PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO.2) BILL

(Except Clauses 1 to 5; Clauses 6 to 14 and Schedule 1; Clauses 24 to 26; Clause 28; Clause 30 and Schedule 6; Clauses 31 to 33; Clause 36 and Schedule 7; Clause 40; Clause 41; Clause 86; Clauses 87 to 89 and Schedules 16 and 17; Clauses 90 and 91; Clauses 92 to 96 and Schedule 18; Clause 97 and Schedule 19; Clauses 109 to 111 and Schedules 21 and 22; Clause 115 and Schedule 27; Clauses 117 to 121 and Schedules 29 to 32; Clauses 128 to 130; any new Clauses or new Schedules relating to: the impact of any provision on the financial resources of families or to the subject matter of Clauses 1 to 5, 24 to 26, 28, 31 to 33, 40 and 86; the subject matter of Clauses 6 to 14 and Schedule 1; the impact of any provision on regional economic development; tax avoidance or evasion; the subject matter of Clauses 87 to 89 and Schedules 16 and 17 and Clauses 90 and 91; the subject matter of Clauses 92 to 96 and Schedule 18, Clause 97 and Schedule 19 and Clauses 128 to 130)

Fourth Sitting

Tuesday 27 April 2021

(Afternoon)

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CLAUSE 112 agreed to.
SCHEDULES 23 and 24 agreed to.
CLAUSE 113 agreed to.
SCHEDULE 25 agreed to.
CLAUSE 114 agreed to.
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SCHEDULE 28 agreed to, with an amendment.
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CLAUSE 124 agreed to.
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CLAUSES 125 to 127 agreed to.
CLAUSES 131 and 132 agreed to.
New clause considered.
Bill, as amended, to be reported.
Written evidence reported to the House.

PBC (Bill 270) 2019 - 2021

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

not later than

Saturday 1 May 2021

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The Committee consisted of the following Members:

Chairs: † Dame Angela Eagle, Sir Gary Streeter

† Bacon, Gareth *(Orpington)* (Con)
† Badenoch, Kemi *(Exchequer Secretary to the Treasury)*
† Buchan, Felicity *(Kensington)* (Con)
† Coutinho, Claire *(East Surrey)* (Con)
† Eshalomi, Florence *(Vauxhall)* (Lab/Co-op)
† Grant, Peter *(Glenrothes)* (SNP)
† Higginbotham, Antony *(Burnley)* (Con)
† Jones, Andrew *(Harrogate and Knaresborough)* (Con)
† Marson, Julie *(Hertford and Stortford)* (Con)
† Murray, James *(Ealing North)* (Lab/Co-op)
† Norman, Jesse *(Financial Secretary to the Treasury)*
† Oppong-Asare, Abena *(Erith and Thamesmead)* (Lab)
† Owen, Sarah *(Luton North)* (Lab)
† Russell, Dean *(Watford)* (Con)
† Rutley, David *(Lord Commissioner of Her Majesty's Treasury)*
† Smith, Jeff *(Manchester, Withington)* (Lab)
Thewliss, Alison *(Glasgow Central)* (SNP)

Chris Stanton, Jo Dodd, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 27 April 2021

(Afternoon)

[Dame Angela Eagle *in the Chair*]

Finance (No. 2) Bill

(Except Clauses 1 to 5; Clauses 6 to 14 and Schedule 1; Clauses 24 to 26; Clause 28; Clause 30 and Schedule 6; Clauses 31 to 33; Clause 36 and Schedule 7; Clause 40; Clause 41; Clause 86; Clauses 87 to 89 and Schedules 16 and 17; Clauses 90 and 91; Clauses 92 to 96 and Schedule 18; Clause 97 and Schedule 19; Clauses 109 to 111 and Schedules 21 and 22; Clause 115 and Schedule 27; Clauses 117 to 121 and Schedules 29 to 32; Clauses 128 to 130; any new Clauses or new Schedules relating to: the impact of any provision on the financial resources of families or to the subject matter of Clauses 1 to 5, 24 to 26, 28, 31 to 33, 40 and 86; the subject matter of Clauses 6 to 14 and Schedule 1; the impact of any provision on regional economic development; tax avoidance or evasion; the subject matter of Clauses 87 to 89 and Schedules 16 and 17 and Clauses 90 and 91; the subject matter of Clauses 92 to 96 and Schedule 18, Clause 97 and Schedule 19 and Clauses 128 to 130)

2 pm

Clause 112

Penalties for failure to make returns etc

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

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

Amendment 24 to schedule 23, page 247, line 35, leave out “2 years” and insert “3 months”.

This amendment reduces the time limit for assessment of a penalty for failure to make a return in the more common situations.

That schedule 23 be the Twenty-third schedule to the Bill.

That schedule 24 be the Twenty-fourth schedule to the Bill.

Clause 113 stand part.

Amendment 3 to schedule 25, page 264, line 9, leave out “15” and insert “30”.

This amendment would remove the proposed penalties at 15 and 30 days after the due date.

Amendment 4 to schedule 25, page 264, line 11, leave out “15” and insert “30”.

This amendment would remove the proposed penalties at 15 and 30 days after the due date.

Amendment 5 to schedule 25, page 264, line 12, leave out “15” and insert “30”.

This amendment would remove the proposed penalties at 15 and 30 days after the due date.

Amendment 6 to schedule 25, page 264, line 15, leave out paragraph 5.

This amendment would remove the proposed penalties at 15 and 30 days after the due date.

Amendment 7 to schedule 25, page 264, line 31, leave out paragraph 6.

This amendment would remove the proposed penalties at 15 and 30 days after the due date.

Amendment 8 to schedule 25, page 264, line 40, leave out paragraph 7.

This amendment would remove the proposed penalties at 15 and 30 days after the due date.

Amendment 9 to schedule 25, page 265, line 8, leave out “Second”.

This amendment would remove the proposed penalties at 15 and 30 days after the due date.

Amendment 10 to schedule 25, page 265, line 26, leave out “Second”.

This amendment would remove the proposed penalties at 15 and 30 days after the due date.

Amendment 25 to schedule 25, page 265, line 35, leave out sub-paragraph (2) and insert—

“(2) If HMRC gives the person notice that a penalty is payable under paragraph 5, the penalty is confined to Amount B.”

This amendment would ensure that taxpayers who enter into a time to pay arrangement with HMRC within 15 days of their tax being due are not subject to high penalties where they fail to meet the terms of that agreement.

Amendment 11 to schedule 25, page 265, line 36, leave out sub-paragraph (2).

This amendment would remove the proposed penalties at 15 and 30 days after the due date.

Amendment 12 to schedule 25, page 266, line 16, leave out sub-sub-paragraph (a).

This amendment would remove the proposed penalties at 15 and 30 days after the due date.

Amendment 13 to schedule 25, page 266, line 22, leave out sub-sub-paragraph (c).

This amendment would remove the proposed penalties at 15 and 30 days after the due date.

Amendment 14 to schedule 25, page 266, line 23, leave out sub-sub-paragraph (d).

This amendment would remove the proposed penalties at 15 and 30 days after the due date.

That schedule 25 be the Twenty-fifth schedule to the Bill.

Clause 114 stand part.

Amendment 26 to schedule 26, page 275, line 14, leave out paragraph 36.

That schedule 26 be the Twenty-sixth schedule to the Bill.

New clause 6—*Penalties: review of effect on tax revenues*—

“(1) The Chancellor of the Exchequer must review the effects on tax revenues of sections 112 to 114 and schedules 23 to 26 and schedule 28 of this Act, and lay a report of that review before the House of Commons within six months of the passing of this Act.

(2) A review under this section must consider—

(a) the expected change in corporation and income tax paid attributable to the provisions, and

(b) an estimate of any change, attributable to the provisions, in the difference between the amount of tax required to be paid to the Commissioners and the amount paid.

(3) The reference to tax required to be paid in subsection 2(b) includes taxes payable by the owners and employees of Scottish limited partnerships."

This new clause would require a report on the impact of these provisions of the Bill on narrowing the tax gap by comparing: (a) the expected change in corporation and income tax paid attributable to the provisions and (b) an estimate of any change, attributable to the provisions, in the difference between the amount of tax required to be paid to the Commissioners and the amount paid. In particular, this includes taxes payable by the owners and employees of Scottish limited partnerships.

The Financial Secretary to the Treasury (Jesse Norman): I thank you, Dame Angela, and all Committee members for sticking with us for our fourth sitting in Public Bill Committee.

These clauses introduce a new approach to how Her Majesty's Revenue and Customs penalises the small minority of taxpayers who fail to file or pay their tax on time. The reforms are designed to improve compliance and to enhance public trust in the tax system. They are built on fairness and proportionality. The change addresses long-standing taxpayer concern about existing penalties and draws on four successive public consultations. It is an important step in delivering the Government's ambition to build a trusted, modern tax administration system.

The clauses apply this new approach to VAT and income tax self-assessment, also known as ITSA. Clause 112 and schedules 23 and 24 introduce a new points-based approach to penalties for regular tax return obligations. That replaces the existing penalties for VAT and income tax self-assessment. It also introduces a separate penalty for the deliberate withholding of information that prevents an assessment of tax due. Clause 113 and schedule 25 introduce a new two-penalty model for VAT businesses and ITSA taxpayers who fail to pay their tax on time. Clause 114 and schedule 26 introduce joint consequential amendments arising from clauses 112 and 113.

The changes will take effect by way of regulations: for VAT taxpayers, for accounting periods beginning on or after 1 April 2022; for ITSA taxpayers with an income over £10,000 per year who are required to submit quarterly returns digitally, for accounting periods beginning on or after 6 April 2023; and for all other income tax self-assessment taxpayers, for accounting periods beginning on or after 6 April 2024. The changes made by the clauses will impact those who are required to submit a return for VAT and/or income tax self-assessment. They will also affect anyone working on behalf of taxpayers such as tax agents.

I recognise, and HMRC recognises, that taxpayers may need some time to familiarise themselves with the new approach. I can confirm that HMRC will adopt a light-touch approach in the first year. As long as taxpayers have made reasonable efforts to fulfil their obligations, the first late payment penalty of 2% will not be applied after 15 days. In effect, therefore, for the first year taxpayers will have 30 days to contact HMRC before any late payment penalties are charged. That is a proportionate and balanced approach, ensuring the new regime is fair to all.

If I may, I will respond briefly to amendments that have been tabled in this group. Amendment 24, which relates to schedule 23 to clause 112, would reduce the time limit for HMRC to assess a penalty for failure to make a return from two years to three months. That two-year time limit, however, is long standing, and the Government do not intend to change it through these reforms. The two-year time limit strikes a careful balance between giving taxpayers sufficient notice that a penalty has accrued and allowing adequate time for HMRC to make an assessment. That helps to ensure the integrity of the tax system and benefits us all. In the vast majority of cases, penalties will be levied quickly and automatically close to the date of any missed obligation. Of course, there will be times when HMRC needs longer to conduct its investigations, which is why the two-year time limit is required. I therefore urge Members to reject the amendment.

Amendments 3 to 14 relate to clause 113 and schedule 25, and would remove the first penalty entirely, leaving only the second penalty. Our approach has evolved in line with feedback from several consultations and it strikes a balance between encouraging early engagement with HMRC and penalising those who avoid doing so. The first late payment penalty is essential to incentivise compliance and protect the public finances. Although the vast majority of taxpayers comply with their tax obligations and try their best, a minority consistently fail to meet their tax obligations. If they faced no consequences, they would have an unfair advantage over the vast majority of taxpayers who follow the rules and pay on time. As I mentioned earlier, it is also the case that no penalty will be charged if a taxpayer approaches HMRC to request a "time to pay" arrangement within the first 15 days.

Amendment 25 also relates to clause 113 and schedule 25, and would remove any penalty for a taxpayer who agrees a "time to pay" arrangement with HMRC but then fails to fulfil the terms of that agreement. Of course, some taxpayers may encounter difficulty in paying their taxes on time and HMRC recognises that there are often valid reasons for that. "Time to pay" arrangements are designed to help taxpayers who are struggling to meet their obligations and HMRC strongly encourages those taxpayers to talk to HMRC as soon as possible, if they need to do so. HMRC will always look to agree a "time to pay" arrangement tailored to the taxpayer's needs. If a taxpayer's circumstances change, "time to pay" arrangements can themselves be renegotiated.

HMRC must strike a balance between supporting taxpayers who are struggling to meet their obligations and identifying those who are deliberately avoiding them. If a taxpayer has not upheld a "time to pay" arrangement and has not approached HMRC to amend that arrangement to reflect a change in their circumstances, it is appropriate that a penalty is applied. This is designed to encourage anyone who may be struggling to meet their obligations to engage actively with HMRC in order to agree further support. It is also designed to ensure that those taxpayers who regularly meet their obligations are not put at an unfair disadvantage.

I turn now to new clause 6, which relates to clauses 112 to 114, and to schedules 23 to 26 and 28. New clause 6 would require the Government to review the effects of the changes being made by these measures on reducing the tax gap and, within six months of the Act being passed, report to the House on these changes, including the expected change in corporation tax and income tax being paid that is attributable to the provisions. The new clause specifies that these should include taxes payable by owners and members of Scottish limited partnerships.

The Government publish information each year on the tax gap. Sanctions are only one of a series of tools used to tackle non-compliance and reduce the tax gap,

[Jesse Norman]

so the effect of the changes made by these measures should not be viewed in isolation. The Government are committed to open policy making and we ensure that systematic evaluation of the effectiveness of policy is built into the policy-making process at every stage. With regard to new clause 6, the Government have set out, within the tax information and impact note published at Budget 2021, that this measure will be monitored through information gathered from HMRC systems, and that implementation will be monitored closely, collecting stakeholder feedback to inform future policy development.

Furthermore, the first financial penalties levied under these measures will not occur until after six months of the Act being passed, so it simply would not be possible to provide any worthwhile estimates of tax saved in that time period. Corporation tax is currently out of scope of these reforms. Therefore, we do not believe that a review of the type being proposed is necessary and we urge Members to reject the new clause.

Finally, I will briefly respond to amendment 26, proposed by the Opposition. It relates to clause 114 and schedule 26, which deal in consequential amendments, removing redundant references to the VAT default surcharge, which of course is being replaced by clauses 112 and 113 in the Bill. The amendment would confusingly and mistakenly retain references to the repealed default surcharge. Therefore, it serves no purpose and I urge Members to reject it.

As many in this Committee will be aware, the vast majority of taxpayers fulfil their obligations by submitting their returns and paying their taxes on time. Therefore, these changes should only affect a small number who do not do so. It is right that HMRC has in place appropriate penalties to discourage such behaviour. I therefore move that these clauses and schedules stand part of the Bill.

James Murray (Ealing North) (Lab/Co-op): It is a pleasure to serve on this Committee with you in the Chair, Dame Angela.

I am pleased to begin by discussing clause 112, which, as we heard, introduces two new schedules. The first, schedule 23, sets out a new points-based penalty system for the failure to make, or the late submission of, various returns. The second, schedule 24, makes minor changes to the penalty for deliberately withholding information from HMRC by failing to submit returns.

We welcome the stated aim of the Government: to encourage compliance without wanting to punish taxpayers who make occasional mistakes. It is right to give people in the regular course of events an opportunity to clear penalty points without incurring a penalty charge, while making sure a stronger deterrent is provided in cases where behaviour is shown to be deliberate. The explanatory notes for the clause point out that the regime has been developed through three separate consultations. However, as the Low Incomes Tax Reform Group—LITRG—makes clear, while HMRC has taken on board comments on the structure of a new penalty regime, it considers legislation in the Bill to be far more complex than originally envisaged.

LITRG points out that taxpayers come under Making Tax Digital for VAT for the first time in April 2022, and Making Tax Digital for income tax self-assessment for the first time in April 2023, so they face a complex and unfamiliar penalty regime at the same time as having to get to grips with their obligations under Making Tax Digital. For people with a single source of income, Making Tax Digital for income tax self-assessment appears to have six separate filing obligations over the course of a year, for which penalties could be incurred: four periodic updates, one end-of-period statement, and one final declaration.

I welcome the fact that the Minister set out his view of the suggestion by LITRG that the introduction of the new penalty regime should be delayed to allow those taxpayers time to familiarise themselves with the new obligations before they begin to accrue penalty points for non-compliance. I would also welcome the Minister's thoughts on the suggestion by LITRG that the legislation should include an obligation on HMRC to keep taxpayers regularly informed of their penalty points total.

Clause 113 introduces schedule 25, which includes a new two-penalty model for businesses and individuals that fail to pay their tax liability on time. The first penalty is 2% of the amount of tax unpaid 15 days after the due date, plus 2% of the amount of tax unpaid 30 days after the due date. The second penalty is a penalty interest rate of 4% per annum that applies from the 31st day of the tax being unpaid. Again, the Low Incomes Tax Reform Group has expressed a number of concerns about the operation of this new regime, including concern about the interaction of time-to-pay arrangements with the new late-payment penalty regime. We would welcome the Minister's views on that point.

Clause 114 introduces schedule 26, which, as we heard, is consequential to previous clauses and schedules that have been introduced. We tabled amendment 26, which suggests leaving out schedule 26, paragraph 36. We do not intend to press the amendment, but we welcome the Minister's clarification on the point we sought to raise by tabling it. Our understanding was that schedule 26, paragraph 36 amended section 1303 of the Corporation Tax Act 2009. We were concerned that the amendment appeared to remove a prohibition on any surcharge in VAT, a penalty for missed payment, late payment or non-payment of VAT being written off as a loss in the company's taxes. We therefore welcome the Minister's clarification regarding the intention behind that amendment, particularly the message that it sends.

Peter Grant (Glenrothes) (SNP): It is a pleasure once again to serve with you in the Chair, Dame Angela. As the Minister pointed out, the intention behind amendment 24 is to reduce HMRC's time limit to assess whether a penalty is due if someone is late in submitting their statutory return. Although the Minister is right that the two years have been there for a long time, that does not mean that two years is right. It seems unfair, considering how quickly potential taxpayers are expected to respond to queries from HMRC, which has been known to take two years to make an assessment for which it already has all the necessary information. The stated policy intention of the new regime is to be proportionate, penalising only the small minority who persistently miss their submission obligations, rather than those who make occasional mistakes. However, the Bill as drafted provides for penalties to be levied against people who have made occasional mistakes and allows HMRC up to two years—and an even longer period in some cases not covered by our amendment—to assess a penalty.

2.15 pm

If I had a requirement to submit something to HMRC today, it would know tomorrow if I had not submitted it. It should not take it much longer after that to look at what I submitted and assess whether it was complete before it assessed whether it was accurate and so on. I am not talking about the time it takes HMRC to assess the liability based on that return; it needs only to assess whether the return is there.

By tomorrow, HMRC will know whether I have complied with its requirement and whether I should be assessed for a penalty. It is reasonable to allow a bit of time for delays in the post or for problems with technology, and possibly even to allow another gentle reminder before moving on to the penalty phase if it thinks that appropriate. A few months should be enough for that; it should not routinely take two years. While there may be specific circumstances in which much longer is needed, why cannot those circumstances be identified in the Bill rather than giving carte blanche to HMRC to take two years in every instance? The Bill's wording, allowing for two years in every circumstance, makes me wonder whether the real problem and the real reason why a lot of these penalties take so long to be assessed is because there are not enough people in HMRC to get through the workload in time. If that is the reason, that is not good enough. It is not good practice to set the rules of law enforcement on the assumption that we will not adequately resource the enforcers to do their job properly and effectively.

Amendments 3 to 14 are not quite a job lot, but they would all seek to simplify the proposed penalties regime for late payment of income tax and VAT, especially when a payment is received, or an arrangement to pay is set up, within a short time of the payment date and where that is a relatively rare occurrence. We are not looking to make it easy for people constantly to fail to pay their taxes and we are certainly not looking to make it easier for people to delay paying their taxes by months or even years, which was sometimes an issue in the past. We have no issue with the fact that people should pay their taxes when they are due, and there must be consequences for anyone who flagrantly refuses to do so, but the penalties regime must be proportionate and, in our judgment, the proposal in schedule 25 is not proportionate. I agree with the Institute of Chartered Accountants in England and Wales that the proposed regime is too complex. When things are too complex, too many people will not understand, and a deterrent that people cannot understand is not a deterrent. It may lead to more sanctions being imposed or to more penalties being raised, but if people do not understand the direct link between what they do and the sanction imposed, there can be no deterrent.

The SNP is also concerned that the period between the 15 days and the 30 days might not realistically be enough time for much to happen other than for the taxpayer to clock up a second stage of penalty. Will that be enough time to make arrangements for a time to pay agreement, for example, given how hard pressed HMRC is already? Would it not be better simply to say that the cut-off period is at 30 days and, at that point, the penalties begin to kick in? It may be that the rate at which a penalty is charged after 30 days needs to change from what is in the Bill. We would not have an issue with that in principle, but it seems to me that we are taking a system that has flaws but is at least fairly simple and we are making it significantly more complex. Not enough has been said about any benefit in making it more complex to convince me.

Amendment 25 looks at the specific instance in which someone has entered into a time to pay arrangement and there is a single isolated failure to keep to that arrangement. On our reading of the Bill, someone who has tried to do the right thing and come to an arrangement to pay, but has then missed a payment by a short period, is in danger of being treated exactly the same as somebody who made no attempt at all to make an arrangement. That just does not seem correct.

The Bill as it is proposed produces disproportionately high penalties that, again, undermine a central principle of the new penalty regime. If the purpose of the regime is to encourage people to do what is right, sometimes we have to give them a wee bit more laxity. If someone has shown a willingness to do what is right, we should not be too quick to jump on their head as soon as they do something slightly wrong.

Finally, on new clause 6—there are obviously issues that go well beyond the scope of the Bill—we are asking for a report that looks at the impact that the decisions in the Bill have had on the amount of tax collected, particularly on what is known as the tax gap. The tax gap is estimated by HMRC, certainly for 2018-19, to be just over £30 billion. That was picked up in an NAO report last year and subsequently by the Public Accounts Committee in October last year. We have to bear in mind a couple of things. First, the reported tax gap is a very rough approximation—it is obviously difficult to get the exact number; there are so many uncertainties. There might need to be a degree of what is now termed counter-factual thinking to arrive at the exact tax gap.

My issue, and certainly the issue flagged up by the Public Accounts Committee last year, is that none of that uncertainty or degree of vagueness of approximation has been acknowledged by HMRC. It publishes annual reports where it quotes the tax gap and even individual components of the tax gap down to such levels of precision as to clearly imply that it knows the number very precisely and accurately. But it simply does not.

Other issues might be just as significant. Usually when HMRC talks about the tax gap, it does not talk about what it would describe as the policy gap, which is the amount of tax lost by legal—universally regarded as thoroughly undesirable—tax avoidance schemes. It is correct that we should attempt to measure how much tax has been lost by deliberate evasion or deliberate fraud, and we should certainly expect HMRC to be able to tell us how much it thinks it has recovered by the compliance and enforcement measures.

Often one of the biggest areas of tax loss to the Treasury is from people who exploit loopholes in the law, and at the moment there is no way to measure that. Not enough is being done to identify what loopholes are being exploited and the extent to which they are being exploited. As the Minister pointed out, our amendment and indeed the SNP generally has a significant issue with the continued abuse of what is termed Scottish limited partnerships. Despite the name, the regulation or lack of regulation of those organisations is almost entirely resolved through the United Kingdom Government. When we look at the organisations, which are almost similar to organisations that I mentioned in other business

yesterday in the Chamber, we wonder why so many British businesses need an office in the Cayman Islands and why they need a Scottish limited partnership component. Very often it is for reasons that are not in the public interest and not to the public benefit.

Although the amendment is not exclusively aimed at Scottish limited partnerships, it is our way of saying to the Government what we and others have been telling them for years: the way in which Scottish limited partnerships can be abused by some very sophisticated and significant players in the international criminal world is something the Government have to face up to and start taking action on.

I am not minded to press the clutch of amendments 3 to 14 to a vote just now, but there is an issue about the timescales proposed in the Bill. I know that if we put our amendments to the vote, the Government would not accept them, but I ask them to think again about the timescales and particularly about the penalties for failure to submit returns. They need to ask themselves again whether they have got those right; if they have not, I hope they will table amendments at a later stage.

Jesse Norman: I thank both colleagues for their contributions. I reassure the hon. Member for Glenrothes that the Government take seriously all such interventions and all our serious interactions with other political parties and hon. Members across the House.

The hon. Members for Ealing North and for Glenrothes both mentioned complexity. When introducing any new regime, let alone one in an area as complex as tax, there is inevitably an impression of complexity and a worry about the initial uptake. However, these concerns can be addressed and are being addressed in the legislation.

I remind the Committee that the reforms have been widely welcomed. The Chartered Institute of Taxation says that it

“welcomes the harmonisation of interest rules…and that HMRC will apply a light-touch…This will allow otherwise compliant taxpayers enough time to adjust to the new rules.”

The Low Incomes Tax Reform Group, which both hon. Members mentioned, says:

“HMRC have consulted on many aspects of the penalty regime in recent years, particularly with a view to ensuring that it is fit for purpose for Making Tax Digital. This is welcome, as is the fact that a number of LITRG concerns have been taken on board.”

It is good to see that; I am glad that the group recognises it, because this has been a carefully considered piece of legislation. An organisation called Buzzacott, which describes itself as a UK top 20 accountancy firm, says:

“This is a big change…but the system ought to be fairer because it takes account of the number of filings a business has to make, and it’s also less likely to excessively penalise a trader…The light touch in the first year is welcome”.

That ought to give colleagues a degree of comfort on the issue of complexity, but of course it is important to raise it, and Ministers and HMRC are aware of it.

The hon. Member for Glenrothes raised the two-year period; I think that he was trying to score a political point about HMRC staffing. I remind him that the SNP was expressing concerns about alleged staffing issues at HMRC before the extraordinary events of the past 12 months, in which HMRC has proven its outstanding ability to deal with the covid schemes and has been through everything that one could imagine in the pandemic.

I do not think there is any serious suggestion that the tax agenda, which antedates any concerns that the SNP has expressed with respect to the two-year period, is seriously being put at risk. The fact is that some people have very complex tax affairs and sometimes, in a small minority of cases, HMRC requires some time to reflect on them before it makes a judgment. As a matter of justice, as well as of combating tax avoidance, the two-year period should allow it a proper process of reflection.

The hon. Gentleman mentioned the idea of removing the first penalty, but as I pointed out the effect would be to remove a great deal of the early energy that incentivises people to comply with their tax obligations, and which is actually rather important. The SNP’s recommendation might have the effect of diminishing the number of people who comply with their tax obligations, because it would remove that initial first penalty, which is a little nudge.

Peter Grant: I take the Financial Secretary’s point that what we suggest might make things better or worse than what the Government suggest. Leaving aside the possible practical issue with the timescales of some of the reports that we suggested, does he admit that it would be a good idea to bring back a report at an appropriate juncture to see whether the new regime encourages compliance in comparison with the current regime? Will he agree to table an amendment similar to our new clause 6, but with a different timescale, in due course?

2.30 pm

Jesse Norman: No. The hon. Gentleman has tabled a series of amendments and I have given clear reasons why the Committee should reject them. In one case, it would remove an incentive to comply early with the tax system—I will come to the light-touch issue in a second—and in the second case, it would make the system less able to deal with more complex cases with a potential issue about justice or, indeed, combating avoidance. So I do not accept the point that he makes.

I think the hon. Gentleman dragoons into the conversation a point about Scottish limited partnerships. Of course, those are handled not by the Treasury but by the Department for Business, Energy and Industrial Strategy, and he will know that that Department set out in December 2018 the Government’s plans for reforms of limited partnerships. It is a complex area. They include tightening registration requirements, greater transparency in relation to UK connections, and powers for the registrar to strike limited partnerships from the register in certain circumstances. They have to reflect on limited partnerships that are dissolved, that are no longer conducting business or where a court orders that their activity is not in the public interest. The reforms require primary legislation, and that is what the Government will be doing when parliamentary time allows.

The hon. Gentleman is, of course, right to raise the issue about communications. HMRC does communicate very regularly with taxpayers. It has made a commitment to informing taxpayers, at regular intervals, about points or penalties that they may have incurred. The legislation requires HMRC to notify the taxpayer when a point or penalty is levied; and of course, for the vast majority of

taxpayers, that will be quickly and automatically, close to the date of any obligation. For those wishing to check their digital tax accounts, the points totals will be displayed there, but all taxpayers will also receive a written letter notifying them of their points total.

I should add, in conclusion, that although there is complexity, it is important to recognise that the two-stage payment approach is designed to give the proper and, indeed, fairer incentives to nudge people towards a final decision. HMRC has said that it will take a light-touch approach. It is also worth pointing out that the reforms will not take effect until 22 April for VAT businesses and until the 2023-24 tax year for income tax self-assessment taxpayers. There will therefore be plenty of time for those affected to adjust themselves to the new circumstances.

Question put and agreed to.

Clause 112 accordingly ordered to stand part of the Bill.

Schedules 23 and 24 agreed to.

Clause 113 ordered to stand part of the Bill.

Schedule 25 agreed to.

Clause 114 ordered to stand part of the Bill.

Schedule 26 agreed to.

Clause 116

Late payment interest and repayment interest: VAT

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

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

Government amendment 19.

That Schedule 28 be the Twenty-eighth schedule to the Bill.

Jesse Norman: Clause 116 harmonises interest charges and repayment interest in order to bring VAT in line with other taxes, including income tax self-assessment. As with the reforms to penalties that we just discussed, these reforms to interest are designed to provide greater consistency, fairness and certainty in the system. These changes will take effect by way of regulations for VAT tax payers for accounting periods beginning on or after 1 April 2022.

The Government's amendment 19 to schedule 28 will ensure that repayment interest applies for VAT where HMRC has raised a reasonable inquiry or where HMRC is correcting errors or omissions relating to a particular VAT return. This will allow for repayment interest to be paid to taxpayers for the period covering HMRC's investigations, as is already the case for income tax self-assessment and corporation tax.

HMRC's policy is always to make payments to taxpayers as soon as possible when a repayment is due. As taxpayers expect, this can only be done once HMRC has undertaken checks to guard against fraud and to protect the public finances. The Government are committed to treating taxpayers fairly and consistently. We have consulted extensively on these measures and listened carefully to stakeholder feedback, including on this detail.

James Murray: As we have heard, clause 116 and schedule 28 make amendments to the Finance Act 2009 relating to late payment and repayment interest for VAT. We understand that these changes generally ensure that late payment and repayment interest work in the same way for VAT as they currently do for income tax self-assessment. We recognise that the clause and schedule make amendments to repayment interest on VAT to bring it in line with income tax self-assessment, ensuring that interest is charged and paid to customers consistently across taxes. We do not oppose the clause's standing part of the Bill.

Question put and agreed to.

Clause 116 accordingly ordered to stand part of the Bill.

Schedule 28

Late payment interest and repayment interest: VAT

Amendment made: 19, in schedule 28, page 286, line 39, leave out from beginning to end of line 14 on page 287.—*(Jesse Norman.)*

This amendment removes the provision that would have prevented an amount of VAT credit from carrying repayment interest under Schedule 54 to the Finance Act 2009 for a period referable to the raising and answering of an inquiry by HMRC or the correction by HMRC of errors or omissions in a VAT return.

Schedule 28, as amended, agreed to.

Clause 122

Financial institution notices

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

Jesse Norman: Clause 122 makes changes to enable HMRC to issue a new financial institution notice that in certain circumstances will require banks and others to provide information about a specific taxpayer to HMRC that is required to check a tax position or collect a tax debt without the need for approval from the independent tax tribunal. In around 500 cases a year, HMRC uses its formal powers to obtain information with tribunal approval. That includes domestic cases where HMRC wants to check information, and also cases where the information is needed by other tax authorities.

Co-operation with other tax authorities is crucial if international tax evasion and avoidance is to be tackled. The UK relies on other countries helping it, and they rely on the UK. In international cases, obtaining information takes, on average, 12 months, despite the fact that HMRC works with the Ministry of Justice to speed up the process and has more than doubled the number of HMRC staff dealing with such requests. That means that the UK does not meet its commitments to the OECD standards that we ourselves helped to develop, which require such international requests to be completed within six months. All other G20 countries can meet that standard, and the UK is under an obligation to demonstrate compliance with the standard when it is peer reviewed, in order to maintain co-operation with other countries. Following consultation, therefore, the Government decided to make the changes while ensuring that there are appropriate safeguards for taxpayers.

[Jesse Norman]

Timely access to information is central to international efforts to tackle tax avoidance and evasion. The changes allow the UK to meet its obligations under the OECD standards and bring it in line with all other G20 countries, while ensuring the appropriate safeguards.

James Murray: The key change introduced by clause 122 are the new powers for HMRC to issue financial institutions with a statutory demand for information—a financial institution notice—about a known taxpayer. Such notices differ from existing HMRC powers as they may be issued without the prior approval of taxpayer or tribunal, the financial institution has no right of appeal against a notice, and a notice may be issued for the purposes of collecting a tax debt from the taxpayer.

The Low Incomes Tax Reform Group has expressed its concern that that represents the removal of important taxpayer safeguards. I understand that HMRC has justified the introduction of financial institution notices on the basis that the existing statutory safeguards on third-party information notices mean that they cannot meet the international obligation to tackle offshore tax avoidance and evasion in obtaining information on behalf of overseas jurisdictions on a timely basis.

As the Minister knows, we welcome any efforts to tackle tax avoidance and evasion, but we would like to ask him why that approach is justified. HMRC is introducing powers that will be used in a domestic context, even though there is no domestic justification for them. HMRC's apparent reason is that it is not possible to introduce a new process for domestic cases because of restrictions in UK law and international treaties.

However, the House of Lords Economic Affairs Finance Bill Sub-Committee recently heard evidence, including from HMRC, that the vast majority of the delay in obtaining information for international cases was down not to the UK's Court Service, which HMRC acknowledged took four to six weeks to process an application, but rather to delays in obtaining information required from overseas jurisdictions, which HMRC told peers takes eight months on average. The Lords recommended that, rather than removing important taxpayer safeguards, HMRC should review the whole process for dealing with international information requests requiring tribunal approval and should work with the financial institutions, the tax tribunal and others to find other means to streamline the process.

We would welcome the Minister addressing those points directly in his response, as there are clearly concerns that new financial institution notices might not in fact speed up the process of obtaining information in international cases. We would also welcome him addressing the concern as set out by the Institute of Chartered Accountants in England and Wales that new financial institution notices will be used routinely as a way of obtaining information, with the number of domestic information requests far exceeding the number of times the notices are used for international information exchanges. Is the Minister confident—and if so, why—that financial institution notices will be used only in accordance with the original policy intent, which is to speed up HMRC's dealings with international exchange of information requests from overseas jurisdictions, rather than as an additional compliance tool for inquiring into the affairs of UK taxpayers?

Jesse Norman: I am grateful to the hon. Gentleman for his questions, and I am happy to respond to them. Let me take them in order.

The first question relates to the balance of powers and safeguards. It is important to have a balance here, because HMRC must have the tools to bear down on avoidance and evasion and to support and assist other tax authorities that may seek to do so through international means of collaboration. We as a country, and HMRC, benefit from such collaboration, as do those other tax authorities. I think the hon. Gentleman will recognise that there is a balance and that we should meet international standards, let alone those we promulgated, especially when the failure to do so might cause us to lose either status or connectivity with other nations across the G20. All other G20 nations are compliant with this standard.

2.45 pm

The hon. Gentleman asked about safeguards. Let me clarify one little thing. The concern is that there should be a rapid capability of response. If there was an appeal process in relation to a financial institution notice, the effect would be to slow down the process as a whole, so the UK would still be unable to meet these international standards. It is important therefore that we do not build back in a delay that has been removed by the policy, provided that there are appropriate safeguards.

The measure does have important safeguards built into it. First, the notice may be issued only when the information is reasonably required to check a known person's tax position or in connection with the recovery of a tax debt. An authorised HMRC officer who is experienced and has been specifically trained in the application of civil information powers must approve each and every notice, and those authorised officers must themselves pass a test to ensure that they retain their status. There is an appeal right for the financial institution against any penalties that may be charged for failure to comply with a notice, and there is a requirement for HMRC to make an annual report to Parliament on the use of the financial institution notice.

On the suggestions made by the House of Lords Economic Affairs Committee, it is important to be aware that HMRC consulted on this measure for 12 weeks in 2018. The consultation asked for new ideas about how the UK could meet international standards, and there was a further technical consultation in 2020. No new options were put forward that would allow the UK to meet its international obligations. This was the option that had most support, and it was therefore adopted by the Government, although they recognised that it was not widely welcomed in every quarter. As a result of the consultation, safeguards were built into the position in a way that gives additional comfort.

It is also important to ask whether this policy might become the basis for new fishing expeditions. I have indicated that something like 500 cases a year fall under the current policy. We do not expect, and HMRC has made it perfectly plain that it does not expect, that there will be a substantial increase in that number. In any case, the policy includes an annual report on which financial institutions will be consulted, as HMRC has made plain. Oversight in relation to how HMRC administers the tax system will also be subject to the new professional standards committee. It will therefore

be possible to chart the use of the powers and for HMRC—and, in due course, Parliament—to make an assessment about whether they are in danger of being abused or used for purposes for which they were not intended.

Question put and agreed to.

Clause 122 accordingly ordered to stand part of the Bill.

Clause 123

COLLECTION OF TAX DEBTS

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

Jesse Norman: Clause 123 makes changes to allow information notices to be used to obtain documents and information for the purpose of collecting a tax debt. I remind the Committee that the UK helped to develop and remains committed to—this is a bipartisan matter—OECD international standards for exchange of information. It is crucial that this country can co-operate with other tax authorities to tackle international tax evasion and avoidance. We rely on other countries to help us, and they rely on us. However, the UK is currently unable to assist with exchange of information requests from other jurisdictions where formal powers need to be used to obtain debt collection information. That means that the UK does not fully meet its commitments to the OECD standards. The UK must demonstrate compliance with those standards when peer reviewed to maintain co-operation with other countries. Therefore, following consultation, the Government decided to make this change.

The changes made by clause 123 will allow information notices to be issued by HMRC to obtain information for the purpose of collecting tax debts. That will allow HMRC to assist with international exchange of information requests relating to debt, and will support HMRC's domestic activity to collect tax debts. Assisting with international exchange of information requests is an important part of international efforts to tackle tax avoidance and evasion. By those means we can meet our commitments as a country to the OECD standards.

James Murray: Clause 123 amends schedule 36 of the Finance Act 2008 to give HMRC a new power to issue an information notice for the purposes of collecting a tax debt. We would like to raise with the Minister a point articulated by the Chartered Institute of Taxation in connection with the amended schedule 36. It is concerned that the new notice for collection of tax debts can be used for the purposes of collecting a tax debt, whenever arising. That means that the use of these notices is not restricted to cases involving tax years after the measure becomes law, which raises a concern that this is a very wide-ranging power. What reassurance can the Minister offer that HMRC will use the new power granted by this clause proportionately and with appropriate oversight?

Peter Grant: I do not have any issue with the changes proposed in clause 123 but, like the hon. Member for Ealing North, I think it is important to make clear that, in passing the legislation, Parliament has to give what may appear to be draconian powers to HMRC or other Government agencies to use when they have to. We then have to rely on Ministers to set policy, and sometimes on HMRC or Government Departments, in terms of their operational management decisions, not to use those draconian powers except when they absolutely must.

As we have begun to come out of the covid recession, a lot of individuals and businesses have found that their cash-flow position is as bad as it has ever been—and hopefully as bad as it ever will be. If HMRC manages itself only in terms of its own performance statistics on how quickly it can get the money in, there is a danger that it will do damage to the wider economy; in the longer term, it will do damage to the public finances. If a business is struggling to pay its tax, it is struggling to pay all its bills too. If we move in too quickly to get the tax out of that business, the chances are that it will go down and will no longer have any chance of paying its suppliers, so the suppliers go down as well. We will end up with a domino effect, with several businesses, and possibly three or four times as many jobs, being lost.

It is not a question of saying that there are circumstances where HMRC should say to somebody, "You don't need to pay your debts," but there will be times when it will be better for it to say, "We aren't going to chase you for your debts now, but it's up to you to get your circumstances sorted out, and then we will expect you to pay your dues." I say that because I have known instances in constituency casework, as I suspect many Members have, where HMRC did not seem to take that approach. It appeared to have been chasing businesses to the point of liquidation, and individuals to the point of bankruptcy, for amounts of money that, in the grander scheme of things, were completely irrelevant to it, but highly relevant to those individuals and businesses.

I hope that we will get an assurance from the Financial Secretary today that the draconian powers in the Bill and in existing legislation will be used with an even softer touch over the next few years than they were supposed to be used with in the past. Otherwise, we will find that the difficulties that businesses are facing will get worse over the next few years, rather than better.

Jesse Norman: I thank both hon. Members for their questions. In a way, the clause is poorly named, because this is a change to allow information notices to be used to obtain documents; it is not, in and of itself, a measure that collects tax debt. The notice is an information power.

Tax authorities sometimes need to verify what they are told by taxpayers. A request that routinely arises is to look for details about transactions or movements of money in cases in which there is reason to believe that assets may have been concealed. A request may be an invitation to look for information to find out whether a bank account exists or has recently been closed. At its simplest, a request may be to find out the balance on an account.

It is important to say that the Government take very seriously all the input from our stakeholders, and the Chartered Institute of Taxation is an important stakeholder among many others. It has been striking how, over the past year or two, stakeholders have been very positive in flagging the degree of engagement that HMRC has had

[Jesse Norman]

with them. There is a wide, close and professionally engaged relationship between the parties, and stakeholders' concerns are carefully evaluated as part of the policy process.

It is also true that HMRC is bending over backwards to maintain its activities as a tax authority, while recognising—as the hon. Member for Glenrothes mentioned—the extremely difficult circumstances in which many companies have been placed by the pandemic and its effects. That is why there is a deferred payment scheme for VAT and Time To Pay arrangements that have been allowed to grow as they have done, and why in due course the Government are bringing in breathing space for people with debt.

A wide range of measures have been designed and put in place to protect people who may currently be vulnerable. In this case, the effect of expanding information notices is to implement a recommendation from the OECD's global forum. Again, there was criticism from the forum that the UK was unable to use its information powers to enforce tax debts and unable to assist with information requests from other jurisdictions. Clause 123 will allow us to improve the already excellent levels of HMRC co-operation, which is only to the good in supporting international co-operation and exchange of information and the collection of tax debts that may be due.

Question put and agreed to.

Clause 123 accordingly ordered to stand part of the Bill.

Clause 124

Miscellaneous amendments of Schedule 36 to FA 2008

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

The Chair: With this it will be convenient to discuss that schedule 33 be the Thirty-third schedule to the Bill.

Jesse Norman: Clause 124 and schedule 33 will make changes to ensure that necessary technical amendments are made to HMRC's civil information powers. Further to the changes introduced in clauses 122 and 123, it is necessary to make consequential changes to the legislation that regulates those powers.

Clause 124 and schedule 33 will prevent the person who receives a financial or third-party information notice from copying the notice, or anything relating to it, to the taxpayer to whom it relates, where this has been approved by an independent tax tribunal. The provisions will also correct a drafting error in the original legislation concerning daily penalties, and address a stamp duty land tax issue by enabling HMRC to check that relief given on the basis of future actions by the purchaser continues to be due. The additional technical amendments are necessary to ensure that HMRC's civil information powers work as intended.

James Murray: We recognise that clause 124 and schedule 33 make miscellaneous changes, including to correct a drafting error in schedule 36 of the Finance Act 2008, which governs the issuing of increased daily penalties for failure to comply with an information notice. The schedule also introduces a rule to prevent a third party telling the taxpayer about a third party information notice where the tribunal has decided that is appropriate. We do not oppose the clause and schedule standing part of the Bill.

3 pm

Question put and agreed to.

Clause 124 accordingly ordered to stand part of the Bill.

Schedule 33 agreed to.

Clause 125

International arrangements for exchanging information on the gig economy

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

Jesse Norman: Clause 125 introduces a new power that will enable the Government to subsequently make regulations to implement international reporting rules for digital platforms following consultation—in particular, the OECD model rules for reporting by platform operators with respect to sellers in the sharing and gig economy are in scope here. As announced at Budget, the Government will consult on the implementation of these OECD rules in the summer.

The OECD rules require digital platforms to report information about the income of sellers providing services on these platforms to their tax authority. The rules affect platforms that facilitate the provision of services such as taxi and private hire services, food delivery services, freelance services and short-term letting of accommodation through apps and websites. The platforms will also be required to provide a copy of the information to the sellers.

Sometimes these sellers do not fully understand their tax obligations, or they may work on multiple platforms and find it hard to keep track of their income. This will make it easier for UK gig workers who provide their services through digital platforms to complete their returns and get their tax right. To be clear, there will be no change in the amount of tax due. The information will simply help taxpayers to declare the correct amount of income first time. However, where sellers are not declaring all of their income from platforms, the information reported to HMRC will help to support the Government's efforts to detect and tackle tax evasion.

HMRC will also be able to exchange information with other countries that sign up to the OECD rules. This exchange of information will allow HMRC to access data on UK sellers from platforms based outside the UK much more quickly and efficiently than is currently possible. The benefit is not, it is important to say, only for gig workers and tax authorities. The Government have heard directly from some of the major digital platforms that they welcome this international approach as it provides them with a set of standardised rules to follow. The UK is committed to its role as a global leader on tax transparency. In line with this

ambition, the UK is one of the first major economies to announce that it will consult on the implementation of the OECD rules.

James Murray: The clause introduces a power to make regulations to implement the OECD model rules for reporting by platform operators. These rules will require certain UK digital platforms to report information about the income of sellers of services on their platform. The power also allows regulations to be made to implement other, similar international agreements or arrangements. The clause allows for greater oversight of gig economy digital platforms, which in turn allows for more effective action to enforce tax compliance. So it is a positive change, which we support.

The OECD issued a report in July 2020 setting out new rules to oblige shared and gig economy platforms to report the activity of their users. As we have heard, the UK was involved in discussing and agreeing the model rules at the OECD. The reported information can be shared by other participating tax authorities using a new tax information exchange framework, simplifying compliance for taxpayers and making data easier to interpret and exchange. It is designed to help sellers on these platforms comply with tax obligations and to help HMRC detect and tackle tax evasion when they do not.

These new measures will have a significant combined impact on an estimated 2 to 5 million businesses that provide their services via digital platforms, though we acknowledge that the impact to each seller may be small. Although we welcome these changes, I invite the Minister to use his remarks to set out what support the Government will provide for digital platforms and the businesses providing services on them, to ensure that they are well prepared for new tasks that they have not had to undertake before.

Jesse Norman: Let me say a couple of things about the impact mentioned by the hon. Gentleman. It is important to say that the Government very much recognise that businesses will need time to get to grips with new reporting requirements and the rules, therefore, are not intended to come into force earlier than January 2023, with reporting due no earlier than January 2024. There will be a consultation on the implementation of the rules in 2021.

The goal is to set a framework and a regime that can stand effectively and flexibly over time, but with a degree of care about how it is consulted on and developed, with good notice for those who are affected to be able to change some of their practices if they need to.

The question arises: will there be a substantial amount of additional administrative burden? The answer is no. Having been in discussion with different parties involved, we think it will be easier for platforms to report information using agreed international standards. That is why the measure has been welcomed by some of the platforms.

Where there are costs, we will seek to minimise them where possible. For example, I expect there will be an optional exemption for start-ups and perhaps a phasing-in period for some of the obligations, to spread their initial impact. All those arrangements, therefore, should have the effect of creating a phased, calibrated and well structured introduction of the new measure.

Question put and agreed to.

Clause 125 accordingly ordered to stand part of the Bill.

Clause 126

Unauthorised removal or disposal of seized goods

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

Jesse Norman: Clause 126 is a small but important clause that would amend schedule 3 of the Customs and Excise Management Act 1979 to allow HM Revenue and Customs and UK Border Force to levy a civil penalty for goods seized in situ that are removed without prior authorisation.

The background to this measure is that goods that have been seized are normally kept in Border Force-controlled Queen's warehouses. Sometimes, however, seized goods are kept on the trader's own premises and are known as goods seized in situ. Currently, schedule 3 of the 1979 Act allows for goods to be seized and kept on the trader's premises, but does not refer to seizure in situ; therefore, if seized goods are removed without prior authorisation, no penalty can be issued.

Pressures on existing warehouse space mean that goods are increasingly being seized in situ at traders' premises. Removal of those goods by traders without prior authorisation from HMRC does not, the Committee might be surprised to know, currently attract a penalty. That risks the unauthorised removal of seized goods. The measure is a legislative amendment to schedule 3 of the 1979 Act to include a civil penalty for where goods seized in situ are removed without authorisation.

Goods will remain in situ for a month to allow the owner to contest the seizure. After that period, the goods will be condemned and HMRC may dispose of them. The amendment to the schedule of the 1979 Act to include a civil penalty under the Finance Act 1994, for where goods seized in situ are removed without authorisation, will mirror the existing penalty for detained goods in paragraphs 4 and 5 of schedule 2A to the 1979 Act for detentions.

HMRC has a duty to take robust action to deal with those involved with goods that have not had duty paid on them, or are prohibited or restricted. The detention and seizure of goods is a valuable tool to deal with and to deter duty evasion. This measure will assist HMRC in tackling non-compliance and is proportionate to ensure compliance and protection of the revenue.

James Murray: Clause 126 enables HMRC and Border Force officers to use a civil penalty to combat the unauthorised removal of things that have been seized in situ. When HMRC seizes goods, they are normally kept, as we heard, in Border Force-controlled warehouses. When goods that have been seized are kept on the trader's premises, the seizure is known as seizure in situ. Currently, the law does not refer to seizure in situ; therefore, if seized goods are removed without prior authorisation, no penalty can be issued. We recognise that the clause will amend that.

We want HMRC to take robust action to deal with those who import illicit items into the UK or seek to bring in things on which duty has not been paid. We want the detention and seizure of things to be a valuable tool in the fight against duty evasion. We therefore do not oppose the clause.

Question put and agreed to.

Clause 126 accordingly ordered to stand part of the Bill.

Clause 127

TEMPORARY APPROVALS ETC PENDING REVIEW OR APPEAL

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

The Exchequer Secretary to the Treasury (Kemi Badenoch): Clause 127 makes changes to customs and excise review and appeals legislation, to safeguard the right to appeal. To do this, HMRC will be given the power to temporarily approve a business, on application and subject to meeting certain criteria, in order that the business may continue to conduct controlled activities until the conclusion of its appeal into an earlier decision.

As Committee members may be aware, businesses in a number of regimes operated by HMRC require approval before they may conduct certain controlled activities. These include the alcohol wholesaler registration scheme, which regulates the sale of alcoholic drinks, and the raw tobacco approval scheme, which requires the approval of anyone conducting activities involving raw tobacco.

Approval is dependent on a business continuing to satisfy certain fit and proper criteria, which are defined in law. Where evidence shows that the business is no longer fulfilling those criteria, HMRC may, as a last resort, revoke its approval. As with all HMRC decisions, the recipient may request an internal review by an independent officer and, ultimately, has the right to appeal to a tribunal and higher courts.

On receipt of HMRC's decision to revoke, a business must cease the controlled activity, even where it contests the decision. HMRC currently has no power to pause or suspend its decision, or to allow the business to continue with the controlled activities while it pursues its right of appeal.

Previously, it was believed that where a business sought relief from the courts, such a suspension could be granted. However, comments made by the Supreme Court in 2019 in OWD Ltd *v.* HMRC highlighted that that may not be the case. If neither HMRC nor the courts have the power to suspend revocation, it could, in theory, cause a business to fail before its appeal has been concluded, fundamentally undermining the right of appeal. It is in order to protect this right that changes are being made. To be clear, the process of temporary approval would apply only in appeals involving civil cases. Those cases where revocation of an approval is linked to criminal prosecution would not be considered.

The changes made by the clause create a new power for HMRC to issue temporary approvals in respect of the control schemes covered by this clause, as they all contain similar fit and proper criteria. Temporary approval would be conditional on the business providing sufficient evidence to support its case that, without that temporary approval, its appeal right is ineffective.

The clause also creates a new appeal right in relation to HMRC's decision on whether to grant temporary approval. That will ensure that a business has every opportunity to seek protection following a decision by HMRC. The business must demonstrate that it would suffer irreparable harm—rather than just inconvenience—by not being able to conduct the controlled activity in the period between revocation and the outcome of its appeal. That does not alter HMRC's position that it has judged the business to no longer satisfy the requirements to hold approval; the object of the change is to safeguard appeal rights and not to allow unfit businesses to gain extended periods to trade before an appeal is heard.

The evidential requirements for gaining a temporary approval are intentionally high, to protect revenue and ensure compliance. Any temporary approval would be issued with strict conditions, allowing HMRC to monitor activity closely; any new evidence of unacceptable trading would result in removal of this temporary approval, to protect revenue. HMRC will specify through its public notices the evidence that must be submitted with a temporary approval application, along with details of timings and other relevant matters. The legislation will come into force at a future date to be determined by HMRC and will be brought in by regulations made by statutory instrument.

In conclusion, the clause gives HMRC the power to grant businesses a temporary approval to conduct controlled activities in appropriate circumstances. This power does not currently exist, and it is right that we remedy that situation to provide fairness to taxpayers appealing a decision to revoke their right to trade.

3.15 pm

James Murray: Clause 127 introduces a new power to grant temporary approval to a business appealing a decision to remove or reject a trading approval so that its appeal right is safeguarded. Where HMRC has revoked or refused an approval to trade, a business has a right to appeal that decision. If the business cannot survive that appeal process on account of being unable to trade, its appeal right may be rendered ineffective in practice.

This measure introduces a new statutory power, based on the power that had been assumed to lie with the High Court, allowing HMRC to temporarily approve relevant businesses, and provides for a right of appeal to the first tier tribunal. As the clause seeks to help ensure that a business's right to an effective appeal will be safeguarded, we do not oppose its standing part of the Bill.

Question put and agreed to.

Clause 127 accordingly ordered to stand part of the Bill.

Clause 131

INTERPRETATION

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

The Chair: With this it will be convenient to discuss clause 132 stand part.

Jesse Norman: Clauses 131 and 132 simply set out the Bill's legal interpretation and short title in the usual manner for such legislation.

Question put and agreed to.

Clause 131 accordingly ordered to stand part of the Bill.

Clause 132 ordered to stand part of the Bill.

New Clause 1

Review of capital allowances and business reliefs

"(1) The Chancellor of the Exchequer must review the impact on investment in parts of the United Kingdom and regions of England of the changes made by sections 15 to 20 and lay a report of that review before the House of Commons within six months of the passing of this Act.

(2) A review under this section must compare estimated GDP in each of the next five years under the follow scenarios—

(a) these provisons are enacted,

(b) these provisions are not enacted, and

(c) the UK fiscal stimulus package, as a percentage of GDP, mirrors that of the united States.

(3) In this section— "parts of the United Kingdom" means—

(a) England,

(b) Scotland,

(c) Wales, and

(d) Northern Ireland; and "regions of England" has the same meaning as that used by the Office for National Statistics.".—*(Peter Grant.)*

This new clause would require a report on the impact of the capital allowance provisions on GDP, comparing them with the impact of copying the level of fiscal intervention in the US.

Brought up, and read the First time.

Peter Grant: I beg to move, That the Clause be read a Second time.

I am pleased to finally move the new clause after four or five days of heavy debate in Committee and two days of debate on Second reading, which is an indication of the way things happen here. The wording of the new clause is quite deliberately designed to tightly fit within the scope of the Bill, although it will be no surprise to Members that I will highlight a number of wider issues.

The UK Parliament's and UK Government's existing way of putting forward and approving tax and public spending plans does not really allow them to be gone into in a great deal of detail, so we ask for some way to compare what would have happened if none of the changes enacted by clauses 15 to 20 had been made, how the economy looks when they have happened and how the economy would have looked if the Government had done something a bit more ambitious and radical.

The phrase "be bold like Biden" has become very popular since the American presidential election. We do not need a comparison with the exact measures taken there, but we are seeing an economy that is in some ways quite similar to the United Kingdom's beginning to take tax break and tax incentive decisions very different from those the current UK Government have taken. It would be good if there was some way in which we could look at what impact those UK Government decisions have had.

There have been some indications from usually quite reliable commentators that—*[Interruption.]*

3.19 pm

Sitting suspended for a Division in the House.

3.28 pm

On resuming—

The Chair: We were considering new clause 1, and I call Peter Grant.

Peter Grant: Thank you, Dame Angela. Members will be pleased to hear that I will not repeat everything I said before the Division. It has been quite authoritatively suggested that if the stimulus package put forward by the UK Government had been as bold and radical as that put forward by President Biden, the impact in Scotland alone would have been 134,000 additional jobs, and the impact on UK debt would have been unnoticeable—the figures were that the debt-to-GDP ratio at the end of quarter 2 next year would have been 118% rather than 119%, which is easily within the margin of forecasting errors. That is just one example of where a different approach—had there been a way of arriving at one in time—may have made a significant difference, and I do not imagine that that would have applied only in Scotland. If we took equivalent figures England, we would be looking at maybe 1 million or 1.5 million more jobs by this time next year.

With all of these proposals, we are saying that there is a better way for this Parliament and Government to arrive at the final decisions on their tax and spending plans. If we look at what happens in some of the devolved Parliaments, their Budgets are significantly smaller. Arguably, they are not nearly as complex, because those Parliaments have few or no direct powers on most taxes or welfare payments. The Scottish Parliament's Budget is on the go for most of the year, and almost every Budget eventually gets passed. Bits have been put in at the request of most, and sometimes all, of the Opposition groups in the Scottish Parliament. Even during the short period when there was an overall majority SNP Government, almost every Budget that was passed had bits put in, after the draft Budget had been published, at the request of Opposition parties. Incidentally, some of the most effective ones were submitted by the Scottish Conservative and Unionist party and accepted by an SNP Government, because both parties were prepared to look at what was in the best interests of Scotland, rather than caring about the party political advantage to be gained.

The difficulty in the way that we do Budgets here is that, by the time anything in the Budget is public, battle lines are already drawn. It is confrontational, rather than co-operative. It is about putting forward suggested changes that one almost hopes the other side will not accept, so as to have a go at them at election time. That is great fun and electioneering, and the tabloid press loves it because it raises the temperature quickly. I sometimes wonder whether, by doing things that way, we might be missing a chance to finish with a better set of proposals, whether on the tax-raising or public-spending side. We could end up with a set of proposals that would come much closer to what we all thought we wanted to achieve when we first arrived here. That is clearly not something that I can put forward as a proposal for this Bill. The difficulty with the way we do things here is that there is never a chance to do that.

It is not possible to set tax policies and then wonder where to make the cuts or invest the money. It is not possible to set spending decisions and then wonder how to raise the money. It has to be an iterative process and has to be gone round three or four times a year. It is much better if that is done by discussion and then, if necessary, to have the set-piece debates, the disagreements and Divisions at the end of the process.

[Peter Grant]

I will simply leave those thoughts with the Committee. I hope the Minister will feed them back to his colleagues in the Treasury. Colleagues in the SNP who have been part of the Treasury team much longer than I have been pushing such ideas for a number of years. There have been some changes to practice as a result. I am even more convinced, having had my first shot at a Finance Bill as part of the SNP Treasury team, that there are better ways to do things. Believe it or not, I actually want to make things better for this place, during the relatively short time that I hope to be here. Finally, if it helps the Committee, I will not say anything on new clause 7, because any arguments on that have already been had.

Jesse Norman: I thank the hon. Member for Glenrothes. I must say that the Scottish National party does not have an international reputation for the bipartisan way in which it treats partisan party politics. I am delighted to hear that the hon. Gentleman is offering the cross-party approach he advocated in his remarks.

The hon. Gentleman says that there is a better way. He should know that the Government are very much committed to improving the tax process wherever we can. We operate within a set of existing arrangements and political procedures that have proven their worth over many decades, but we are constantly seeking to improve. The classic example was our tax policies and consultation day, which we had in March this year. That was an attempt to create more transparency and to give more prominence to measures that might otherwise have been lost in the Budget process, in order to allow the widest possible public scrutiny and debate.

To pick up the point the hon. Gentleman made about international comparisons, I can understand why it appears interesting to him, but a few seconds of reflection would yield the thought that it really is not for the Government to be publishing analyses of other countries' tax policies or fiscal arrangements. It really is not for us to be choosing one country, even if we were committed on that route, rather than another, because where would that end? Of course, there are many other institutions around the world that will provide precisely that kind of global comparison service. I am afraid that I do not share the hon. Gentleman's view about the efficacy of that approach.

I am grateful that the hon. Gentleman is not pressing new clause 7, on the correct grounds that we have discussed much of it already, but, in general, the Government do publish an awful lot of detailed information on the Exchequer, macroeconomic business and equalities impacts of not only these clauses but all clauses that are debated in Finance Bills. Those assessments are comprehensive and wide-ranging, and therefore we do not think that a detailed review would be useful. With that, I am grateful to the hon. Gentleman for his contribution.

Peter Grant: I think it was obvious that I did not expect the Government to accept the new clause with joyful acclamation. I deliberately tried to pitch my remarks in a co-operative vein, and it is disappointing that the Minister could not resist a bit of completely unnecessary playground politics. If he wants to look at the respective international standings of the two Governments and the international standing of the two Heads of Government as things stand right now, and if he wants to look at the current standing, credibility and trustworthiness of the two Heads of Government among the ordinary people of England, never mind the ordinary people of Scotland, that is a debate I would be delighted to have with him on another day, but I would have to caution him that it is not a debate that his party wants to get into just now. For the people of Scotland, the outcome of that debate will be seen on Thursday next week. I look forward to that, but I suspect that the Minister's party is not looking forward to it as enthusiastically as I am. I am sorry that I have had to adopt that tone at the very end of our deliberations.

The Chair: Mr Grant, do you wish to push the new clause to a vote?

Peter Grant: I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

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

Jesse Norman: On a point of order, Dame Angela. I would like to thank you and Sir Gary, *Hansard,* the Whips, parliamentary private secretaries and officials. I am sure that I speak for those on both sides of the Committee when I thank those who have supported us through the Committee stage. I would particularly like to call out the names of Edwin Ferguson and Sarah Hunt and of our Bill team at the Treasury, Bill manager, Mikael Shirazi, Helena Forrest, Barney Gibb and Sam Shirley. I thank colleagues across this Committee for their commitment to scrutinising and debating the legislation. I am keenly aware, as they will be, that we do so under the picture of William Gladstone and his Cabinet at the time—a very forbidding chancellorial figure. With that in mind, I thank everyone for their contributions, and thank you, Dame Angela, for presiding so ably.

James Murray: Further to that point of order, Dame Angela. I would like to put on record my thanks to you for being a very patient Chair on my first time in a Public Bill Committee, following Sir Gary Streeter last week. I also thank the Clerks for helping us to draft amendments, and the wider House authorities for making it possible to hold a Public Bill Committee in these strange circumstances. I would also like to thank all members of the Committee. On behalf of my hon. Friend the Member for Erith and Thamesmead, I particularly thank our Whip—my hon. Friend the Member for Manchester, Withington—and my hon. Friends the Members for Vauxhall and for Luton North for giving up their time to sit on this Committee.

Peter Grant: Further to that point of order, Dame Angela. Although, there are obviously parts of the Bill that I do not agree with, I endorse the Minister's comments on the work that has been done by his colleagues on the Treasury team and by *Hansard* and other parliamentary staff, without whom democracy in this place simply would not happen—we should never forget that.

I thank my hon. Friend the Member for Glasgow Central, who was unfortunately not able to be with us today, for her work as the senior SNP Treasury spokesperson. I also thank—this is a name that most Members will not recognise—Scott Taylor from the Scottish National party research team. When people ask me what Westminster researchers do, I say, "Their job is to make it look as if their MPs know what they are talking about." We may all have different opinions on how effectively they do that, but Scott and his colleagues have certainly done a huge amount of work over the last months.

Finally, I thank the large number of external stakeholders who have engaged fully with us as a third party, and no doubt with other parties as well, in a constructive way. They understood when they put forward things that we simply did not feel we could support, but at the same time they gave us a lot of background information so that our understanding of the likely impact of the Bill was much greater than it would otherwise have been, whether we were able to take their requests on board or not. As I said, although I disagree with parts of the Bill, we should recognise that, overall, it is a better piece of legislation thanks to the contribution that those external bodies have made.

Question put and agreed to.

Bill, as amended, accordingly to be reported.

3.41 pm

Committee rose.

Written evidence reported to the House

FB01 Association of Taxation Technicians (ATT)

FB02 Chartered Institute of Taxation (CIOT)

FB03 Chartered Institute of Taxation (CIOT)

FB04 Chartered Institute of Taxation (CIOT)

FB05 Association of Taxation Technicians (ATT)

FB06 Association of Taxation Technicians (ATT)

FB07 Low Incomes Tax Reform Group

FB08 Low Incomes Tax Reform Group

FB09 British Plastics Federation

FB10 Institute of Chartered Accountants in England and Wales (ICAEW)

FB11 Institute of Chartered Accountants in England and Wales (ICAEW)

FB12 Institute of Chartered Accountants in England and Wales (ICAEW)

FB13 Institute of Chartered Accountants in England and Wales (ICAEW)

FB14 Chartered Institute of Taxation (CIOT)