Clause 88

REGULATORY CAPITAL SECURITIES AND HYBRID CAPITAL INSTRUMENTS

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

Amendment 156, in schedule 19, page 315, line 15, at end insert —

"PART 4

STATEMENT ON CONSULTATION

"22 The Chancellor of the Exchequer must lay before the House of Commons a statement on the consultation undertaken on the provisions of this Schedule no later than two months after the passing of this Act."

Amendment 158, in schedule 19, page 315, line 15, at end insert —

"PART 4

REVIEW OF REVENUE EFFECTS

"22 The Chancellor of the Exchequer must review the revenue effects of the provisions introduced by this Schedule and lay a report of that review before the House of Commons with twelve months of the passing of this Act."

That schedule 19 be the Nineteenth schedule to the Bill.

Mel Stride: The Government are making changes to the tax rules for the hybrid capital instruments that are issued by some companies to raise funds. One of these changes is made by clause 28, which we have already discussed. Taken together with clause 88, it ensures that these instruments are taxed in line with their economic substance, and that the tax rules take account of forthcoming changes in financial sector regulation. The new rules cover issuances by companies in any sector, and replace rules covering regulatory capital instruments issued by banks and insurers.

As I explained when introducing clause 28, some companies raise funds by issuing instruments referred to as hybrid capital, which sit close to the border between debt and equity. This distinction between debt and equity is important for the UK tax system. In particular, coupon payments on instruments that are considered to be debt are typically deductible for tax purposes, whereas dividends paid on equity instruments are normally disallowed. However, determining the correct treatment for hybrid instruments can be problematic by its nature, and this can lead to uncertainty for companies. This is particularly difficult for the financial sector, where banking and insurance companies are required by industry regulators to hold a certain amount of capital. The instruments issued to raise this capital must contain certain features to allow for loss absorbency in the event of financial strain. Existing rules aim to provide certainty of treatment for these instruments issued by banks and insurers.

Clause 88 and schedule 19 make changes to the taxation of hybrid capital instruments, most of which have effect from 1 January 2019. Our overall aim is to ensure that all hybrid capital issued by any company that is in essence debt continues to be treated as debt for tax purposes. In June 2018, the Bank of England finalised its approach to setting a minimum requirement for own funds and eligible liability, or MREL. The Bank set out how it will use its powers to require firms to hold a minimum amount of equity and debt with a loss absorbing capacity from 1 January 2019. This will allow the Bank of England to ensure that shareholders and creditors absorb losses in times of financial stress, allowing banks to keep operating without recourse to public funds.

For global, systemically important banks operating in the UK, the MREL requirements take effect from 1 January 2019. Eleven other UK banks and building societies will need to meet these requirements from 1 January 2020. The instruments banks are permitted to issue to meet these new requirements include types of hybrid capital instruments that are not covered by the existing rules. Alongside updating the rules to take account of these new requirements, we have also taken this opportunity to conduct a wider review of hybrid capital instruments. We are providing coupon deductibility for all instruments issued by any company, provided that they are in essence debt, even if they are accounted for as equity. These are also elective, so HMRC will be able to monitor their use closely to ensure that they are not abused. If HMRC detects abuse, we will not hesitate to take whatever action is necessary, including further legislative change, in order to counter it.

Clause 88 and schedule 19 provide for the revocation of the existing rules for hybrid capital instruments issued by banks and insurers. They will be replaced by new rules for hybrid capital instruments issued by any sector. This will provide tax certainty for the issuers and holders of hybrid capital instruments. These instruments are issued by a small number of companies, primarily in the banking, insurance, utilities and telecoms sectors. The new rules apply from 1 January 2019, when existing rules are revoked. However, we have delayed the revocation of certain specific aspects of the rules for instruments issued before that date to allow banks and insurers time to consider the impact of the changes and to restructure their debt, if necessary.

In order to identify whether changes made by this clause and clause 28 were needed, we had to wait until the Bank of England published its MREL rules in June 2018. These new rules apply from 1 January 2019, and meant that changes to our tax rules were needed by the same date. The Finance Bill timetable meant that it was not possible to conduct a full public consultation, but officials consulted advisers who collectively represented those most likely to be impacted by the changes being made by the schedule. Officials also consulted with the Bank of England and the Prudential Regulation Authority.

Amendment 158 proposes that we publish a review of the revenue effects of the changes being introduced by this schedule. The policy paper published by HMRC on 29 October 2018 clearly states that the Exchequer impact of changes being introduced by this clause will be negligible. Furthermore, to apply the new tax rules, issuing companies must submit an election in respect of each instrument by September 30 2019, or within six months of issuing a new hybrid capital instrument. That will allow HMRC to closely monitor the use of the rules and ensure they are not being abused. If HMRC detects abuse, it will not hesitate to take whatever action is necessary. I commend the clause and the schedule to the Committee.

11.15 am

Jonathan Reynolds: I rise to make my final speech to the Committee on clause 88. [HON. MEMBERS: "Shame!"] I know; it is a shame. The fun must end, but there will always be another Finance Bill.

The clause is enticingly named "Regulatory capital securities and hybrid capital instruments". As the Minister just told us, it will introduce new tax rules for loan relationships that are hybrid capital instruments. According to the Bill's explanatory notes, it will also revoke regulations

[Jonathan Reynolds]

dealing with the taxation of regulatory capital. The clause and schedule refer to the issuance of instruments by companies and financial institutions that contain debt and equity-like features, which, in investment terms, are more commonly known as convertible bonds.

Convertible bonds are having something of a renaissance, as some investors argue that they are well suited to current market conditions, especially the potential rise in interest rates. Practically, a convertible bond pays a fixed coupon, like a debt, but gives the holder the right to exchange the instrument for equity on redemption. In uncertain times for the markets, the appeal is clear: the investor is exposed to a fixed income-type risk in terms of downside, while being able to participate in an equity-like upside. That risk profile has been especially popular in recent years. Subsequently, 2018 has been the year of the highest convertible bond issuance since 2007.

If issuance is on the rise, it is important that investors understand what they are buying and the precise risk profile of how the instruments will perform in different market conditions. It is also important that any tax mismatches are corrected, so the Exchequer is not missing out. That brings us to the substance of the clause.

Hybrid instruments present a taxation challenge, precisely because they change in nature throughout their duration. The distribution of profits would not attract the same tax treatment as interest payments. For financial institutions, that problem was solved by legislation that related to capital requirements—the Taxation of Regulatory Capital Securities Regulations 2013.

Given that the issuance of different hybrid securities was required by a more recent exercise in assessment of loss-absorbing liabilities by the Bank of England in June 2018, the change forms part of a comprehensive review across sectors to remove tax uncertainty. That is timely, given the rising popularity in other sectors of issuing convertible debt, which I referred to earlier. It is important that the Exchequer does not miss out on any revenue as a result of uncertainty. I understand that the Taxation of Regulatory Capital Securities Regulations will be revoked for that reason and replaced by a new taxation policy for hybrid capital instruments, which will be applied across all sectors.

My first question for the Minister is how confident he feels that HMRC and financial taxpayers will have time to comply with the new rules. What consultation has taken place, and what guidance will be made available to those for whom the regulations are changing? The Bank of England’s changes, which demand the issuance of new instruments, will take effect from January 2019. The timeline feels extremely tight from a compliance perspective, if the tax rules are changing only now to accommodate the modification.

We are discussing a comprehensive and detailed set of changes that will affect huge amounts of capital from financial institutions. The technical note published by HMRC on 29 October goes into some depth about the changes, but the Opposition believe that further insight must be given on what feedback and concerns were raised by those who will be affected by the measure. We therefore tabled amendment 156, which would require the Government to make a statement on what consultation there has been on schedule 19.

Amendment 158 goes further by obliging the Government to publish a review of the revenue effects of the measure. According to statistics from Scope Ratings, the European issuance of hybrid bonds from non-financial corporates alone reached more than €10 billion in the first four months of 2018. Together with issuance from financial institutions, we are talking about an enormous source of revenue. We need to understand whether the reforms have been effective.

In connection with that, I ask the Minister to clarify how the stamp duty rules will apply to the measure. The technical note explains that

> “The hybrid capital instruments rules provide an exception from all stamp duties on the transfer of these instruments.”

However, it goes on to stipulate conditions under which it might apply. Objectively, it seems that where the instrument is converted to equity, it should be subject to stamp duty, like ordinary shares, but the technical note seems to apply a number of contingencies. I would be grateful if the Minister clarified that one way or the other. I call on hon. Members to support the amendments and ensure that we have transparency on a potentially crucial issue of revenue for the Exchequer.

Mel Stride: I thank the hon. Gentleman for his contribution. He raised the issue of whether those affected by the measures in the clause will have time to adjust and take on board the new regime. I can assure him that we are confident that is the case, albeit, for the reasons I gave in my opening remarks, we were not able to have a full consultation on these measures given the timing as between consideration of the Finance Bill and the decisions taken by the Bank of England.

Specifically on that point, the Bank held a public consultation on the MREL rules, but the outcome was not published until June 2018. The rules apply from 1 January 2019 and any changes to our tax laws are necessary before then. The Finance Bill timetable means it is not possible to put that out for public consultation on the clause. We consulted on those measures with a number of those who will be affected, so we did what we could in the time available.

As to the hon. Gentleman’s question regarding stamp duty exemptions, those will continue to be in force as under the current regime.

Question put and agreed to.

Clause 88 accordingly ordered to stand part of the Bill.

Schedule 19

TAXATION OF HYBRID CAPITAL INSTRUMENTS

Amendment proposed: 156, page 315, line 15, schedule 19, at end insert —

“PART 4

STATEMENT ON CONSULTATION

“22 The Chancellor of the Exchequer must lay before the House of Commons a statement on the consultation undertaken on the provisions of this Schedule no later than two months after the passing of this Act.”—*(Jonathan Reynolds.)*

This amendment would require the Chancellor of the Exchequer to make a statement on the consultation undertaken on the measures introduced by Schedule 19.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 45]

AYES

Black, Mhairi
Blackman, Kirsty
Charalambous, Bambos
Dodds, Anneliese
Dowd, Peter
Lewis, Clive
Reynolds, Jonathan
Smith, Jeff
Sobel, Alex

NOES

Afolami, Bim
Badenoch, Mrs Kemi
Ford, Vicky
Jenrick, Robert
Keegan, Gillian
Lamont, John
Stride, rh Mel
Syms, Sir Robert
Whately, Helen
Whittaker, Craig

Question accordingly negatived.

Amendment proposed: 158, page 315, line 15, schedule 19, at end insert —

"PART 4

REVIEW OF REVENUE EFFECTS

"22 The Chancellor of the Exchequer must review the revenue effects of the provisions introduced by this Schedule and lay a report of that review before the House of Commons with twelve months of the passing of this Act."—*(Jonathan Reynolds.)*

This amendment would require the Chancellor of the Exchequer to publish a review of the revenue effects of the measures introduced by Schedule 19.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 46]

AYES

Black, Mhairi
Blackman, Kirsty
Charalambous, Bambos
Dodds, Anneliese
Dowd, Peter
Lewis, Clive
Reynolds, Jonathan
Smith, Jeff
Sobel, Alex

NOES

Afolami, Bim
Badenoch, Mrs Kemi
Ford, Vicky
Jenrick, Robert
Keegan, Gillian
Lamont, John
Stride, rh Mel
Syms, Sir Robert
Whately, Helen
Whittaker, Craig

Question accordingly negatived.

Schedule 19 agreed to.

Clause 91 ordered to stand part of the Bill.

Clause 92 ordered to stand part of the Bill.

New Clause 2

REVIEW OF CHANGES TO CAPITAL ALLOWANCES

"(1) The Chancellor of the Exchequer must review the effect of the changes to capital allowances in sections 29 to 34 and Schedule 12 in each part of the United Kingdom and each region of England and lay a report of that review before the House of Commons within six months of the passing of this Act.

(2) A review under this section must consider the effects of the changes on—

(a) business investment,

(b) employment, and

(c) productivity.

(3) The review must also estimate the effects on the changes if—

(a) the UK leaves the European Union without a negotiated withdrawal agreement

(b) the UK leaves the European Union following a negotiated withdrawal agreement, and remains in the single market and customs union, or

(c) the UK leaves the European Union following a negotiated withdrawal agreement, and does not remain in the single market and customs union.

(4) In this section—

"parts of the United Kingdom" means—

(a) England,

(b) Scotland,

(c) Wales, and

(d) Northern Ireland;

"regions of England" has the same meaning as that used by the Office for National Statistics."—*(Kirsty Blackman.)*

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 9, Noes 10.

Division No. 47]

AYES

Black, Mhairi
Blackman, Kirsty
Charalambous, Bambos
Dodds, Anneliese
Dowd, Peter
Lewis, Clive
Reynolds, Jonathan
Smith, Jeff
Sobel, Alex

NOES

Afolami, Bim
Badenoch, Mrs Kemi
Ford, Vicky
Jenrick, Robert
Keegan, Gillian
Lamont, John
Stride, rh Mel
Syms, Sir Robert
Whately, Helen
Whittaker, Craig

Question negatived.

New Clause 4

COMPARATIVE REVIEW OF THE EXPECTED EFFECTS OF SCHEDULE 5

"(1) The Chancellor of the Exchequer must a review of the expected effects of the provisions of Schedule 5 on payments to the Commissioners, and lay a report of that review before the House of Commons within 6 months of the passing of the Act.

(2) The review under subsection (1) must in particular consider—

(a) the expected change in corporation tax receipts attributable to those provisions, and

(b) the expected change in corporation tax receipts if—

(i) the provisions in Schedule 5 were not brought into force, an

(ii) the rate of corporation tax were to be changed to 26%.".—*(Peter Dowd.)*

This requires a review of the effects of Schedule 5, and a comparison of the effects of that Schedule to an increase of the rate of corporation tax to 26%.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 9, Noes 10.

Division No. 48]

AYES

Black, Mhairi
Blackman, Kirsty
Charalambous, Bambos
Dodds, Anneliese
Dowd, Peter
Lewis, Clive
Reynolds, Jonathan
Smith, Jeff
Sobel, Alex

NOES

Afolami, Bim
Badenoch, Mrs Kemi
Ford, Vicky
Jenrick, Robert
Keegan, Gillian
Lamont, John
Stride, rh Mel
Syms, Sir Robert
Whately, Helen
Whittaker, Craig

Question negatived.

New Clause 16

REVIEW OF LATE PAYMENT INTEREST RATES IN RESPECT OF PROMOTERS OF TAX AVOIDANCE SCHEMES (NO. 2)

"(1) The Chancellor of the Exchequer must review the appropriateness of any relevant interest rate charged by virtue of the specified provisions on the late payment of penalties for the promoters of tax avoidance schemes and lay a report of that review before the House of Commons within six months of the passing of this Act.

(2) In this section, "the specified provisions" means—

(a) section 178 of FA 1989, and

(b) sections 101 to 103 of FA 2009.".—*(Peter Dowd.)*

This new Clause would require the Chancellor of the Exchequer to review the interest rate on late payment of penalties for the promoters of tax avoidance schemes.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 9, Noes 10.

Division No. 49]

AYES

Black, Mhairi
Blackman, Kirsty
Charalambous, Bambos
Dodds, Anneliese
Dowd, Peter
Lewis, Clive
Reynolds, Jonathan
Smith, Jeff
Sobel, Alex

NOES

Afolami, Bim
Badenoch, Mrs Kemi
Ford, Vicky
Jenrick, Robert
Keegan, Gillian
Lamont, John
Stride, rh Mel
Syms, Sir Robert
Whately, Helen
Whittaker, Craig

Question negatived.

New Clause 17

REVIEW INTEREST RATE EQUALISATION

"(1) The Chancellor of the Exchequer must review the viability of equalising any relevant interest rate charged by virtue of the specified provisions for the specified purposes and lay a report of that review before the House of Commons within six months of the passing of this Act.

(2) In this section—

"the specified provisions" means section 101 of FA 2009,

"the specified purposes" means the charging of interest for—

(a) late payment, and

(b) repayment.".—*(Peter Dowd.)*

This new Clause would require the Chancellor of the Exchequer to review the viability of equalising HMRC's late payment interest rate and the repayment interest rate.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 9, Noes 10.

Division No. 50]

AYES

Black, Mhairi
Blackman, Kirsty
Charalambous, Bambos
Dodds, Anneliese
Dowd, Peter
Lewis, Clive
Reynolds, Jonathan
Smith, Jeff
Sobel, Alex

NOES

Afolami, Bim
Badenoch, Mrs Kemi
Ford, Vicky
Jenrick, Robert
Keegan, Gillian
Lamont, John
Stride, rh Mel
Syms, Sir Robert
Whately, Helen
Whittaker, Craig

Question negatived.

Question proposed, That the Chair do report the Bill, as amended, to the House.

Mel Stride: On a point of order, Ms Dorries. I will be very quick; we are now due in another place for yet another round of Treasury stuff. I thank you and your co-Chair, *Hansard*, the Doorkeepers, our Whips, our Parliamentary Private Secretaries, my hon. Friend the Member for Poole, our officials—particularly Liam Mulroy and Calum Boyd in my office—and our Bill team at the Treasury. I also thank everybody on the Committee for having made this such a smooth and productive session.

Peter Dowd: Further to that point of order, Ms Dorries. I thank you and the House staff—the Committee Clerks, the Doorkeepers and *Hansard*—as well as everybody involved in consideration of the Bill, including my colleagues.

Question put and agreed to.

Bill, as amended, accordingly to be reported.

11.29 am

Committee rose.

Written evidence reported to the House

FB05 Six Wealden constituents - Mike, Trevor, Anna, Al, Sonia and Stephen.