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GENERAL COMMITTEES

Public Bill Committee

IMMIGRATION AND SOCIAL SECURITY CO-ORDINATION (EU WITHDRAWAL) BILL

Seventh Sitting

Thursday 18 June 2020

(Morning)

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not later than

Monday 22 June 2020

The Committee consisted of the following Members:

Chairs: † Sir Edward Leigh, Graham Stringer

† Davison, Dehenna *(Bishop Auckland)* (Con)
† Elmore, Chris *(Ogmore)* (Lab)
† Foster, Kevin *(Parliamentary Under-Secretary of State for the Home Department)*
† Goodwill, Mr Robert *(Scarborough and Whitby)* (Con)
† Green, Kate *(Stretford and Urmston)* (Lab)
† Holden, Mr Richard *(North West Durham)* (Con)
† Johnson, Dame Diana *(Kingston upon Hull North)* (Lab)
† Lewer, Andrew *(Northampton South)* (Con)
† Lynch, Holly *(Halifax)* (Lab)
† McDonald, Stuart C. *(Cumbernauld, Kilsyth and Kirkintilloch East)* (SNP)
O'Hara, Brendan *(Argyll and Bute)* (SNP)
† Owatemi, Taiwo *(Coventry North West)* (Lab)
† Pursglove, Tom *(Corby)* (Con)
† Richardson, Angela *(Guildford)* (Con)
Roberts, Rob *(Delyn)* (Con)
Ross, Douglas *(Moray)* (Con)
† Sambrook, Gary *(Birmingham, Northfield)* (Con)

Anwen Rees, *Committee Clerk*

† attended the Committee

Public Bill Committee

Thursday 18 June 2020

(Morning)

[Sir Edward Leigh *in the Chair*]

Immigration and Social Security Co-ordination (EU Withdrawal) Bill

11.30 am

The Chair: Today we continue line-by-line consideration of the Bill. The selection list for today's sitting is available in the room. I remind Members that the *Hansard* reporters would be grateful if a copy of any speaking notes could be sent to hansardnotes@parliament.uk. We are all beautifully socially distanced.

New Clause 24

Annual review: Impact on the agricultural sector

'(1) The Secretary of State must commission an annual report from the Migration Advisory Committee on the impact of the provisions of this Act on the number of seasonal agricultural workers in the UK.

(2) In undertaking the evaluation, the Secretary of State must consult—

(a) the relevant Scottish Ministers;

(b) the relevant Welsh Ministers; and

(c) the relevant Northern Ireland Ministers.

(3) The report must be laid before each House of Parliament as soon as possible after it has been completed.

(4) A Minister of the Crown must, not later than three months after the report has been laid before Parliament, make a motion in the House of Commons in relation to the report.'—*(Holly Lynch.)*

Brought up, and read the First time.

Holly Lynch (Halifax) (Lab): I beg to move, That the clause be read a Second time.

Good morning, Sir Edward. It is a pleasure to serve under your chairmanship once again. New clause 24 is in very much the same spirit as new clause 21, which would require the Government to commission a report on the Bill's impact on the health and social care sectors. New clause 24 would require them to take the same approach to the agriculture sector and food security.

Significant numbers of EEA nationals are employed on a permanent and seasonal basis, making them an instrumental consideration for the agriculture sector. As things stand, it would not function without them. The coronavirus pandemic has shone a light on certain sectors that we have often taken for granted but are absolutely essential. Food security has been a focus for people as never before. It is another area that brings recognition that food production is essential to life. Its workers have been classed as key workers for the purposes of the pandemic, yet so many of those who have worked incredibly hard to keep fruit and veg, in particular, on our tables throughout the pandemic are paid less than £25,600.

The Government's February policy statement on their future points-based immigration system simply states:

"We will end free movement and not implement a route for lower-skilled workers."

Members who served on the Committee that considered the Bill presented during the 2017-19 Parliament may remember that James Porter of the National Farmers Union of Scotland gave evidence. I spoke to Mr Porter about the Bill and about the issue of "low-skilled" workers. He was keen to stress that, although some of his workers may not have qualifications or letters after their names, being an agricultural worker and picker of soft fruits and vegetables is their profession. It requires skill and they take great pride in it.

Mr Porter said that most of his seasonal workers have been coming back to his farm for 10 or 15 years. He went on to explain that the exceptional circumstances of this year meant that attempts to redirect people traditionally from different lines of work and professions into agriculture from the local labour pool had brought out the likes of lawyers, electricians and teachers to pick fruit on his farm. That was welcome, but he made the point that although they were educated and highly skilled in their own field, they were not skilled fruit pickers. They took longer and their yield was not comparable with that of people who specialise in that line of work.

The Government's February policy paper goes on to say:

"UK businesses will need to adapt and adjust to the end of free movement, and we will not seek to recreate the outcomes from free movement within the points-based system. As such, it is important that employers move away from a reliance on the UK's immigration system as an alternative to investment in staff retention, productivity, and wider investment in technology and automation."

I sought to make a point about this matter on Tuesday, during the discussion on the social care new clause. I completely accept the Minister's point that social care and agriculture are very different sectors. He will look to the unemployment figures and say that we will fill labour shortages from the domestic workforce, but I gave the example of how attempts to channel those who are out of work into other sectors over the course of the pandemic had not exactly been an easy or straightforward process.

I cited the Pick for Britain scheme as an example. The Minister may have more up-to-date figures but, after overcoming some initial teething problems with the website, one of the organisations managing the scheme, Concordia, reported that it had 35,000 applications after the initial appeal for domestic workers. However, only 30% of applicants had farming experience—as was probably predictable—and only 16% of people opted to interview after their initial application, with even fewer actually making it on to a farm.

Some of the pressures have been alleviated thanks to specially chartered flights from EU countries such as Romania, which have provided us with the skilled workers we need, but they have been a warning of what is to come. When we have problems in the sector, we will say with absolute certainty that the writing was on the wall.

The seasonal agriculture workers pilot scheme needs to be much improved if it is to sustain the levels of migrant work needed after the end of the transition period. The pilot allows for 10,000 visas, when actually 70,000 would be much closer to the agreed number of people required. The cost of permits is too high and farms simply do not have the administrative capacity needed to process the bureaucracy that accompanies each individual application.

FLEX, the Focus on Labour Exploitation group, has also repeatedly raised concerns about the potential for worker exploitation in the scheme, citing the issue of tied visas, where the worker is tied to one specific employer and prohibited from changing employer while in the UK under that visa. Debt bondage, where the worker's wages go towards paying off costs of entering the scheme, such as visa charges and flight costs, alongside recruitment fees paid to labour brokers, is another worrying trend that will need to be addressed in any future scheme.

Right across the sector there are problems. The Select Committee on Environment, Food and Rural Affairs took evidence on this in May, with Ian Wright, the chief executive of the Food and Drink Federation, telling the Committee that the crisis had shown how vital the food industry was. He said:

"If you can't feed a country, you don't have a country. That has been borne out in this crisis in massive order."

He went on to explicitly say:

"We don't think the current Immigration Bill addresses the sort of country we want to be. I think it is surprising that, given the lessons of the last eight or nine weeks, the Immigration Bill is back in parliament unchanged, given what we have learned about the people working in food and drink, in distribution centres and the care sectors."

Mr Robert Goodwill (Scarborough and Whitby) (Con): The hon. Lady is right to identify some of the exploitation that can occur. Does she agree that the Gangmasters (Licensing) Act 2004 addressed many of those problems and that the situation is much better than it was because of legislation passed by the Conservative-led Government?

Holly Lynch: I am grateful for that intervention and I welcome the point made by the right hon. Member for Scarborough and Whitby—

Dame Diana Johnson (Kingston upon Hull North) (Lab): That was us.

Holly Lynch: Further to my hon. Friend's correction, James Porter was keen to stress that that has been a helpful intervention to improve standards for workers. I hope that the hon. Gentleman agrees that there is still much more to do to ensure that we are looking after these workers.

Mr Goodwill: May I correct the record? It was because of legislation passed by the last Labour Government, which I do not recall that we opposed.

Holly Lynch: That is one of the best interventions I have taken during the course of this Committee, and it was a welcome addition.

The Royal Association of British Dairy Farmers has estimated that in the UK, 56% of dairy farmers have employed workers from the EU; 60%—around 22,800 EU migrants—make up the workforce in poultry farming. According to the NFU, the UK's horticulture sector is completely reliant upon seasonal migrant workers to collect crop yields: 99% of all harvesters in the UK come from Europe. All these working relationships have been forged over time due largely to the flexibility granted by freedom of movement.

The British Poultry Council has warned that the new immigration plans are likely to have a crippling impact on UK food businesses. A report of the kind outlined in new clause 24 is therefore necessary to safeguard the UK's agriculture industry, during a time of much upheaval. As both the National Farmers Union and National Farmers Union of Scotland have stressed, fruit and vegetable picking requires a high level of manual skills, and farms can only operate efficiently when they recruit workers with this skillset.

This is the one sector where we can say that we have just been through a trial for the ending of free movement, brought about by lockdown. Migrant labour dried up due to lockdown and the Government tried to recruit from the domestic labour force. Nowhere near the required numbers joined up, fruit and veg started to rot in the fields and we were forced to very quickly get migrant labour from Europe back in on chartered flights. It is vital that the Government learn from our experiences during the crisis and develop a proactive and pragmatic agricultural policy for implementation after the transition period. New clause 24 would give us the information required to do this.

Stuart C. McDonald (Cumbernauld, Kilsyth and Kirkintilloch East) (SNP): It is a pleasure to serve under your chairmanship again, Sir Edward. I can be relatively brief because the shadow Minister has spoken to the National Farmers Union of Scotland and represented its interests pretty well. There is real concern about shortages in the labour market for agriculture, particularly in relation to seasonal workers. Research on seasonal migrant labour from 2018 showed that in Scotland alone the number of seasonal agricultural workers required in any year is not far short of 10,000.

More recently, the NFUS and the UK farming unions have given evidence to the UK Government, demonstrating that for the whole UK around 70,000 seasonal staff are required in the horticultural sector and 13,000 seasonal staff are required in the poultry sector every year. That is obviously many times more than the number of places in the current pilot.

Challenges in recruiting seasonal workers have already been seen in recent years. In 2018, the NFUS conducted a survey of its horticultural membership in which every single respondent reported being "concerned" or "very concerned" about the impact worker shortages would have on their businesses in 2018 and beyond. Almost 60% of respondents said they were "likely" or "very likely" to downsize their business and the remaining 42% said they would have to cease current activity.

The NFUS was opposed to the end of free movement but, even while free movement was retained, farmers increasingly needed to look beyond the EU to fill such posts, with countries such as Ukraine, Russia, Belarus

[Stuart C. McDonald]

and Moldova already supplying a significant proportion of the workers required. The seasonal agricultural workers scheme pilot has been described as a step in the right direction, but it does not provide nearly enough permits if shortages such as those experienced in recent years are going to continue.

The NFUS is calling for a seasonal scheme that is open to both EU and non-EU workers, with capacity to provide farmers with access to returnee employers. It also calls for the scheme to be open to a wide number of labour providers and direct recruiters. Some concerns have been expressed about the expense and the somewhat laborious processes that are involved in taking advantage of the scheme.

The NFUS has also expressed concerns that the future immigration system proposed by the Government is not based on realistic expectations of the ability of the UK to fill the jobs currently carried out by migrant workers. It says that

"to maintain the productivity of the agricultural sector, immigration policy must allow recruitment on a seasonal basis for workers from both the EU and non-EU, at a non-restricted level."

I echo what the shadow Minister, the hon. Member for Halifax, said about the SAWS scheme and how we always have to be cautious about the need to carefully protect workers against exploitation. She was right to highlight concerns raised by Focus on Labour Exploitation during the passage of the Bill last year.

To come to the rescue of the right hon. Member for Scarborough and Whitby, the gangmasters legislation was very welcome, but so too was the introduction of the director of labour market enforcement in 2016, under the Conservative Government, which may have been what he was thinking about. Those are both welcome moves, but we have a long way to go to build on the creation of those posts in ensuring that migrant workers—and workers generally—are properly protected.

One criticism of the new clause is that it is not just on seasonal workers that we need to have a report; we need a broader report on the impact on access to labour in the agricultural industry. The concerns of organisations such as the NFUS go further than seasonal work, and include the cost of sponsorship under tier 2, which it has described as

"prohibitively expensive in terms of both financial and administrative burden."

It is fair to say that the NFUS has welcomed some of the recent developments, for example the decrease to the salary threshold that has been introduced by the Government, but it asks how non-salaried roles will fit into the points-based system; how the revised shortage occupation list will generally take account of the range of occupations that exist in agriculture; whether the Government will consider targeted routes for remote and rural areas—unfortunately, from what the Minister said the other day, it sounds as if it will be disappointed in that regard—and how the expense and bureaucracy of the system can be improved. It simply calls for close engagement as we move towards the implementation of the new system.

The new clause is sensible and will contribute to our understanding of what is going on in a future debate about labour in the agricultural sector.

The Parliamentary Under-Secretary of State for the Home Department (Kevin Foster): It is a pleasure to serve under your chairmanship, Sir Edward. I welcome the general tone of the debate that we have had so far.

As the Migration Advisory Committee—or MAC—has already made clear in its report of September 2018, agriculture is an exceptional case, as we believe the labour market is totally distinct from the labour market for resident workers. For this reason, although the MAC recommended against a dedicated route for recruiting workers based on paying at or near the legal minimum—advice that this Government accept—it did consider that the position was different in respect of the UK's world-leading agricultural sector.

Accordingly, on 6 March last year the Government announced the implementation of a nationwide pilot to enable non-EU migrant workers to undertake seasonal work on UK farms. The seasonal worker pilot admits temporary workers from outside the European Union to work in edible horticulture for up to six months. The pilot scheme ran last year on the basis of 2,500 places, and on 19 February, in line with the commitment made in our election manifesto, we increased the annual quota for the second year of the pilot from 2,500 places to 10,000 places.

11.45 am

To be clear, the pilot is not designed to meet the full needs of the farming industry. It is designed to test the effectiveness of our immigration system at supporting UK growers during peak production periods, while maintaining robust immigration control and ensuring that there are minimal impacts on local communities and public services. A thorough evaluation will be undertaken before a final decision is made on the future of the scheme. The evaluation of the pilot will also help to inform our thinking as we move towards our future immigration system.

It would be remiss of me not to mention the current situation in which the agricultural sector finds itself. We appreciate that this is a worrying time for farmers, as it is for many small businesses. I very much welcome the efforts the sector has made to increase the supply of workers from among the domestic workforce, and I pay tribute to those who have answered the call to create a modern-day land army. I was advised within the last few days that growers who advertised jobs on the Pick for Britain hub report that they have now recruited the number of workers they need for their farms.

We should ensure that migration is not an alternative to providing fair terms and conditions, particularly where reasonable requests are made. I point Opposition Members to a recent article in *Prospect* magazine and some of the reports we have had. While many farmers have been very accommodating and looked to bring local workers in, one or two have sadly not reacted with the type of changes that seem reasonable in the circumstances. We are clear that the migration system must not become an alternative to working with and employing local labour if it is possible to do so.

The pilot is still operating, despite everything. The scheme operators have sponsored nearly 3,000 people to come under the scheme already this year, though not all of them have yet been able to come to the UK due to travel restrictions relating to covid-19. I am pleased to

advise the Committee that we recently reopened visa applications in Kiev and Minsk, from two of the prime source countries for workers under this scheme. Unsurprisingly, following that we are already seeing a significant increase in applications, which the Home Office is processing rapidly.

Stuart C. McDonald: Can the Minister give us a rough outline of when a review of the pilot scheme will take place and when any sort of decision can be expected on how it will look in the future?

Kevin Foster: We expect to undertake that evaluation later this year and then announce the results as part of confirming the final details of the future migration scheme. If the hon. Gentleman's next question is about whether we will take into account the unique circumstances this year, the obvious answer is yes, given the restrictions on travel. We have found that the net is going wider in trying to recruit. Just creating migration opportunity does not automatically bring workers to the United Kingdom, as we have seen with free movement—for example, it used to be common for people from parts of western Europe to come here to do this work, but now it is not. Again, migration cannot be seen as an alternative to providing attractive terms and conditions that will encourage people to wish to do the work. Our intention is to make that announcement later this year and then confirm our intentions, in good time for next year's season.

The Department for Environment, Food and Rural Affairs already conducts quarterly seasonal labour in horticulture surveys, explicitly looking at the questions of supply and demand of seasonal labour in horticulture. I am therefore not persuaded that a further annual MAC report would significantly add to our knowledge on this matter, especially when the MAC will in future have more ability to work on matters of its own choosing, including an annual report on the migration system, in which it can choose to cover the areas suggested in the new clause. If we are giving the MAC the ability to choose what it sees as the priorities in its annual report, with debate in the House on that report, it seems strange to give it that freedom and then compel it to do a number of reports by primary legislation. With those reassurances, I hope that the hon. Member for Halifax will feel able to withdraw her new clause.

Holly Lynch: I am grateful to the Minister for those assurances. We welcome the increased flexibility that the MAC will have. I wonder whether there will be an opportunity for Opposition parties and MPs to cast a particular spotlight on an area, so that MPs can feed into that process with the MAC.

It is in everyone's interest that we continue to see the wide availability of fresh fruit and veg for families. I accept the point made by my friend the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East that we would like to see any assessment of this sector be broader than seasonal agricultural workers and take into account the requirements of the workforce right across the food sector.

Having said that, I do not intend to push the new clause to a vote. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 25

REPORT ON STATUS OF EEA AND SWISS NATIONALS AFTER THE TRANSITION

"(1) This Act shall not come into effect until a Minister of the Crown has laid a report before each House of Parliament setting out the impact of the Act on EEA and Swiss nationals in the UK.

(2) A report under subsection (1) must clarify the position of EEA and Swiss nationals in the UK during the period between the end of the transition period and the deadline for applying to the EU Settlement Scheme.

(3) A report under subsection (1) must include, but not be limited to, what rights EEA and Swiss nationals resident in the UK on 31 December 2020 have to—

(a) work in the UK;

(b) use the NHS for free;

(c) enrol in education or continue studying;

(d) access public funds such as benefits and pensions; and

(e) travel in and out of the UK."—*(Holly Lynch.)*

This new clause would require Government to provide clarity on the rights of EU nationals in the EU in the grace period between the end of the transition period, and the closure of the EU Settlement Scheme.

Brought up, and read the First time.

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

The Committee divided: Ayes 6, Noes 8.

Division No. 16]

AYES

Elmore, Chris	Lynch, Holly
Green, Kate	McDonald, Stuart C.
Johnson, Dame Diana	Owatemi, Taiwo

NOES

Davison, Dehenna	Lewer, Andrew
Foster, Kevin	Pursglove, Tom
Goodwill, rh Mr Robert	Richardson, Angela
Holden, Mr Richard	Sambrook, Gary

Question accordingly negatived.

New Clause 27

DUTY TO REPORT ON THE ASSOCIATED RIGHTS OF THE COMMON TRAVEL AREA

"(1) The Secretary of State must publish a report detailing the associated rights of the Common Travel Area no later than 30 days after the day on which this Act is passed.

(2) The report under subsection (1) shall specify—

(a) the scope of reciprocal rights under the Common Travel Area;

(b) the scope of retained EU rights and benefits under the EU Settlement Scheme; and

(c) the correlation and differences between (a) and (b).

(3) The Secretary of State must lay a copy of the report before both Houses of Parliament."—*(Holly Lynch.)*

This new clause aims to ensure that Ministers set out in detail the scope of 'reciprocal rights' of the CTA, and compare and contrast them with rights that can be retained under Part II of the Withdrawal Agreement (as provided for under the EU Settlement Scheme).

Brought up, and read the First time.

Holly Lynch: I beg to move, That the clause be read a Second time.

[Holly Lynch]

We have been through a great deal of this subject matter earlier in the debate on clause 2. I was grateful to the Minister for some of the clarity he was able to provide at that stage. New clause 27, however, goes that little bit further and asks the Government to produce a report on the associated rights given to citizens in the common travel area.

The aim of this proposed change is to ensure that Ministers set out in detail the scope of what has been officially referred to as the reciprocal rights of the common travel area, and to compare and contrast them with the rights that can be retained under part two of the withdrawal agreement, as provided for domestically under the EU settlement scheme. The Minister's predecessor stated that Irish citizens do not need to apply to the EU settlement scheme because of the CTA, but since then the Government have instead suggested that individuals whose immigration status is covered by the CTA may wish to register under the EU settlement scheme. Inevitably, this has caused a degree of confusion about possible gaps between where free movement rights finish and CTA rights start.

As highlighted by the Northern Ireland Human Rights Commission, the EU SS is enshrined in law through the withdrawal agreement. Comparatively, however, the CTA is upheld essentially by a gentlemen's agreement, the non-legally binding memorandum of understanding between the UK and Ireland on the CTA of May 2019. A report on the associated rights of the CTA would therefore be incredibly helpful to ensure that Irish citizens can receive equal rights to EEA and Swiss nationals.

We also believe that the report on the associated rights granted through the CTA would provide scope to begin to answer the pertinent questions about clause 2 raised during the evidence given by our expert witnesses. As previously discussed, while we welcome the provisions set out in clause 2 for Irish citizens, there is still outstanding ambiguity regarding the status and legality of the associated rights that are prescribed by the common travel area.

We believe that it would be incredibly welcome if the Government were to take this opportunity to clarify any ambiguity before the Bill takes effect. A report would provide unequivocal guidance on the status of Northern Irish citizens who identify solely as Irish. It would hopefully guarantee the same provisions for deportation and exclusion as those for Northern Irish citizens who identify as British. It would also clarify issues raised by the Committee on the Administration of Justice on questions relating to cross-border provisions and the right to vote in referendums. More must also be done to tackle the current problematic loophole whereby someone with an Irish passport is not granted protections on arriving in the UK, because they have travelled from a country outside the common travel area. Professor Ryan illustrated the opacity surrounding the status of acquisition of British nationality for British-born children, children born to Irish parents and Irish citizens wanting to naturalise. He stressed that this is currently an unanswered question in British citizenship law.

Finally, the report could also lead to a more sustained debate on Alison Harvey's proposal on the right to abode, which was raised during evidence. The right to abode would grant citizens a plethora of citizenship rights, while simultaneously safeguarding people's right to identify solely as Irish. We hope the new clause will catalyse discussions on this issue that will lead to a definitive conclusion.

Stuart C. McDonald: I can be very brief. I echo and support what the shadow Minister has said. I am not going to repeat what I said on clause 2; that is a welcome clause, although we have one or two concerns about the detail. What this whole debate has shown us is that, even though we are told that the common travel area pre-existed the European Union and everything is fine, in actual fact it is hard to discern what precisely is involved in the CTA and precisely what rights it confers on individuals.

My understanding from the debate we had last week is essentially that the Government propose to progress this in a rather piecemeal way, changing bits and bobs of the legislation on different subjects to ensure that Irish citizens will continue to enjoy equivalent rights in this country. Okay, that will get us to where we want to be, but it does prohibit us from having a comprehensive overview of what progress has been made and what exactly we are trying to achieve by restoring the common travel area and making sure that there is not a loss of rights because of the loss of free movement.

The new clause would be genuinely be helpful for MPs to understand what the CTA is all about, what exactly the Government are trying to achieve and what progress they are making towards that. It is a genuinely helpful suggestion.

Kevin Foster: I thank the hon. Member for Halifax for tabling new clause 27 because it gives me a chance briefly to outline the Government's commitments to maintaining the common travel area arrangements, including the associated rights of British and Irish citizens in each other's states, and the status of Irish citizens under the EU settlement scheme arrangements.

For brief background, the common travel area is an arrangement between the UK and the Republic of Ireland, as well as the Isle of Man, Guernsey and Jersey. It allows British and Irish citizens to travel freely between the UK and Ireland, and to reside in either jurisdiction. It also facilitates the enjoyment of several associated rights and privileges—in effect, by forming one area for immigration entry purposes.

As mentioned when we debated clause 2, both the UK Government and the Irish Government have committed to maintaining the CTA. The CTA is underpinned by deep-rooted historical ties, and maintaining it has been and continues to be a shared objective of both nations. Crucially, it predates the UK's and Ireland's membership of the European Union. It has been agreed with the EU that the UK and Ireland can continue to make arrangements between ourselves when it comes to the CTA.

Irish citizens in the UK and British citizens in Ireland will continue to have access to their CTA associated rights. Both Governments confirmed that position on 8 May 2019, when we signed a common travel area memorandum of understanding, which I have mentioned previously to the Committee. It is worth noting that that also builds on our commitments in the Belfast agreement that are part of international law.

The Government continue to work closely with the Irish Government to ensure that our citizens can access their rights as set out in the memorandum of understanding. This has been and will continue to be taken forward through bilateral instruments, and we have committed to updating domestic legislation. This is why we are proposing clause 2 of this Bill, which will ensure that Irish citizens can enter and remain in the UK without requiring permission, regardless of where they have travelled from, except in a very limited number of circumstances, which we debated under clause 2.

New clause 27 would also require the Government to publish details of the rights and benefits provided by the EU settlement scheme. The European Union (Withdrawal Agreement) Act 2020 protects the residence rights of European economic area citizens who are resident in the UK by the end of the transition period and eligible family members seeking to join a relevant EEA citizen in the UK after that time. EEA citizens and their family members can apply under the EU settlement scheme for UK immigration status, so that they can continue to work, study, and, where eligible, access benefits and services such as free NHS treatment. We continue to make every effort to ensure that people are aware of the benefits of applying to the EU settlement scheme.

12 noon

The Government have always been clear that Irish citizens will not be required to do anything to protect their common travel area rights, and that is confirmed in clause 2. While Irish citizens resident in the UK by 31 December 2020 can apply to the EU settlement scheme if they wish, they do not need to. Their eligible family members can apply to the scheme, whether or not the Irish citizen has done so. However, Irish citizens resident in the UK by 31 December 2020 may wish to apply to the scheme to make it easier to prove their status in the UK in the event of their wishing to bring eligible family members to the UK in the future under the provisions of the withdrawal agreement. After the transition period, once free movement rights end, Irish citizens will continue to be able to bring family members to the UK on the same basis as a British citizen.

Stuart C. McDonald: Given what the Minister says, people will have to decide whether they want to apply for the EU settlement scheme, or whether they want to continue to rely on their CTA rights. They could make that decision much more easily if they knew precisely what their CTA rights would be. Can he say anything about when the Government will take forward a programme of work to ensure that Irish citizens continue to enjoy the rights that they have now? When can people can see this on the statute book, rather than just hear it being spoken about? People are describing these as rights written in the sand.

Kevin Foster: Clause 2 explicitly puts Irish citizens' rights on the statute book and removes the anomaly by which an Irish citizen is treated differently depending on how they enter the country—whether they arrive on a flight from Dublin or a flight from Brussels, whether under EEA free movement or CTA rights. That difference is removed completely by clause 2; it makes it clear that the same position applies, however an Irish citizen arrives in the United Kingdom.

I am very much a supporter of the provisions of the Belfast agreement, under which a person can identify as British, Irish or both. Effectively, in the United Kingdom, the person will be treated as if they were a British citizen, in terms of their rights, including their right to live here, and the services they can access. There is a very tiny number of exceptions. On this Committee, we have all struggled, as have the witnesses, to find in recent times and under modern legislation an example of an Irish citizen being deported from the United Kingdom. The position outlined in a written statement in 2007—and yes, I know who was in government in 2007—still stands, and we have not had any representations from the Irish Government on changing that. I suspect that if we looked to behave in an unreasonable way towards an Irish citizen, the Irish Government would be very clear in their response.

Stuart C. McDonald: The Minister is obviously doing his bit by putting clause 2 into the Bill, but what I am really asking—I suspect that he does not have the answer today—is what other work is under way across Government to make sure that Irish citizens have rights on housing, health and everything else on exactly the same basis as before, and to make sure that the loss of free movement rights does not mean that they will be in a worse position. Some sort of timetable on what is going on, and how the change is being processed, would be useful for lots of citizens.

Kevin Foster: I thank the hon. Member for quite a constructive intervention. He obviously will appreciate that those arriving after the transition period would not have free movement rights, but those arriving before are covered by the withdrawal agreement. I am more than happy to get a letter to him setting out how we will make sure of the position that he mentions. I suspect that his concern is that when an Irish citizen is in the United Kingdom, talking to a person at a Department for Work and Pensions office, or a landlord, and presents them with an Irish passport, it should be understood inherently that it has exactly the same status in terms of renting, or accessing a service or employment, as a British passport, particularly given the different commentary. I am more than happy to set out in writing to the Committee the work that will be done on that point.

In summary, the Government have already made clear the rights available to individuals under the common travel area and the EU settlement scheme following the end of free movement, and we will continue to do so. I therefore respectfully ask the hon. Member for Halifax not to press the new clause for the reasons I have outlined.

Holly Lynch: I welcome the fairly constructive way in which the Minister has engaged on this point. The points made in intervention by my friend from the SNP, the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East, do still stand. I reinforce that there will continue to be a desire and unanswered questions in this area. There are certainly merits to committing more of what we have discussed to primary legislation, but I will not press the new clause at this point. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 28

ANNUAL REVIEW: HIGHER EDUCATION

(1) The Secretary of State must commission an annual report from the Migration Advisory Committee on the impact of the provisions of this Act on the number of overseas students in the UK from the EEA and Switzerland.

(2) The report must be laid before each House of Parliament as soon as possible after it has been completed.

(3) A Minister of the Crown must, not later than three months after the report has been laid before Parliament, make a motion in the House of Commons in relation to the report.—*(Kate Green.)*

Brought up, and read the First time.

Kate Green (Stretford and Urmston) (Lab): I beg to move, That the clause be read a Second time.

It is a pleasure to see you in the Chair again this morning, Sir Edward. The new clause would require the Government to commission an annual report from the Migration Advisory Committee on the impact of the Bill's provisions on the higher education sector.

As the Committee will know, the UK higher education sector has a world-leading reputation, which helps it to attract international students. The proportion of international students is a measure in most global university rankings, meaning that by choosing to study here, international students contribute directly to the sector's world standing. Today, 18 of the UK's universities rank in the world's top 100, and 76% of UK research is ranked as excellent or world-leading. International staff and students are crucial to the UK's economic success, and it is important that the UK continues to attract both EU and non-EU students and staff in the future.

International students deliver more than £26 billion to the UK economy. They bring more than £6.9 billion in income to universities in tuition fees. They generated £13 billion of export revenue in 2016, an increase of 41% since 2010. Universities UK estimates that universities supported more than 200,000 jobs and were worth £3.3 billion in tax revenues.

Aside from the direct economic benefits, international students and staff are crucial to the provision of skills, the conducting of research and the culture of the UK's universities. In 2017-18, UK higher education institutions reported a £4.3 billion deficit between research income received and the costs of delivering research activity. Much of that gap was covered by international tuition fees, so international students are key to the UK's research capacity.

In 2018-19, there were 485,645 international students enrolled at UK universities, an increase from 436,600 international students in 2014-15. Some 342,620 of those international students—that is 70%—were from outside the European Union. The remaining 143,025 students were from EU countries, but the UK's market share has dropped in 17 of the world's top 21 sending countries. The Office for Budget Responsibility has identified higher education as the sector likely to take the hardest hit from the covid crisis.

Given the pressures, it will be vital to understand the impact of immigration policy on future student numbers. The impact assessment attached to the Bill is optimistic, suggesting that a potential reduction in the number of EEA students attending UK universities of 25,000 after the first five years of the new points-based system will be offset by a corresponding increase in non-EEA students.

However, some of the assumptions in the impact assessment are highly speculative—as, indeed, the Government themselves acknowledge. Paragraph 160 of the impact assessment states that

"measures such as proof of funds and employment rights might have an additional deterrent impact—but there is little evidence on which to base an estimate. The impact of any administration cost or visa fee or change to student funding will also impact student choices. Therefore, the estimates presented here will only reflect the potential impacts from changes in immigration policy and not the overall impacts on EU student numbers."

Paragraphs 163 and 164 state:

"The restrictions on the rights to bring dependants, which will apply to EU students from 2021, may also have an impact on inflows under the future system, as only those who are studying a full-time course which is a least nine months long at a postgraduate level of study are allowed to bring family members to the UK…Applying these potential deterrents, the reduction in EU student inflows are estimated to be around 15,000 per annum in the first five years of the policy."

In paragraph 165, expected-length-of-study data is applied to the change in inflows, pointing to:

"an estimate of up to 25,000 fewer EU higher education students in the UK by academic year 2024/25 relative to the baseline."

The paragraph also argues that

"any places not taken by EU students may be occupied by non-EU students, so the overall impact on foreign student numbers is not clear."

In paragraph 166, the Government estimate that

"non-EU enrolments might increase by up to 10 per cent, depending on the level of study",

but the paragraph also notes:

"This assumption is very uncertain, not least because other drivers could have affected non-EU inflows over the period of the last post-study work visa."

None the less, paragraph 167 states:

"The assumption of around 10 per cent increase in enrolments is estimated to lead to an average annual increase in non-EU enrolments by around 25,000 over the first five years of the policy."

That is a strikingly convenient conclusion in the light of the assessment of 25,000 fewer EU students at the end of the same period.

Paragraph 172 notes:

"Changes in the numbers of students enrolling will affect tuition fee income for universities. Overall, projected tuition fee income is estimated to increase under the future immigration system. This is primarily driven by the"—

assumed—

"increase in tuition fee income from additional non-EEA students which is expected to more than offset the decline in EEA student tuition fee income. The increase is estimated to be between £1 billion and £2 billion over the first five years of the policy."

However, paragraph 172 goes on to state:

"Estimates do not take any account of behavioural impacts, nor any changes in universities expenditure."

Paragraph 173 expands on that, stating:

"EU students are currently classified as 'home' students, and therefore benefit from accessing student loans and paying domestic tuition fees which are currently capped at £9,250 for undergraduates. Estimates above assume home fee status and access to student loans will remain the same as the current system. However, any changes to this will have an impact on both EU student enrolments and the projected tuition fee income of universities."

Paragraph 175 concludes:

> "As a result of changes to net student enrolments modelled above, a cumulative net fiscal benefit is estimated of under £1 billion over the first five years of the forecast period."

That is a bold statement that will be true only if the assumptions in the impact assessment are correct and the reductions in EU students are indeed replaced by non-EU students.

We can already identify a number of policy choices that could affect those assumptions. The current situation for EEA students coming to the UK is that for academic year 2020-21, they retain the same status as domestic students. However, delays in start dates and term times as a result of the covid crisis may mean that there will be students who enrol on to academic year 2020-21, but do not enter the UK until 2021. Which immigration system will apply in such circumstances is uncertain.

12.15 pm

The Government urgently need to provide clarity on this issue and find a sensible and pragmatic way to ensure that no EEA students coming into the UK in the academic year 2020-21 will face additional barriers to entry as a result of the covid crisis and that they will all be treated as they are currently.

As we heard last week in evidence from Richard Burge of the London Chamber of Commerce and Industry, post-study work opportunities play an important role in attracting international students, so the two-year post-study work visa is welcome, but Universities UK has also identified a number of concerns about this policy. The 2020 international student survey from QS—Quacquarelli Symonds—found that only 6% of prospective international students interested in studying in the UK were aware of the timeframe that they would be allowed to stay in the UK after studying, so better promotion to prospective students is needed. The ISS found that 60% of respondents would be more likely to consider studying in the UK if the post-study work visa was extended to three or four years, and clarity is needed that students who begin their studies remotely and subsequently spend less than 11 months in the UK will still be eligible.

A number of uncertainties exist in relation to the assumptions of student numbers set out in the impact assessment. A report to Parliament, as proposed in our amendment, would enable careful monitoring of the extent to which the assumptions in the assessment are realised and offer the chance to take early action if outcomes are poorer than expected. The same is true of non-UK staff in UK universities. International staff make up nearly a third of the total academic workforce in higher education institutions: 18% are from the EU and 13% are from outside the EU, while the proportion of academic research staff who are international staff is even higher, and the number of international staff has been increasing. EU staff members increased by 44% between 2012 and 2018, and non-EU staff members by 25%.

It will be important that the proposed review reports on the impact of Government policy on the recruitment and retention of international staff, but here too there are concerns about future policy direction. To be eligible for a visa in the current immigration system, international teaching staff are required to earn a minimum salary, which is decided using well-established sector pay scales. The Migration Advisory Committee advised that the criteria used to set the minimum salary threshold should be changed to use a different dataset from the annual survey for hours and earnings. This change increases the minimum salary requirement by over £7,000.

The Government followed the MAC's advice on the basis that academic staff would still be eligible in the points-based system, because they hold a PhD-level degree qualification, but while all teaching staff are highly qualified, only around 49% hold a PhD. Twenty-seven per cent of current international staff, or 7,800 people, would not be eligible to come to the UK under the new proposals. Universities UK is aware that the Government want to attract such staff, so it would encourage a revision of the requirement to avoid any unintended consequences. Higher education is the only area of the education sector that does not receive an exemption from the annual survey of hours and earnings data measurements in the proposals.

Finally, around 17,000 UK university students take part in the Erasmus+ scheme every year, which enables thousands of students to benefit from the opportunities that a period of study in an international university can offer. The UK will not participate in the new Erasmus+ programme starting from 1 January 2021 unless the Government secure continued participation in the current talks on the UK's future relationship with the EU. The loss of Erasmus+ would be felt hardest by young people, especially disadvantaged and disabled students, who receive additional grants to study abroad, very often going overseas for the first time.

The programme is also valued, however, by UK employers. Almost half—42%—of higher education students on Erasmus undergo traineeships abroad in businesses and enterprises, learning skills that are demanded by employers on graduation. Incoming students, meanwhile, spend £420 million a year across the UK, and that sum is rising annually. If we take account of these earnings, the UK is estimated to make a net profit of £243 million a year from our participation in Erasmus. Again, regular reporting would enable Parliament to monitor the extent to which young people continue to have access to the best international exchange opportunities in higher education, which is important for the UK's competitiveness and economic success and for the life chances of our young people.

In conclusion, I hope the Minister will agree that ongoing monitoring and reporting to Parliament on the state of the higher education sector in relation to staff, students and young people on exchange programmes in the wake of this Bill will be vital. I commend my new clause to the Committee.

Stuart C. McDonald: Again, I fully support and echo much of what the hon. Member for Stretford and Urmston has said. If anything, I would argue that the review requested in the new clause should be slightly broader and encompass not only student recruitment but staff recruitment, because that is an important issue for our universities. I also suggest that the report needs an urgent timeframe, because the clock is ticking down to a new academic year and a new recruitment period, but she made all sorts of valuable points.

[Stuart C. McDonald]

Some changes made to the Government's original White Paper have improved matters, such as the reduction in the salary and skills thresholds, but there remain lots of challenges, and of course just now universities are under immense pressure in dealing with the coronavirus pandemic and its fallout. I have spoken with Universities Scotland about the review suggested in the new clause, and what follow are some of the issues it raised. What steps are the Minister and the Government taking to get the visa system working again—lots of visa processing centres remain closed—and how can alternative measures be put in place to ensure we can recruit students at the moment?

What steps will the Government take to ensure that students can start courses online with confidence—for example, by extending the window from three months to six months so that people can have extra time to arrive in the UK from when their visa becomes valid? What steps are being taken to ensure that online study does not disqualify students from the graduate route, and will the Minister consider increasing the graduate route length to three or four years and promoting it intensively, because as we he heard awareness rates are still very low?

Finally, the report should also look at whether consideration has been given to waiving tier-4 visa fees for one year only? In the longer run, what steps are being taken to ensure that our visa fees are competitive and allow us to compete with countries such as Canada and Australia, which have such strong offers in terms of fees and post-study work. These are all things the Government should think about as part of the report, and we think the new clause would be a welcome addition to the Bill.

Kevin Foster: The new clause provides the Committee with a useful opportunity to consider the important issue of international students in the UK, and I am grateful to hon. Members for tabling it.

I want to start by picking up on the point made about Erasmus by the hon. Member for Stretford and Urmston. My constituency sees a large number of Erasmus students, and we very much welcome it. At the moment, the scope and content of EU programmes post 2020, including Erasmus, is being negotiated within the EU institutions and has not been finalised. The Government have made it clear that the UK is ready to consider participation in certain EU programmes, in particular Erasmus+, once the EU has agreed the baseline in its 2021-27 multiannual financial framework. Given that that has not yet been agreed, we are preparing for every eventuality and considering a wide range of options with regard to the future of international exchange and collaboration in education and training if it is not possible to secure a deal on Erasmus+. I want to give reassurance that the will is there. Once the EU has agreed its baseline, we will look to continue to be part of that valuable programme.

The Government strongly welcome international students, as I know Members across the Committee do. We see the academic and creative energy they bring to communities across our Union, including Belfast, Glasgow, Cardiff, Birmingham and Exeter. The Committee will be pleased to hear that the UK is one of the world's leading destinations for international education, and hundreds of thousands of talented students choose to come to the UK's world-leading institutions.

The Higher Education Statistics Agency has found that the total number of international students in higher education in the UK increased by 10% between 2014-15 and 2018-19, with the latest data suggesting that around 140,000 EU domiciled and 340,000 non-EU domiciled students enrolled in higher education institutions in the UK. The most recent set of immigration statistics show some very welcome growth in the number of people studying at our institutions from China and India in particular.

I want to reiterate that the Government place no limit on the number of international students who can come to study in the UK and have no intention ever to introduce any such limit in future under the new migration system. Indeed, as set out in the "International Education Strategy", published last year, it is the Government's ambition to increase the number of international higher education students studying in the UK to 600,000 by 2030. However, I recognise that we must not stand still if we are to continue to be a leading destination for international students. The Minister of State for Universities recently announced a new international education champion, Sir Steve Smith, to spearhead the UK's efforts in the international student market. The Minister and I liaise regularly about the role that the migration system can play in facilitating that.

In summer 2021, we will launch a new graduate route, which will enable international students who have successfully completed their degree to remain in the UK for two years post study to work or look for work at any level, in order to kick-start their career. That will ensure that the UK continues to attract the brightest and the best and that our offer to prospective international students remains competitive internationally. I know that this policy change has significant cross-party support. It was even one of the first requests made by an SNP MP in a recent Opposition day debate on migration, in which my hon. Friend the Member for Moray and I took part, and I am pleased that it has been welcomed by the education sector.

I want to respond to the points made about eligibility for this route. We have published guidance, which confirms that those having to study overseas by distance learning due to the current circumstances will still be eligible for the graduate route. I do not blame Opposition Members for not having seen it, because it came out this morning, so I do not make that point to have a go at them. That followed discussions that the Minister of State for Universities and I had.

We will not penalise people for circumstances that are beyond their control, and we are working to finalise some of the details. Particularly for those on a one-year course—who will predominantly be postgraduate students, where we probably have a record of compliance and they have a very high skill level—we will be working to find that they have spent some time in the United Kingdom. For those starting three-year courses, we will not hold against them an absence from the United Kingdom caused by having to do distance learning, as a general principle.

We are looking at a range of other measures we can take to facilitate applications for tier 4, particularly from those who are applying to a new course having

already been in the United Kingdom, many of whom are postgraduates or have done foundation courses. We have had strong representations on the extension to six months. It is clear that that will not be a huge advantage to someone looking to start a course in late September or October, given that it is now mid-June, but we are looking at where we can make some appropriate changes to the migration rules to reflect the unique situation. We will of course continue to work with Universities UK to ensure that those changes are appropriate. As I say, we have today published some guidance, which I am sure Committee members will find interesting. I will make sure that a link to it, or perhaps a copy of it, is sent round, to make one or two of these points clear.

12.30 pm

On the wider response, we have extended leave, free of charge, for those students who are unable to travel home. We have also temporarily given more institutions the ability to self-assess English language, permitted distance learning and allowed students to make in-country applications when they would otherwise not have been able to do so. We will launch a new student route later this year, as part of the new points-based system, and EEA citizens who wish to come to the UK from 1 January to study will need to apply under that route and meet the requirements in the same way as non-EEA citizens. However, to be clear, those who arrive before the end of the transition period will be able to apply to the European settlement scheme and benefit from the protections of the withdrawal agreement.

Under the new student route, provided that students have been offered a place by a sponsoring institution, the immigration requirements will be light touch. Along with being sponsored, students must be able to speak the required level of English for their course and to support themselves in the UK. The route will improve on the existing tier-4 route, making it more streamlined for sponsoring institutions and their students, creating clearer pathways for students, and ensuring that the UK remains competitive in a changing global market.

As I have mentioned before in Committee, the Government have committed to expanding the role of the Migration Advisory Committee. This year will be the first time that the MAC publishes an annual report—an important development to increase transparency and provide more regular evidence on issues relating to immigration. However, as I have said before, in addition to specific commissions from the Government, the MAC will also be able to undertake other work when it considers it necessary.

In 2018, for the first time in its history, the MAC looked at the issue of international students. The Government have accepted its recommendations, and we have gone slightly further than the MAC suggested by creating the new graduate route, enabling international graduates to remain in the UK for two years on completion of their studies. Given the importance of the issue, I cannot imagine that the MAC will not choose to look at it regularly or comment on it in its annual report.

To touch on the comments made earlier, the MAC is an independent body. Yes, it can take Government commissions, but I am sure it will also be open to representations from the sector and others—potentially the devolved Administrations—on issues that it should prioritise and consider.

It should be recognised that prospective students take into account many factors when choosing where they will go to study, including the quality of the institution and the course on offer, course fees, the ability to access student loans, graduate outcomes and the global economic environment. The new clause would require the MAC to consider the impact of "this Act" only. Such a narrow focus would not capture the wider environment that could affect international student numbers. For the reasons I have set out, I hope that Opposition Members will feel able withdraw the new clause.

Kate Green: I welcome much of what the Minister has said. I welcome his and the Government's ambition to be and to continue to be a leading player in the international student market. I very much welcome what he said about the commitment either to continue our association with Erasmus+, if that is possible, or to find other ways to continue to offer international exchange opportunities to students. He gave useful assurances in relation to the guidance published this morning—which I apologise for not having read—on greater flexibilities in respect of the covid-19 crisis. I am sure that the MAC will have heard what the Minister said about encouraging its continued active review of the international student market. Given the Minister's comments, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 29

REPORT ON ARRANGEMENTS FOR TEMPORARY ENTRY AND STAY FOR BUSINESS PURPOSES FOR EEA AND SWISS NATIONALS

"(1) A Minister of the Crown must, within 12 months of this Act coming into force, lay before Parliament a report evaluating the effects of this Act on the arrangements for temporary entry and stay for business purposes for EEA and Swiss nationals.

(2) That report must include—

(a) the qualification requirements for a short-term business visitor

(b) the activities that can be undertaken by a short-term business visitor;

(c) consider the reciprocal arrangements for UK nationals travelling to the EEA and Switzerland."—*(Holly Lynch.)*

This new clause would require the Government to consider the requirements of short-term business visitors.

Brought up, and read the First time.

Holly Lynch: I beg to move, That the clause be read a Second time.

The new clause is not unlike some of the other proposals we have made in this sitting to ask the Government to go away and develop an evidence base, shining a spotlight on certain sectors, which we hope would then inform more concrete proposals. This proposal has a particular focus on the creative industries, temporary migration and visa requirements for working arrangements.

We understand that the Government are currently negotiating a reciprocal agreement with the EU that would allow UK citizens to undertake some paid business activities in the EU without a work permit on a short-term basis. However, the precise details, including the range of activities, the documentation needed and the time limit, are all still to be negotiated; certainly the details are still to be put into the public domain.

[Holly Lynch]

One sector directly affected is culture, music and the performing arts. The creative sector contributes over £100 billion a year to the UK economy and employs over 3 million people, according to the Confederation of British Industry. There are growing concerns in this sector about the lack of progress on a reciprocal agreement being reached before the end of the transition period, and whether it would guarantee short-term work and visits for EU nationals, all of which is critical for the survival of the music profession.

Britain's music industry has long attracted world-class artists, entertainers and musicians to perform in the UK, but this is all very precarious if visa issues are not resolved by the end of the year. This is also one of the sectors hardest hit by the coronavirus, as events and performances will no doubt be one of the last elements across society to return to normal.

Working in the European Union, whether that involves performing, recording, teaching or collaborating, is an essential part of the music professional's ability to earn. The music industry is very transient and often there is not enough work available in the UK for musicians to sustain livelihoods, but going abroad has often provided a solution. We are not talking about performers earning megabucks, although of course we want the UK to be an attractive stage for them and for our international talent in the rest of Europe—for example, UK performers who may go to work in a holiday resort for two months of the year, or may tour venues in a number of European countries.

If the UK leaves without a comprehensive arrangement in place, musicians could very quickly find themselves trying to navigate the entry requirements for each of the 27 EU member states, which risks causing major disruption to the UK's music industry. Without effective reciprocal arrangements, the UK may see a decline in skilled culture sector workers entering the country from the EU. If the music industry is to survive and we are to continue attracting the best talent from across the world, musicians and performers must be able to continue travelling abroad to work with ease after the transition period. It is the same for many other businesses and industries.

The Home Office previously pledged that it would allow EU bands to enter the country freely for gigs post Brexit, and that it would continue to include special arrangements for creative workers. A potential solution might be a multi-entry touring visa valid for about two years and EU-wide, covering all 27 member states, which I know is the preference of the Incorporated Society of Musicians.

I hope the Minister agrees that the UK must continue to attract musicians and performers from all over the world with an immigration system that is fit for purpose. Providing the best possible situation to do that would be achieved by commissioning the report set out in new clause 29.

Kevin Foster: It might help if I briefly outline how the current system for those visiting the UK for business purposes operates. I note the shadow Minister has focused on creative purposes, but the wording in the new clause is "business visitor".

The Government welcome genuine visitors to the UK, and this is not going to change once free movement has ended. We want to ensure legitimate travellers who support our economy and enrich our culture can continue to come to the UK smoothly in future. The UK's current immigration rules for visitors are already fairly generous. Visitors can, in most cases, come to the UK for up to six months, and take part in a wide range of activities beyond simply tourism, or visiting family and friends.

Visitors can attend conferences, carry out independent research, undertake work-related training and maintain and install equipment where there is a contract with a UK company. We also allow audit activity and knowledge transfer where these take place in an intra-company setting. Visitors can undertake creative and sporting activities, and there are also some exceptional instances in the visitor rules whereby we allow payment by a UK source for certain activities, including performing at a permit-free festival, such as the Edinburgh festival. There are also provisions for paid performance engagement—or PPE, as we call it—whereby an individual who has been invited by a creative organisation can be paid for a short period for performing in the UK.

Those are already available to non-visa nationals, such as Canadian, Australian, Japanese and New Zealand citizens, and we have made it clear that EEA and Swiss citizens will not need a visa to undertake these activities, and will be able to travel and enter the UK on that basis. The EU has already legislated so that UK nationals will not need a visa when travelling to the Schengen area for short stays of up to 90 days in any 180-day period, as opposed to our slightly more generous provisions for visitors.

The Government recognise that it is desirable for UK nationals to have greater certainty about what they can do when travelling to the EU on a temporary or short-term basis, hence future arrangements on entry and temporary stay in the EU are subject to ongoing negotiations. Further, we look forward to reaching agreement on the future entry and temporary stay of natural persons with Switzerland and the EEA-European Free Trade Association states. For obvious reasons, we cannot legislate that the 27 member states of the EU offer a deal to the UK, but we hope we can come to a mutually beneficial agreement.

The UK's visitor rules are kept under regular review. In our points-based system policy statement from February, we committed to

"continue our generous visitor provisions, but with simplified rules and guidance".

We have engaged with stakeholders to understand how the rules can be simplified and improved and will continue to do so once free movement ends. For these reasons, there is no requirement for an additional report, and the new clause would be an odd addition to the Bill, for reasons I have set out in response to previous new clauses. I would therefore ask the hon. Member for Halifax to consider withdrawing the new clause.

Holly Lynch: I am grateful to the Minister for that response. At this stage, we will continue to follow the negotiations on the additional reciprocal arrangements, and on that note I beg to ask leave to withdraw new clause 29.

Clause, by leave, withdrawn.

New Clause 30

Procedures for amending Immigration Rules

"(1) The Immigration Act 1971 is amended in accordance with subsection 2.

(2) After section 3(2) insert—

"(2A) Any statement of the rules, or of any changes to the rules, which affect the rights and obligations of persons who will lose their right of freedom of movement under the provisions of the Immigration and Social Security Co-Ordination (EU Withdrawal) Act may not be made or have effect unless the Secretary of State has complied with subsections (2B) to (2F) below.

(2B) If the Secretary of State proposes to make changes to the rules under subsection (2A) above, the Secretary of State must lay before Parliament a document that—

(a) explains the proposal; and

(b) sets it out in the form of a draft order.

(2C) During the period of 60 days beginning with the day on which the document was laid under subsection (2B) (the "60-day period"), the Secretary of State may not lay before Parliament a draft order to give effect to the proposal (with or without modification).

(2D) In preparing a draft order under section (2A) above, the Secretary of State must have regard to any of the following that are made with regard to the draft order during the 60-day period—

(a) any representations; and

(b) any recommendations of a committee of either House of Parliament charged with reporting on the draft order.

(2E) When laying before Parliament a draft order to give effect to the proposal (with or without modifications), the Secretary of State must also lay a document that explains any changes made to the proposal contained in the document under subsection (2B).

(2F) In calculating the 60-day period, no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is not adjourned for more than 4 days."—*(Stuart C. McDonald.)*

This new clause would amend the Immigration Act 1971 to ensure that any changes to the UK's Immigration Rules which affect EEA or Swiss nationals must be made under the super affirmative procedure.

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

Question negatived.

New Clause 32

Annual report on labour market

"Within 12 months of this Act coming into force, and every 12 months thereafter, the Secretary of State must lay a report before Parliament setting out how any changes made to the Immigration Rules for EEA and Swiss nationals have affected the extent to which UK employers have adequate access to labour."—*(Stuart C. McDonald.)*

This new clause would mean the Secretary of State must lay a report before Parliament on how changes to Immigration Rules for EEA and Swiss nationals are affecting access to labour.

Brought up, and read the First time.

Stuart C. McDonald: I beg to move, that the clause be read a Second time.

I can be relatively brief, since we covered much of this territory in earlier discussions, but it is a useful opportunity to push the Minister on a few issues. What progress can he report on raising awareness of the new tier-2 procedures in which so many small and medium-sized enterprises will have to participate, and what support is being rolled out for those businesses to help them to navigate the new system? What change has he noticed in the number of applications for tier-2 sponsorship licences, and what work is under way to streamline the system, which we have spoken about at length previously?

I suspect the Minister's answer to the new clause will be that there is to be an annual MAC report. If so, can we ask that it is laid before Parliament and then have a debate on it? The Home Affairs Committee spoke about an annual debate on migration in a repot two or three years ago in trying to build a consensus on migration. It looked at how other countries developed immigration policy, and one issue that featured heavily in other jurisdictions was, at the very least, an annual debate on immigration policy generally.

We are talking about seismic changes to the way in which many businesses will go about recruiting and accessing the labour market, and the number of industry bodies that have come to me to express concerns is unbelievable—industry bodies I did not even know existed until they got in touch—across food and drink, agriculture, tourism and hospitality, fishing, manufacturing, engineering, logistics, financial services, social care, education, and many more. There is significant apprehension, and it is not because any of these industries want to exploit low wages; it is their realistic assessment that they are struggling already to access the labour they need in the UK at a price they can afford and which keeps them competitive. Now they are going to struggle to access labour from abroad, because of immigration rules.

12.45 pm

We have spoken about the salary threshold on a number of occasions, but we have not said much about the skills threshold. It is welcome that it is lower than it was in the original White Paper, but there is no route for those in jobs below regulated qualifications framework level 3. That excludes those in many roles in which we have a high vacancy level, notably heavy goods vehicle drivers and care workers. Sectors such as hospitality, tourism, food and drink and agriculture are particularly concerned about how they will recruit the people they need, and I fear that the Government will come to regret removing the one-year visa in the original White Paper proposals, rather than listening to concerns and improving it.

The concerns expressed by business also arise from an assessment that even if jobs are at the required skill and salary thresholds and businesses can access the labour that they need, there will still be significant costs and red tape. This is all happening when businesses need it least. It will not be an issue for the huge multinationals in London, which are well used to the tier 2 system, but it will be a huge challenge for small and medium-sized enterprises in every single constituency represented in this room.

The Minister says he is confident that everything is in hand, that the shortage occupation list will be more efficient, and that the system will be streamlined, but we need much more detail, and we need action. The Home Office is being reckless in pushing ahead at this time, but let us have a proper report and a debate, so that we can decide what the impact has been, and can assess whether the right decisions have been made and how we go about building immigration policy for the future.

Holly Lynch: I lend our support to the new clause. I anticipate that the Minister will reflect on the developments with the MAC, in that plans are afoot for an annual assessment of labour requirements across the UK, which will influence our immigration approach. However, I echo what my friend from the SNP, the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East, has said. We would very much welcome that report being placed before both Houses, so that there can be further debate across this place.

We have called for reports on the sectors we are most concerned about, which we have debated and discussed this morning, but there will be so many others. As with any change like this, there will be unintended consequences. We want the opportunity to mitigate the impact of the end of free movement, and to debate that in Parliament. That would, we hope, lead to much more dynamic decision making on changes to mitigate the impact of the ending of free movement on further sectors. We welcome the new clause.

Kevin Foster: I thank the shadow spokespeople for their comments and the constructive way in which they have put forward the new clause, which hits on an important point. Certainly neither I nor anyone else in government wants businesses to fail due to an unavailability of labour, although, sadly, as many outside this room would note, the impact of covid-19 on our economy means that not many people would see that as a likely issue over the coming period, for all too obvious reasons.

It is precisely for that reason that the Government are bringing forward the new points-based immigration system. It will be a single global system that will treat everyone alike and will allow people to come to the UK on the basis of their skills and the contribution they can make, not their nationality or where their passport is from. It will be a fair system, and we are introducing a number of important elements, such as reducing the skills and salary threshold below those in the tier 2 system, and abolishing the cap and resident labour market test, which will remove a lot of bureaucracy for employers engaging with the system.

The system will also be flexible. We are making it points-based, precisely so that we can facilitate the entry of those with the greatest skills or those who are coming to fill jobs where there is the greatest need. The system will be kept under careful review.

I do not think anyone would disagree that it is profoundly important to look at the effect that immigration is having on the labour market. That means looking at the situation for employers and the impact on UK workers seeking employment. The new clause, focusing as it does solely on employers, would give only one side of the story, leaving workers' interests at a disadvantage. I also do not believe that the Government are best placed to look at this issue; this type of request is why the independent Migration Advisory Committee exists and is commissioned to produce expert, independent reports on the interplay between immigration and the labour market. I do not believe that what it produces could be further improved by another report from the Government. As part of its work, the MAC already looks at which occupations in the UK are currently experiencing a shortage of workers and, crucially, where it thinks it would be beneficial to fill vacancies through immigration. We maintain shortage occupation lists to recognise that.

The work of the MAC and the reports it produces go beyond the narrow scope of the work proposed by the new clause. The MAC looks at the whole immigration system, rather than just changes to the immigration rules. The MAC also looks at the impact of all migration, rather than limiting itself to EEA and Swiss migration, as the new clause seeks to do, although I accept that the wording is probably because of the scope of the Bill. The future immigration system will be a global one, where an EEA citizen has the same basic rights to migrate to the UK as someone, for example, from the Commonwealth.

The new clause would simply result in duplication of work already being undertaken by the pre-eminent labour market economists and migration specialists of the MAC. Parliament regularly debates the MAC's reports. I hope that the MAC's annual reports will help to inform regular, structured debates on migration—something to which Opposition Members alluded—allowing us to take a more considered view, rather than simply reacting to particular proposals or events. I have outlined the role that the MAC will play. I hope that the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East will feel able to withdraw his new clause.

Stuart C. McDonald: I am grateful to the Minister, and I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

New Clause 41

Children in care and children entitled to care leaving support: Entitlement to remain

'(1) Any child who has their right of free movement removed by the provisions contained in this Act, and who are in the care of a local authority, or entitled to care leaving support, shall, by virtue of this provision, be deemed to have and be granted automatic Indefinite Leave to Remain within the United Kingdom under the EU Settlement Scheme.

(2) The Secretary of State must, for purposes of subsection (1), issue guidance to local authorities in England, Scotland, Wales and Norther Ireland setting out their duty to identify the children of EEA and Swiss nationals in their care or entitled to care leaving support.

(3) Before issuing guidance under this section the Secretary of State must consult—

(a) the relevant Scottish Minister;

(b) the relevant Welsh Minister; and

(c) the relevant Northern Ireland Minister

(4) The Secretary of State must make arrangements to ensure that personal data relating to nationality processed by local authorities for purposes of identification under subsection (1) is used solely for this purpose and no further immigration control purpose.

(5) Any child subject to subsection (1) who is identified and granted status after the deadline of EU Settlement Scheme ("the Scheme") will be deemed to have had such status and all rights associated with the status from the time of the Scheme deadline.

(6) This section comes into force upon the commencement of this Act and remains in effect for 5 years after the deadline of the EU Settlement Scheme.

(7) For purposes of this section, "children in the care of the local authority" are defined as children receiving care under any of the following—

(a) section 20 of the Children Act 1989 (Provision of accommodation for children: general);

(b) section 31 of the Children Act 1989 (Care and Supervision);

(c) section 75 Social Services and Well-being (Wales) Act 2014 (General duty of local authority to secure sufficient accommodation for looked after children);

(d) section 25 of the Children (Scotland) Act 1995 (Provision of accommodation for children);

(e) Article 25 of the Children (Northern Ireland) Order 1995 (Interpretation); and

(f) Article 50 Children of the (Northern Ireland) Order 1995 (Care orders and supervision orders).

(8) For the purposes of this section, "children entitled to care leaving support" means a child receiving support under any of the following—

(a) paragraph 19B of Schedule 2 Children Act 1989 (Preparation for ceasing to be looked after);

(b) s.23A(2) Children Act 1989 (The responsible authority and relevant children);

(c) s.23C(1) Children Act 1989 (Continuing functions in respect of former relevant children);

(d) section 104 of the Social Services and Well-being (Wales) Act 2014 (Young people entitled to support under sections 105 to 115);

(e) sections 29-30 Children (Scotland) Act 1995 (Advice and assistance for young persons formerly looked after by local authorities) as amended by s.66 Children and Young People (Scotland) Act 2014 (Provision of aftercare to young people); and

(f) Article 35(2) Children (Northern Ireland) Order 1995 (Persons qualifying for advice and assistance.).'—*(Dame Diana Johnson.)*

This new clause aims to ensure that the children of EEA and Swiss nationals who are in care, and those who are entitled to care leaving support, are granted automatic Indefinite Leave to Remain under the EU Settlement Scheme to ensure they do not become undocumented.

Brought up, and read the First time.

Dame Diana Johnson: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 58—*Settled status: children in care*—

'(1) Any child who has their right of free movement removed by the provisions contained in this Act has the right of settled status in the United Kingdom if that child is in care, is subject to the public law outline process via a declaratory system, undertaken on the child's behalf by the Local Authority whose care they are under, or is entitled to care leaving support.

(2) For the purposes of this section, "a child in care" means a child who is under 18 and is—

(a) living with foster parents;

(b) living in a residential children's home; or

(c) living in a residential setting like a school or secure unit."

(3) For the purposes of this section, "public law outline process" is as set out under Family Court practice direction 12A of 2004.

(4) For the purposes of this section, "children entitled to care leaving support" means a child receiving support under any of the following—

(a) paragraph 19B of Schedule 2 Children Act 1989 (Preparation for ceasing to be looked after);

(b) s.23A(2) Children Act 1989 (The responsible authority and relevant children);

(c) s.23C(1) Children Act 1989 (Continuing functions in respect of former relevant children);

(d) section 104 of the Social Services and Well-being (Wales) Act 2014 (Young people entitled to support under sections 105 to 115);

(e) sections 29-30 Children (Scotland) Act 1995 (Advice and assistance for young persons formerly looked after by local authorities) as amended by s.66 Children and Young People (Scotland) Act 2014 (Provision of aftercare to young people); and

(f) Article 35(2) Children (Northern Ireland) Order 1995 (Persons qualifying for advice and assistance).'

This new clause would seek to provide automatic settled status for all looked after children in the care of local authorities and for children entitled to care leaving support, removing the requirement on the local authority to make an application to the EU Settlement Scheme on that child's behalf.

Dame Diana Johnson: It is a pleasure to serve under your chairmanship, Sir Edward. New clause 41 is a cross-party amendment tabled by the hon. Member for East Worthing and Shoreham (Tim Loughton), who is respected particularly for his knowledge and expertise on children in care, having formerly been the Minister for Children. The Chair of the Home Affairs Committee has also added her name to the new clause, so I am sure the Minister will want to give it his usual careful consideration. I also support new clause 58, tabled by my hon. Friends on the Opposition Front Bench.

This Bill focuses on bringing an end to freedom of movement, but the system for dealing with those who arrive before 31 December 2020 is far from problem-free. New clause 41 deals with looked-after children and care leavers. The Minister is well aware of the concerns about that group. I want to stress at the outset that every Member of this House, as an elected representative, has a role as corporate parent to those children, and it is our duty to ensure that every single one is able to secure permanent immigration status.

The Home Office has estimated that there are 5,000 looked-after children and 4,000 care leavers in the United Kingdom who would need to apply to regularise their immigration status before the end of the transition period. That figure is likely to have increased, as more children entered care this year, and it is just an estimate, because local authorities do not ordinarily collect the nationality data of children in their care. A recent analysis by the Children's Society found that, as of January 2020, 153 out of 211 local authorities across the United Kingdom had identified just 3,612 EU, EEA or Swiss looked-after children and care leavers. Only 404—11%—of those young people have settled their status. It is unlikely that many more applications have been made in the past few months; owing to coronavirus, it is not a priority for busy local authorities. We also know that helplines to assist with applications have been closed or are operating a reduced service.

I know the Government are concerned about that issue and have conducted their own survey to get a better understanding of the number of looked-after children who need to apply to the scheme, but that information has never been published. It would be interesting if the Minister agreed to publish the Home Office's data. We have yet to receive reassurance from the Minister that sufficient work is under way to regularise the immigration status of those children before the EU settlement scheme deadline. Why is the application rate so much lower for those vulnerable children? Like any children, looked-after children and care leavers need the help of their parents, and it is the local authority that is responsible for their care and for making the application to the EU settlement scheme.

[Dame Diana Johnson]

Local authorities first need to identify which children in their care have an EU nationality. That can be problematic, as many children who have entered care at a young age do not know their or their parents' nationalities. They may have no passport or birth certificate, and the local authority's engagement can be difficult or non-existent. The children see themselves as British, as they have often not known any other home. The responsibility of identification and application has fallen on social workers, many of whom have stretched caseloads and do not have the expertise or legal knowledge to deal with these issues, particularly if they begin to encounter problems in the process.

It is worth reflecting on the fact that, outside this scheme, it is prohibited for social workers to give immigration advice. During the pilot phase of the EUSS, every application that the Coram Children's Legal Centre made on behalf of a child in care or care leaver included detailed nationality advice, which requires expert legal knowledge and understanding. Social workers had to be supported at every stage of the process.

I am aware that the Government produced non-statutory guidance to local authorities on the EUSS, regarding their roles and responsibilities. As recently as April, they reminded local authorities of that responsibility. However, many local authorities still seem to be unaware of the existence of that guidance or their responsibilities under it. Even before we come to the issue of rates of application and status received, there is an issue of oversight. How many children are we talking about, and who is making the applications for them?

I have already briefly referred to the problems with applying. There is difficulty acquiring nationality documents and evidencing the length of residence in the UK. Social workers have to spend their time chasing various European embassies to acquire the appropriate paperwork. Right now, when so many embassies and services are shut, that is proving difficult. The previous Immigration Minister stated that the group could apply with alternative documentation, but operating a system of discretion can be very dangerous, and often has the opposite effect. It requires children to receive a significant amount of additional extra support.

Of course, local authorities are very stretched. They have limited resources and do not have the legal immigration expertise to handle complex cases that arise for children in their care and care leavers. The risk is compounded by the covid-19 pandemic. The Home Office has stated that children who do not apply because their parent or guardian did not submit an application on their behalf can submit a late application. That includes children in care and care leavers. However, there has not been a formal policy statement to that effect. In any case, I am sure the Government would rather act to prevent a child in their care becoming undocumented than rectify mistakes after they were made.

1 pm

The Minister has raised concerns about the automatic element of the new clause, so I want to outline briefly what I envisage to be the process of providing settled status to these young people. First, the local authority must identify any child whose right to freedom of movement is removed by the Bill, and who is in their care, or entitled to care-leaving support. Secondly, the local authority should communicate with the child, letting them know that they have been identified as falling into this category, and that they will be identified to the Home Office, so that it can secure their indefinite leave to remain status under the EU settlement scheme. The local authority should ensure that the child's views and best interests are taken into account.

Thirdly, the local authority should provide a list of the identified children to the Home Office, setting out each child's name, age, email address, and social worker or legal representative, and the fact that the child is in the care of the local authority or entitled to care-leaving support. A copy of that letter should be provided to the child for their records. The Home Office would enter that information into a database and issue an electronic status for each child. As with all applications to the EUSS, a letter confirming the child's status, with the requisite code, should be emailed to the address provided. In addition, as is already provided for under the settlement scheme, where a child is not from the EU, the EEA or Switzerland, a physical document setting out the child's rights in the UK should be issued. Under the new clause, any personal data relating to nationality that is processed by local authorities for purposes of identification is to be used solely for this purpose, and for no further immigration control purpose.

The advantage of this process is that all children are identified and given status, which ensures that they do not become undocumented. Sorting out the issue of settled status now prevents another cliff edge in the future, when these young people would have to reapply for settled status, potentially without the help of the local authority. Under the process that I propose, the evidential burden is lowered for the local authorities applying, and for Home Office caseworkers, saving time in a complex application process. The new clause and the processes for identification and granting status would be time-limited. As is set out, they would be effective for five years after the deadline—until 30 June 2026.

In conclusion, the Home Office has expressed concerns about giving automatic settled status to this group, but what is the alternative? The worst possible situation would be letting potentially thousands of children become undocumented, and discovering in five, 10 or 20 years that they have no proof of residency and are here illegally. As corporate parents, we have been entrusted with the care of these children. Allowing them to become undocumented is not providing care or promoting their welfare, as the Secretary of State is required to do. This is another Windrush waiting to happen, with one glaring distinction: the Government have been warned that they should take action now. They are about to make the same mistake, but they can do something about it now. The new clause would ensure that these children were given legal status. We are not suggesting that they bypass the settlement scheme processes; we suggest, rather, that they be given the helping hand that they so desperately need to make it through the scheme in good time, so that they can get the status to which they are entitled. I commend new clause 41 to the Committee.

Tom Pursglove (Corby) (Con): I beg to move, That the debate be now adjourned.

The Chair: I thank the Whip for that. Mr Stringer is chairing the Committee this afternoon, and I understand that the Committee intends to report then, so I will not

see Committee members again. I thank you all for your courtesy. Even the Government Whip has been well behaved.

1.5 pm

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.