

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

NATIONAL INSURANCE CONTRIBUTIONS BILL

First Sitting

Tuesday 22 June 2021

CONTENTS

CLAUSES 1 TO 14 agreed to.
New clauses considered.
Bill to be reported, without amendment.
Written evidence reported to the House.

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 26 June 2021

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The Committee consisted of the following Members:

Chairs: YVONNE FOVARGUE, † CAROLINE NOKES

- | | |
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| † Bacon, Gareth (<i>Orpington</i>) (Con) | † Owen, Sarah (<i>Luton North</i>) (Lab) |
| † Browne, Anthony (<i>South Cambridgeshire</i>) (Con) | † Randall, Tom (<i>Gedling</i>) (Con) |
| † Buchan, Felicity (<i>Kensington</i>) (Con) | † Russell, Dean (<i>Watford</i>) (Con) |
| † Coutinho, Claire (<i>East Surrey</i>) (Con) | † Rutley, David (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| † Lewell-Buck, Mrs Emma (<i>South Shields</i>) (Lab) | † Thomson, Richard (<i>Gordon</i>) (SNP) |
| † Millar, Robin (<i>Aberconwy</i>) (Con) | † Twist, Liz (<i>Blaydon</i>) (Lab) |
| † Moore, Damien (<i>Southport</i>) (Con) | Kevin Maddison, Chris Stanton, <i>Committee Clerks</i> |
| † Murray, James (<i>Ealing North</i>) (Lab/Co-op) | † attended the Committee |
| † Norman, Jesse (<i>Financial Secretary to the Treasury</i>) | |
| † Osborne, Kate (<i>Jarrow</i>) (Lab) | |

Public Bill Committee

Tuesday 22 June 2021

[CAROLINE NOKES *in the Chair*]

National Insurance Contributions Bill

9.25 am

The Chair: Before we begin, I have a few preliminary points. Please switch electronic devices to silent. Tea and coffee are not allowed in the sitting. I remind Members that we have moved to 1 metre social distancing in general Committees, in line with the Chamber and Westminster Hall, so Members should continue to sit only in places that are clearly marked. I can see that you all are—thank you. I will suspend the sitting if I think anyone is in breach of social distancing guidelines. Mr Speaker has asked that Members wear face coverings in Committee except when they are speaking, unless of course they are exempt. The *Hansard* reporters would be grateful if Members could email any electronic copies of their speaking notes to hansardnotes@parliament.uk.

Ordered,

That—

1. the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 22 June) meet at 2.00 pm on Tuesday 22 June;

2. the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 22 June.—
(*Jesse Norman.*)

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—(*Jesse Norman.*)

The Chair: Copies of written evidence that the Committee receives will be circulated to the Committee by email.

We now begin our line-by-line consideration of the Bill. The selection list for today's sitting is available in the room. It shows how the selected amendments have been grouped together for debate. The selection and grouping list shows the order of debates. Decisions on each amendment are taken when we come to the clause that the amendment affects. Decisions on new clauses will be taken once we have been through all the clauses of the Bill as introduced.

Clause 1

ZERO-RATE CONTRIBUTIONS FOR EMPLOYEES AT
FREEPORT TAX SITES: GREAT BRITAIN

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

The Chair: With this it will be convenient to discuss new clause 5—*Freeport zero-rate relief: review of incomes and wages*—

(1) The Government must conduct a review of the impact of sections 1 to 5 of this Act on income and wage ranges at all freeport tax sites.

(2) The review must assess—

- (a) the average income and wage ranges of jobs in respect of which employers have claimed the secondary Class 1 relief introduced by section 1 of this Act; and
- (b) for each freeport, how the incomes provided by these jobs compare to average median incomes across the local authority areas in which the freeport is located.

(3) The review must be commenced by 31 October 2022.

(4) The review must be published and laid before Parliament by 31 January 2023.

This new clause will require the Government to evaluate the wages of the jobs created as a result of the employers' relief introduced by this Bill.

The Financial Secretary to the Treasury (Jesse Norman):

It is a great pleasure to be able to address these important clauses in a small but important Bill, and I thank all colleagues for joining us today.

Part I of the Social Security Contributions and Benefits Act 1992 stipulates that secondary class 1 national insurance contributions be calculated at a standard rate of 13.8% on earnings above the secondary threshold—currently about £8,700 a year. Part I also provides for other rates of secondary class 1 NICs—the zero rate for 21-year-olds or apprentices under 25, for example—that can be applied up to an upper secondary threshold.

Clause 1 introduces a new zero rate of secondary class 1 national insurance contributions on earnings up to a new upper secondary threshold in Great Britain. The standard rate of NICs, 13.8%, in most cases will apply above that threshold. The threshold will be set through regulations at £25,000 per annum.

Clause 1 provides employers that meet the conditions set out in clause 2, which we will shortly debate, with access to this relief where they have a secondary class 1 liability. An employer may qualify for various rates of secondary national insurance contributions. Clause 1 therefore stipulates that an employer must elect to apply the freeport relief if they wish to utilise this zero rate. By applying the rate, their status as a secondary contributor remains even if, as a result of this relief, an employer has no secondary class 1 liability. The relief will be administered through pay-as-you-earn and real-time information returns by Her Majesty's Revenue and Customs. This approach has been welcomed by stakeholders.

New clause 5, if I may say so, recapitulates much of what the Government have already done. I remind the Committee that the Government have already published a decision-making note that clearly sets out how sustainable economic growth and regeneration are prioritised in the freeports assessment process. We will also be publishing costings of the freeports programme at the next fiscal event, in line with conventional practice. Those costings will undergo the usual scrutiny from the Office for Budget Responsibility.

It is also important to say that the Government are already taking the necessary steps to gather the information required to review the programme effectively. Before funding is allocated and tax sites are designated, each freeport will need to pass a business case process, which includes assessing how effectively tax sites can be monitored. Freeports will need to collect data on reliefs and their realised outcomes, which will include monitoring the effectiveness of tax reliefs, and the Government will continue to publish information relating to HMRC through its annual report and accounts. It is important to note that the Government have already committed to keeping this measure under review as new information becomes available. The publicly available tax information and impact note also commits the Government to keeping the scheme under review through communication with taxpayers' groups.

The Government reject the proposal in new clause 5 because a report that focused exclusively on just one aspect of the policy would not do justice, however valuable its focus, to the whole, which includes other important aspects over and above wages, such as changes to customs rules, Government infrastructure spending and planning reform. I therefore ask that the Committee reject new clause 5.

I am sure that Committee members will not wish to delay the investment associated with clause 1, which introduces a zero rate of secondary class 1 national insurance contributions that employers can apply when they meet the conditions specified in clause 2. For that reason, and with the reassurances that I have given, I urge the Committee to agree that clause 1 stand part of the Bill.

James Murray (Ealing North) (Lab/Co-op): Thank you, Ms Nokes, for the opportunity to speak on behalf of the Opposition. We begin by considering the clauses that relate to freeports. In March 2021, the Chancellor announced that eight freeports would be created in England—East Midlands Airport, Felixstowe-Harwich, Humber, Liverpool City Region, Plymouth and South Devon, Solent, Thames, and Teesside—and we understand that discussions continue around further freeports in Scotland, Wales and Northern Ireland.

Clause 1 will introduce a new secondary class 1 national insurance contributions relief for freeport employers. It provides for that relief to apply when secondary class 1 NICs are due from an employer other than a public authority when the conditions set out in clause 2 are met. Clause 1(2)(a) states that the rate for the relief is 0% and applies up to the upper secondary threshold; subsection (2)(b) states that for earnings above the upper secondary threshold, the secondary percentage—currently 13.8%—applies. Subsection (3) states that the upper secondary threshold, or the prescribed equivalent, will be set by statutory instrument under a power established by clause 8.

As the Financial Secretary may remember, we discussed on Second Reading the fact that the upper secondary threshold for freeport employees would, according to a policy paper published by the Government on 12 May, be set at £25,000 for 2022-23. As I pointed out at the time:

“That is substantially less than the equivalent thresholds for employers’ relief for under-21s and apprentices, which is £50,270 in 2021-22...this means that employers do not need to pay any NICs for under-21s and apprentices earning up to just over £50,000 a year, but they will have to pay contributions for freeport employees next year if they earn more than £25,000.”—[*Official Report*, 4 June 2021; Vol. 697, c. 49.]

In response to my question about the Government’s rationale for picking the figure of £25,000 for employees of freeports, the Exchequer Secretary said:

“The answer is that, unlike other NICs reliefs that are available to employers nationally and generally are targeted at specific groups of employees with particular characteristics, businesses operating in a freeport are likely to be able to claim the relief on almost all of their new hires. To balance generosity of support with the need to consider the public finances, this broader eligibility has been balanced by limiting the amount of salary that can be relieved. We have chosen to set this limit at £25,000 per annum, which is approximately the average salary in the UK.”—[*Official Report*, 14 June 2021; Vol. 697, c. 69.]

I would like to take this opportunity to understand the Exchequer Secretary’s response a bit more. I would therefore be grateful if the Financial Secretary let us

know the specific source of the data that says that £25,000 is approximately the average salary in the UK. I ask this because according to the Office for National Statistics the median income in all the local authority areas where the eight freeport sites are located is greater than £25,000, with the figures ranging from £25,200 in Kingston upon Hull, within the Humber freeport, to £33,200 in Thurrock, within the Thames freeport.

We would like to take this opportunity to press further on this point, which is why we have tabled new clause 5. We want to understand if the Government are concerned that making the threshold for the NIC relief in freeports £25,000 might create an incentive for employers to create posts paid less than £25,000, rather than higher paid posts, which could in turn create the risk of salaries being bunched below the threshold, thereby undermining salary progression.

New clause 5 requires the Government to conduct a review, after this policy has been in place for six months, to assess the average income and wage range of jobs in respect of which employers have claimed the secondary class 1 relief introduced by clause 1, and for each freeport to assess how incomes provided by these jobs compare with the average median income across the local authority area in which the freeport is located.

I would be grateful if, for clarity, the Minister let us know the precise statistical source of the figure of £25,000 for the average UK salary. Will the Government support the review we propose, which would assess the average incomes of jobs created by this employers’ relief? If not, does he think that setting the threshold for the relief at £25,000 risks creating an incentive for employers to create posts that are paid less—even just less—than £25,000, rather than higher paid positions?

Jesse Norman: I thank the hon. Gentleman for his question. I saw that he raised the issue on Second Reading and, if I may say so, it potentially reflects a slight misunderstanding.

As the Exchequer Secretary said, the decision has been taken to set the rate at £25,000, roughly the national average earnings. That is different from median earnings. I do not think it is right to suggest that the threshold has been set at a level that is approximate, because it is designed to be comprehensible and readily understandable. To make it more precise might affect that.

The overall generosity of the package of support that is being given to freeports, and the range of potential employees to which this applies, is very creditable to the Government, because it shows the intensity and strength of the intent to make the freeports policy work. This is an important part of that policy, but only one part of a set of policies that are designed to increase the attractiveness of freeports for growth and for employment as well.

The way in which this measure has been structured is focused towards longer-term employment, as the relief runs for three years, and therefore it allows the employment rights associated with longer-term employment to be vested in those employees. From that point of view, it reflects a commitment by the Government to create high-quality and stable longer-term employment.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2

FREEPORT CONDITIONS

Richard Thomson (Gordon) (SNP): I beg to move amendment 1, in clause 2, page 2, line 26, at end insert—

- “(e) the employer pays, as a minimum, a living wage, to all staff it employs, and
- (f) the businesses operating in the freeport in which the employer has business premises have collectively—
 - (i) put in place a strategy setting out how the freeport will contribute to the target for net UK emissions of greenhouse gases in 2050 as set out in the Climate Change Act 2008 as amended by the Climate Change Act (2050 Target Amendment) Order 2019,
 - (ii) put in place a strategy setting out how the businesses will ensure that no goods passing through the freeport are the products of slave labour, and
 - (iii) carried out an environmental impact assessment of the operation of the freeport.”

This amendment provides conditions to businesses in freeports. These include a strategy on how the freeport will contribute to the target for net UK greenhouse gases emissions, a strategy ensuring no goods passing through the freeport are products of slave labour, and an environmental impact assessment of the freeport.

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

Amendment 2, in clause 2, page 3, line 11, at end insert—

“(4A) For the purposes of subsection (1)(e), the living wage per hour—

- (a) for the financial year 2020-21 is—
 - (i) £9.30 outside of London, and
 - (ii) £10.85 inside London; and
- (b) for each year after the financial year 2020-21 is to be determined by the Living Wage Foundation.”

This amendment defines the living wage, payment of which is one of the conditions business would have to meet under Amendment 1.

Clause stand part.

Clause 3 stand part.

New clause 1—*NIC relief for employers at freeports: review of commencement date*—

- (1) The Government must conduct a review of job creation in the 2021-22 financial year at each of the eight freeport tax sites.
- (2) The review must assess the impact on decisions around job creation of the relief becoming available from April 2022 rather than April 2021.
- (3) The review must be commenced by 30 April 2022.
- (4) The review must be published and laid before Parliament by 31 July 2022.

This new clause will require the Government to assess the impact on job creation in freeports in 2021-22 as a result of NIC relief being available from April 2022 rather than April 2021.

New clause 2—*NIC relief for employers at freeports: review of the conditions of eligibility*—

- (1) The Government must conduct a review of the conditions of eligibility for the National Insurance contributions relief introduced by section 1 of this Act.
- (2) The review must take into account the number of freeport employees in 2022-23 who work at more than one freeport site and who earn less than the relevant upper secondary threshold set under the powers created by section 8.
- (3) The review must consider the impact of the matter in subsection (4) on decisions by employers about job creation.

(4) The matter is the relief introduced by section 1 of this Act being available for employees who spend 60% or more of their working time in one freeport, and not for employees who spend 60% or more of their working time across more than one freeport but less than 60% in any one freeport.

(5) The review must be commenced by 30 September 2023.

(6) The review must be published and laid before Parliament by 31 December 2023.

This new clause will require the Government to evaluate the impact on job creation of the employers’ NIC relief not being available for employees who spend 60% or more of their time across more than one freeport, but less than 60% in any one freeport.

Richard Thomson: There is a pretty basic principle that lies behind this: that you shouldn’t get owt for nowt. In exchange for the substantial package of reliefs that are on offer through this Bill, we believe that businesses must offer something in return, beyond their presence and their baseline economic activity within the bounds of a freeport.

In this case that would include, through amendments 1 and 2, meeting local environmental obligations. Many freeports are built on sites that have environmental sensitivities. We believe there need to be some enhanced obligations around that. Activities in a freeport should contribute to wider environmental objectives, such as the commitments to net zero and climate targets. It is very important to protect workers’ rights, not only within the perimeter of a freeport but anywhere else that has any kind of economic relationship with the freeport. That means taking steps to actively ensure that we are preventing the exploitation of slave labour at any stage in the value chain and ensuring that a living wage, as defined, is paid to the workers in the freeport.

Those are all important objectives in policy terms and are a fair exchange for the public goods being consumed through the creation of the freeport. They are modest asks in the context of the relief being offered and are worthy of support.

James Murray: Clause 2 sets out the conditions that employers must meet to qualify for the relief created by clause 1. Those conditions require that the freeport employment must begin between 6 April 2022 and 5 April 2026; the relief will apply for three years from the first day of each eligible employee’s employment; and the employee must spend 60% or more of their employed time in a single freeport tax site at which the employer has business premises.

We have a number of points to raise with the Minister on the details of the clause. First, as I mentioned on Second Reading, it is hard to understand why the relief is conditional on employment not commencing until 6 April 2022. As the Chartered Institute of Taxation pointed out, with freeports expected to start operating in 2021, that would surely hamper freeport employers this year, and perhaps even create perverse incentives to delay the start of an employee’s work. In her response to my raising this point on Second Reading, the Exchequer Secretary said:

“The Government have been clear that this relief is only available on new hires from April 2022, and set this out in the ‘Freeports Bidding Prospectus’ published in autumn 2020. The reason why is that having a clear start date is a simple approach that will support the freeport businesses.”—[*Official Report*, 14 June 2021; Vol. 697, c. 70.]

I found it hard to understand that the Minister’s point. Having a clear start date may well be a simple approach, but my question was not about whether the relief should

have a clear start date, but why the Government had chosen a start date in 2022, rather than in 2021 when freeports are expected to start operating. To press Ministers on that, we suggest a simple review, as set out in new clause 1, which would require the Government to conduct a review of job creation in 2021-22 at each of the eight freeport tax sites. The review must assess the impact on job creation decisions of the relief becoming available from April 2022 rather than April 2021. I would be grateful if the Minister committed to carrying out such a review. If he is not willing to, perhaps he could explain why the Chartered Institute of Taxation is wrong to say that this choice of date could hamper freeport employers this year and perhaps create perverse incentives to delay the start of an employee's work.

Alongside the start date for the relief, we want to raise questions about clause 2(1)(d), which states that at the time the qualifying period begins, a freeport employer must reasonably expect that the earner will spend 60% or more of their employed time in a single freeport tax site in which the freeport employer must also have business premises. That means that the relief introduced by clause 1 is available for employees who spend 60% or more of their working time in one freeport, but not for employees who spend 60% or more of their working time across more than one freeport, but less than 60% in any one freeport. If an employee splits their working time between two freeport sites, the employee may not qualify as a freeport employee, which might not be what is intended.

We have therefore proposed, in new clause 2, a review of the impact of that feature of the policy design on employers' decisions about job creation. Again, I would again be grateful if the Minister committed to carrying out such a review. If he is not willing to, perhaps he could explain why he does not think that issue is likely to arise.

Finally, I would like to ask the Minister about clause 2(1)(a), which provides that the employed earner's employment is a new employment commencing between 6 April 2022 and 5 April 2026. As the Chartered Institute of Taxation has pointed out, it is unclear whether an employee who is TUPE transferred from an existing employer to a new freeport business on or after 6 April 2022 qualifies for this relief.

Although clause 2(2) would prevent an employee from qualifying if the two businesses were connected, that would not always be the case—for instance, when a freeport business buys the trade of an unconnected business and commences that newly acquired trade at a freeport site. I would be grateful if the Minister could explain whether, in such a case, we can assume that the freeport business would be a “new” employer for the purposes of this relief, while recognising, of course, that its “new” employees would have continuity of employment for employment rights purposes.

9.45 am

Jesse Norman: I am grateful to the hon. Members for Gordon and for Ealing North for their contributions. We have discussed already how clause 1 introduces a new rate of secondary class 1 national insurance contributions. If I may, I would like now to explain the freeport conditions that enable a freeport employer to qualify for the relief. That is set out in clause 2, and I will then discuss clause 3 and the amendments and new clauses that have been tabled.

Clause 2 has the following effect. It sets the conditions that an employment must meet to qualify for the freeport employer's NICs relief. A freeport employer is an employer that has a business premises in the freeport tax site—business premises being defined as building or structure out of which the business is carried out. A freeport employee is an employee of a freeport employer who spends 60% of their working time in a freeport tax site and has not been employed by that employer in the previous 24 months. A freeport employer can apply the zero rate for 36 months on new hires from April 2022. The earnings of freeport employees hired before April 2026 will qualify for the zero rate for the full 36 months.

Clause 3 provides the Treasury with the power to legislate for the finer detail of the measure in secondary legislation. It provides a power to add, to amend and to remove certain conditions. The practical effect of that is to allow the Government to react to the economic realities of today, and also to give a degree of future-proofing to the measure against unintended policy outcomes.

The hon. Member for Ealing North raised the question of the starting date in 2022, and I understand that he is repeating the concern that he raised on Second Reading. It is adequately and properly met by the response that the Exchequer Secretary gave. It is a hypothetical matter as to when these freeports will begin to operate. We expect that to be soon, and we are pressing forward, but there are number of further steps to be undertaken before a freeport tax site can be designated and a freeport can go into operation. It is useful therefore to have a date certain for the operation of the policy.

The hon. Gentleman asked whether the 60% rule discriminates against people who work flexibly. It is important to understand that this is a place-based policy—that is to say, it is a policy designed to focus and operate from a very specific location. To meet the objective of encouraging new investment and economic activity, and to maintain the focus and the targeting of the policy overall, it is important to restrict reliefs to those whose jobs are based in a freeport tax site. The Government will do that by making it a requirement that eligible employees spend at least 60% of their working time in a tax site.

Opening up that relief to employees who did not meet that requirement would undermine the policy aim of supporting employment in the freeport area, because it would mean that employers could effectively claim relief on employees carrying out work outside a freeport area—indeed, in an area that may not be related to the freeport at all.

The hon. Gentleman raised the question about TUPE-ed employments. These are not regarded as new employments, and the employment is transferred but is not regarded as new, and therefore the employee would not be eligible for the reliefs offered in the Bill.

I turn now to the questions raised by the Scottish National party in the speech made by the hon. Member for Gordon. It is important to note that the SNP's amendment would place additional eligibility criteria—with respect to employment rights, equalities and the environment—in the Bill. Of course, those would add complexity to what is a well-established and rapidly moving process, and they would create potential delay. For that reason, it is not an attractive amendment.

[*Jesse Norman*]

The Government are committed to reducing carbon emissions, which is why this country was the first major economy to implement a legally binding net zero greenhouse gas emissions target by 2050. Of course, it remains open to the Scottish Government to impose higher standards if they wish, either on freeports or on other ports that exist in Scotland, since environmental policy is a devolved area. The hon. Gentleman may want to take up his concern with the Scottish Government if he wishes to see higher standards in ports in Scotland. From the Government's standpoint, we are also committed to supporting those in employment, which is why we introduced the national living wage in 2016. This month, workers have seen a pay increase to £8.91 an hour, which is a 2.2% pay rise.

The hon. Gentleman raises an important point about ensuring that goods passing through freeports should in no way be the products of slave labour. This is a global problem, and employers and freeports will need to meet the same high regulatory standards on slave labour that other businesses in the UK meet. That is to say that they must abide by the landmark transparency and supply chain provision in the Modern Slavery Act 2015, by which the UK became the first country in the world to require businesses to report on the steps they have taken to tackle modern slavery in their operations and global supply chains. With that said, I hope hon. Members will withdraw their new clauses and amendments.

Richard Thomson: I thank the Minister for his response. One of the things that we hear most often is that any amendment that may be desirable may add complexity, which seems to be a standard phrase that gets thrown in whenever the Government do not wish to proceed with something and cannot think of a better argument.

On the basis of what I have heard, I am unpersuaded that the suite of benefits and reliefs that are offered should make it easier to help achieve those objectives. I take what the Minister said about the obligations that already exist under the Modern Slavery Act 2015, but I still think that more can be done to embed the expectations that we have, and not just in Scotland. I take the Minister's point that the Scottish Government have a certain latitude in this area, but the point is to ensure that the provision applies all over and that there is some kind of equality. On that basis, I will press the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 1, Noes 9.

Division No. 1]

AYES

Thomson, Richard

NOES

Bacon, Gareth
Browne, Anthony
Buchan, Felicity
Coutinho, Claire
Millar, Robin

Moore, Damien
Norman, rh Jesse
Randall, Tom
Rutley, David

Question accordingly negatived.

Clause 2 ordered to stand part of the Bill.

Clause 3 ordered to stand part of the Bill.

Clause 4

ANTI-AVOIDANCE

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

Jesse Norman: If I may, I will explain a little of the background to clause 4. In addition to the powers taken in clause 3 to amend freeport conditions if the relief is found to be subject to abuse, clause 4 excludes employers that arrange their affairs with the aim of benefiting from the relief where that arrangement is contrary to the policy intent. Clause 4 works by removing eligibility for the relief if the conditions set out in clause 2 are met only as a result of an avoidance arrangement.

The Government are aware that the incentives of the freeport package potentially lend themselves to businesses taking steps to organise their affairs so that they can benefit from the relief; that is the design of the policy. Therefore, the Government have taken a similar approach to that in section 14 of the Finance Act 2021, which exempts employers if their arrangement is contrary to the policy intent of the relief and specifically in relation to the avoidance of tax.

An example of where the Government would expect HMRC to reject a claim for this relief would be where an employer structures their employment contracts so that a workforce can easily be dismissed after three years with the sole purpose of hiring new staff so that they can benefit from another three years of relief, or if an employer were to fire their employees and rehire the exact same posts with new employees.

The Government want the freeports to thrive, to boost local investment and to be a hotbed of innovation. Clause 4 provides an invaluable backstop and gives HMRC the ability to recover any relief that has been claimed as a result of contrived arrangements. I urge that clause 4 stand part of the Bill.

James Murray: As we have heard, clause 4 states that the relief for freeport employers cannot be claimed if an avoidance arrangement has been used, and it defines what is meant by an avoidance arrangement. We welcome any steps to prevent employers from taking advantage of the relief in cases in which avoidance arrangements are used. As this clause sets out, avoidance arrangements are those that are, or include steps that are

“contrived, abnormal or lacking a genuine commercial purpose, or”

that circumvent

“the intended limits of the application of section 1 or otherwise” exploit

“shortcomings in that section or in provision made in or under sections 2 and 3.”

I would be grateful if the Minister could confirm for us what extra resource, if any, has been made available to HMRC to ensure that it can identify and take action against employers in a freeport who have used avoidance arrangements. I would also like to understand what the Bill suggests about wider access to tax reliefs that arise from avoidance arrangements. I would be grateful if the Minister could offer some clarity on the wider situation.

This clause makes it clear that the tax relief in clause 1 “does not apply if it would otherwise apply only as a result of avoidance arrangements.”

Perhaps the Minister could help me to understand this by explaining whether, generally, companies are still able to claim tax reliefs if they arise only from avoidance arrangements—that is to say, arrangements that are contrived, abnormal or lacking a genuine commercial purpose. Although we of course support this relief being withheld in cases in which it can apply only as a result of avoidance arrangements, I would appreciate an explanation from the Minister about why this specific measure is needed and why the relief would not be withheld by existing provisions in law if it was deemed to have arisen from avoidance arrangements.

Jesse Norman: I thank the hon. Gentleman for his questions. Of course, HMRC is taking a close interest in freeports and has been closely involved in the policy design in order to minimise any potential for avoidance and any other failure to target the policy as we would desire. It is well staffed to address all the concerns that are raised. Of course, its staffing is flexible and also is something that reflects periodic conversations with the Treasury during the spending review processes and otherwise in order to ensure that it is as effective as possible—and it is highly effective, as is shown by the fact that the tax gap in this country is now lower than it ever has been. It is significantly lower than it was in 2005, for example—it is something like 40% lower than it was under that Government. That important achievement puts things into perspective.

10 am

The hon. Member for Ealing North will be aware that the Government take the wider avoidance of tax very seriously. We have the DOTAS—disclosure of tax avoidance schemes—rules, which we will come to later in the discussion of this Bill, and separate measures against promoters, which are also in law. The general view of the Government and HMRC is that we want to be as effective as possible in ensuring that the use of reliefs is properly targeted and that they are not used for the purposes that the hon. Gentleman described—in other words, not related to commercial activity or in some sense designed purely to deny revenue to the Exchequer. I trust and hope that HMRC will continue to take that policy approach.

Question put and agreed to.

Clause 4 accordingly ordered to stand part of the Bill.

Clause 5

ZERO-RATE CONTRIBUTIONS FOR EMPLOYEES AT
FREEPORT TAX SITES: NORTHERN IRELAND

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

Jesse Norman: Clause 5 confirms the Government's commitment to provide a freeport NICs relief in Northern Ireland. It gives the Treasury the power to legislate for the detail of the freeport NICs relief in Northern Ireland in secondary legislation. The power is limited in so far as the relief must be similar to or correspond to that available in Great Britain.

In Northern Ireland, the specific design of the relief will have to comply with European Union rules on the provision of state aid, due to the requirements of the Northern Ireland protocol. It will be developed and

agreed through a process of engagement with the Northern Ireland Executive on the detail of the wider freeports offer in Northern Ireland.

This Bill legislates for a power to allow the Government to set out the detail of the employer NICs relief in Northern Ireland in secondary legislation once engagement with the Northern Ireland Executive is complete. These regulations will be laid at the earliest possible opportunity once negotiations with the Northern Ireland Executive have given a clear indication of consensus on the tax offer.

Given the timing of the Bill, I trust Members will see that this approach is sensible, and ensures all stakeholders are fully engaged. I commend the clause to the Committee.

James Murray: Clause 5 gives the Treasury a regulation-making power to provide for a freeport secondary class 1 NICs relief in Northern Ireland. On Second Reading, the Minister assured us that, although the measures in clauses 1 to 4 relate to Great Britain, it is the Government's intention to legislate for this relief in Northern Ireland as soon as practicable. He drew attention to the fact the Bill provides the Government with the power to set out the detail of employer NIC relief in Northern Ireland in secondary legislation once engagement with the Northern Ireland Executive is complete.

I note that the House of Commons International Trade Committee's recent report on UK freeports, published on 20 April, discussed the issue of freeports in Northern Ireland, and in particular their relationships with the Northern Ireland protocol. It quotes Professor Catherine Barnard of the University of Cambridge, who said:

"under the Northern Ireland Protocol the EU state aid regime applies, certainly to Northern Ireland where there is an effect on trade between Northern Ireland and the rest of the EU. You should also bear in mind that the protocol is probably wide enough to catch any freeport legislation that applies throughout the United Kingdom."

The Chief Secretary to the Treasury acknowledged to the Committee that the freeport offer would have to be adapted to comply with the UK's obligations under the Northern Ireland protocol. Acknowledging that, the Committee's report concluded that it is clear the Northern Ireland protocol will impact the terms under which a freeport can be established in Northern Ireland. It recommended that the Government should set out in their response to the report their view on how the freeports model will need to be adapted in Northern Ireland to comply with the terms of the protocol. I would be grateful if the Minister could give us an update on the Treasury's thinking in that regard.

I would also like to clarify a comment in the memorandum from the Treasury to the Delegated Powers and Regulatory Reform Committee on this Bill. On clause 5, the memorandum says:

"The Government's intention is that the employer NICs relief for Freeports employers is in place by 6 April 2022 throughout the UK."

I would be grateful if the Minister could confirm whether that means it is the Government's intention, as set out in the memorandum, for a freeport to be established in all four nations of the UK by 6 April 2022.

Jesse Norman: I thank the hon. Gentleman for his questions. He asked me to update the Committee on the detail of the discussions with the Northern Ireland Executive on a freeport and noted the comments made

[*Jesse Norman*]

by the Select Committee. I am afraid I am not in a position to do that. These things are subject to current discussion and negotiation. It is a matter of some complexity and I do not think it would be appropriate to do so. I assure him that once matters have reached a conclusion and a consensus, Parliament will of course be given a full picture of what has taken place and I am sure colleagues will take a great interest.

He also asked a question about timing. For the reasons I have indicated, I do not think it would be prudent to specify a time by which a particular freeport, either one in process at the moment in England or one in the devolved Administrations, will be up and running. That is something for the Governments concerned and for the freeport operators and there will of course be processes of further designation that will need to be gone through. I assure him that it is certainly the UK Government's intention that this should be done as rapidly and effectively as possible, across the whole of the UK.

Question put and agreed to.

Clause 5 accordingly ordered to stand part of the Bill

Clause 6

ZERO-RATE CONTRIBUTIONS FOR ARMED FORCES VETERANS

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

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

Clause 7 stand part.

New clause 3—*NIC relief for employers of veterans: review of the tax year of relief claims—*

(1) The Government must conduct a review of how many veterans have been employed in 2021-22 in jobs for which employers have accessed the National Insurance contributions relief provided for under section 6 of this Act.

(2) The review must assess the impact on decisions around job creation of the requirement that the relief must be claimed retrospectively for 2021-22 rather than being available in real time.

(3) The review must be commenced by 30 April 2022.

(4) The review must be published and laid before Parliament by 31 July 2022.

This new clause would assess the impact of NIC relief for employers of veterans being claimable retrospectively for 2021-22, rather than in real-time.

New clause 4—*NIC relief for employers of veterans: review of the period of NIC relief—*

(1) The Government must conduct a review of how many veterans have been employed in jobs for which employers have accessed the National Insurance contributions relief provided for under section 6 of this Act.

(2) The review must assess the impact on decisions about the creation of jobs for veterans of the relief being available for earnings paid over a one-year period rather than a three-year period.

(3) A review must be conducted for each of the financial years 2021-22, 2022-23, and 2023-24.

(4) Each review under subsection (3) must commence within 30 days of the end of the relevant financial year.

(5) Each review under subsection (3) must be published and laid before Parliament within three months of its commencement.

This new clause will require the Government to evaluate the impact of the NIC relief for employers of veterans being available only for one year rather than three years.

Jesse Norman: We have considered the clauses concerning the zero-rate contributions for employees at freeport sites. I turn now to the second aspect of the Bill—the clauses on zero-rate contributions for armed forces veterans, starting with clause 6.

As the Committee will recall, the Government made a manifesto commitment to support ex-service personnel in their attempts to work to secure stable and fulfilling employment. Clauses 6 and 7 honour that commitment and provide employers with a zero rate of national insurance contributions on the earnings of qualifying veterans.

The Chancellor announced that policy at the spring Budget in 2020 and launched a policy consultation shortly after. The Government received 37 written responses from a variety of stakeholders and a response to that consultation was published on 11 January 2021. That response document outlined the final policy design. On 11 January 2021, the Government also published draft clauses for a technical consultation, which closed on 8 March 2021. Thus, the measure has been fully and effectively consulted upon, tested with stakeholders and debated by Parliament. It should be seen in that light.

Clause 6 introduces a zero rate of secondary class 1 NICs when the conditions in clause 7 are met. The relief can be applied on earnings up to the upper secondary threshold. Earnings above that threshold will be liable to the standard rates of NICs.

The relief will be available initially for three years. For the tax years 2022-23 and 2023-24, employers will have immediate access to the relief. For earnings in the 2021-22 tax year, employers will be able to claim the relief from 2022 onwards. The Government have sought to introduce this policy as quickly as possible, but practical and, in particular, IT considerations have meant that claims for earnings in the 2021-22 tax year will need to be at year end. That does not affect the amount of relief that an employer is able to receive.

The Government are keen to understand the effectiveness of the relief and will review the impact before deciding whether to extend it. Clause 6 provides the Treasury with the power to add additional years.

Clause 7 sets out the conditions that need to be met to allow an employer of a veteran to qualify for the zero rate that clause 6 provides. To qualify as a veteran for the relief, an individual needs to have completed at least one day of basic training in the regular forces. An employer can claim the relief for the first 12 months of a veteran's first civilian employment since leaving the armed forces. The 12-month period starts on the first day of the veteran's first day of civilian employment and ends 12 months later. Any employment in that period will qualify for this relief, which means that a veteran will not use up access to this relief if they take on a temporary role immediately after leaving the armed forces.

The relief will be available on the earnings of qualifying veterans from April 2021. Clause 7 also provides that a veteran can commence their first civilian employment before April 2021 and still qualify for the remaining period. Therefore, the 12-month period will begin on the first day the veteran took up their first employment and the relief will be made available only from 6 April 2021 for the remainder of that 12-month period.

Opposition new clauses 3 and 4 ask the Government to report on the impact of claiming the relief retrospectively and the impact of providing the relief for one year, rather than three. I shall explain why they are unnecessary. First, most of these issues were considered during the detailed consultation, which I have described. In addition, the Government have already committed to reviewing the measures and will, of course, be transparent about their expected impact. The policy costing for the measure and the underlying analysis were signed off and certified by the independent Office for Budget Responsibility, and the methodology was set out in the Budget policy costing document. As I say, the Government are committed to keeping the measure under review as new information becomes available. As part of the review process, HMRC and HM Treasury will speak to stakeholders to gauge their views on how the policy is operating.

Clause 6 will support veterans and help them to find stable and fulfilling employment, and it will provide employers with up to £5,500 in savings. I hope the Committee will agree to clauses 6 and 7 standing part of the Bill, and that the new clauses will not be pressed.

James Murray: Clauses 6 and 7 introduce an important relief, designed to help service personnel leaving the armed forces to get back into work. As I made clear on Second Reading, we believe that this is a vital issue. Veterans deserve the Government's full support as they seek civilian employment after their service to our country. It is crucial to make sure that all veterans get the support they need.

Clause 6 sets out the detail of the relief. It provides for a 0% rate of secondary class 1 national insurance contributions up to an upper secondary threshold for the tax years 2022-23 and 2023-24. Earnings above the upper secondary threshold will be liable to secondary class 1 NICs at the secondary percentage, currently 13.8%. It also specifies that the relief is available for the 2021-22 tax year retrospectively. In practice, that means that employers need to pay secondary class 1 NICs as if the relief did not apply; then, from April 2022, they can claim the relief retrospectively for the earnings in 2021-22. The relief described by clause 6 applies if the veteran conditions in clause 7 are met. The conditions include that to qualify for the relief the earner is required to have served for at least one day in the regular forces, and that the relief is available for one year, beginning on the earner's first day of civilian employment after leaving the armed forces.

On Second Reading, I asked Ministers to explain why the employer's relief for veterans is for 12 months, which is much less than the relief for employers in freeports, which is 36 months. In her response, the Exchequer Secretary said:

"The answer is that the relief provides employers with up to £5,500 in savings per veteran that they employ. The aim of that policy is to support veterans' transition into civilian life through encouraging employers to hire veterans."—[*Official Report*, 14 June 2021; Vol. 697, c. 70.]

That did not address my question about why the Government had chosen to make the relief for veterans' employers available for one year, rather than any longer; in particular, why not for three years, in line with the relief for freeport employers, which the Bill also introduces. That is why we wanted to raise the matter again, and why we tabled new clause 4, to address the impact of the Government's decision.

New clause 4 would require the Government to conduct a review of how many veterans had been employed in jobs for which employers accessed the national insurance contributions relief provided under clause 6. The review would have to assess the impact on decisions on the creation of jobs for veterans of the relief being available for earnings paid over a one-year period rather than a three-year period. I would be grateful if the Minister agreed to undertake the review. If he does not, perhaps he will explain in greater detail why the Government have chosen a one-year period for veterans' employers, rather than the three years for freeport employers.

New clause 3 is about enabling us to understand the impact of the Government's reluctance to make the relief claimable in real time for 2021-22. As the Chartered Institute of Taxation sets out, it seems that the policy intention is that the relief will be available from 6 April 2021, although employers will need to pay the secondary class 1 NICs on the earnings of eligible veterans for the 2021-22 tax year, then claim them back retrospectively in April 2022. From the 2022-23 tax year onward, employers will be able to claim the relief in real time through their PAYE declarations.

The Chartered Institute of Taxation reasonably questioned why employers cannot self-serve the relief for 2021-22, once the legislation has been passed, especially given the challenging circumstances of the pandemic and the cash-flow implications. The institute asks whether HMRC could be permitted to exercise its discretion and to permit employers to make real-time claims for 2021-22 where their payroll software provides for suitable identification of eligible veterans.

10.15 am

I shall therefore be grateful if the Minister agrees to undertake the review suggested by our new clause 3 to understand the impact of the decision. If not, will he explain whether he might take this point on board and agree to look at making the relief claimable in real time for 2021-22 to help the cash flow of potential employers who want to help veterans into civilian work? We want the relief to be as effective as possible in helping veterans back into civilian work. I look forward to hearing the Minister address my points, which are intended to help make it so.

Jesse Norman: I thank the hon. Gentleman for his questions. He repeated the question from Second Reading of why the measure is for one year, contrasting it with the freeports measures, which are for three years. The Exchequer Secretary was absolutely right, but it is important for me to add more colour.

The freeports measure is set at a lower upper secondary threshold, but for a longer period, because the goal is to bring people into an environment that has already been greatly supported by taxpayers, but to create circumstances in which they can have long-term secure employment, in particular with all the employment rights that come with more durable employment. The NICs relief for veterans is at a higher level for a shorter period, because the goal is to support a very specific process of transition, which veterans have as they come out of the armed forces.

Many people in the room have constituencies in which there are veterans or serving armed forces personnel, so they will appreciate the importance of the measure. Veterans are extremely skilled individuals who have

[*Jesse Norman*]

extraordinary life experience, but there is often that process of transition. Therefore, the more effective approach is to provide more support for a shorter period to assist that transition in as flexible a way as possible.

Liz Twist (Blaydon) (Lab): I understand the concept of the transition, but does the Minister not share my concern that it might go against the grain of what he is trying to do if we were to find that, after a period of one year of having the national insurance relief, people were out of employment? The proposal to look over a longer period would be beneficial to veterans in maintaining long-term employment.

Jesse Norman: I fully understand the concern of the hon. Lady, and precisely because the Government have been concerned about transition, we have introduced the relief. If it were the case that veterans still had a serious problem of finding secure and stable employment, of course that would be a matter that the Government would wish to reflect on and consider. I thank her for raising it.

To go to the second point raised by the hon. Member for Ealing North, he asked about the timing and the issues of real-time payments that the Bill contemplates. I understand the concern, in particular at this moment of pandemic when the Government are seeking to protect and support the cash flow of businesses and have done so across a vast number of them, across the whole of the United Kingdom, in many different forms. The Committee is aware of that.

The hon. Gentleman asked if we would look at that. Of course, I am happy to consider the matter further and to ask HMRC to consider it, but as he will recall, the matter has been given extensive consultation and internal discussion, and the IT and other problems that I described are not ones that can be wished away.

Sarah Owen (Luton North) (Lab): When it comes to veterans' national insurance contributions relief, I really feel that it needs to be for much longer than a year, for some of the reasons that the Minister has just highlighted. The cuts to 10,000 armed forces personnel come at a time when people are losing their jobs due to the economic pressures from the pandemic, and it seems very odd to say that we are looking at a long-term solution yet giving armed forces personnel the security of only one year.

Jesse Norman: I thank the hon. Lady for her question. I would repeat the points that I made earlier, which is to say that this is about managing a process of transition. The process of transition is one that has a beginning and an end. The key thing is to offer genuine support at a moment when a veteran needs it as they come out of the armed forces and go into employment, and to design that flexibly. That is what we have done. It has been extensively consulted on throughout a process with a series of stages, which have taken place during the pandemic and in which colleagues and wider stakeholders have been well sighted. It reflects the shared and calibrated understanding, but of course we recognise the concern that colleagues have raised, and we will continue to reflect on this policy, as we will on other tax policies.

Mrs Emma Lewell-Buck (South Shields) (Lab): Will the Minister give way?

Jesse Norman: No, I think we have had quite enough discussion of this topic. If the hon. Lady is going to raise a new point, of course I am happy to take the question.

Mrs Lewell-Buck: I am. The Minister says that he is confident about the argument he is making, and that the Government believe they are on the right track. With these new clauses, all the Opposition are asking the Government to do is evaluate and assess the decisions that they have made. Why will the Minister not do that, if he is confident about what they are doing?

Jesse Norman: As I have explained, we already have in place processes of evaluation and assessment. We will be following them, and this reflects an extensive process. It is lovely to see the Labour party waking up at last after its long slumbers, but the question that the hon. Lady raises is not, in fact, a new question; it is a reiteration of the same question, so I am going to stick with the answers I have already given.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clause 7 ordered to stand part of the Bill.

Clause 8

UPPER SECONDARY THRESHOLD FOR EARNINGS

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

The Chair: With this it will be convenient to consider clause 9 stand part.

Jesse Norman: Thank you, Madam Deputy Speaker.

The Chair: Chair.

Jesse Norman: I do apologise. We wait in expectancy and hope.

Clause 8 contains a regulation that would allow the Treasury to set for every tax year a freeport upper secondary threshold and a veterans upper secondary threshold over which the secondary percentage, rather than the zero secondary percentage, would apply. Different upper secondary thresholds may be set for each measure. The freeports bidding prospectus confirmed that the freeports UST would be set at £25,000 for the 2022-23 tax year. The veterans consultation document confirmed that the veterans UST would be £50,270 for the 2021-22 tax year.

On Second Reading, a question was asked about the freeport UST being lower than that for veterans. We have touched on it already, but let me come back to it. Unlike other NICs reliefs that are available to employers generally, businesses operating in a freeport are likely to be able to claim the refund for almost all their new hires. That is the basis on which the upper secondary threshold has been set, in the context of the wider generosity that has been given. Employers will still be able to claim up to approximately £6,500 of relief on the salaries of employees earning more than that. The clause also provides that regulations may specify that the veterans UST is set retrospectively, and that is for reasons that we have described and discussed.

I turn now to clause 9, which contains a consequential amendment in relation to the apprentice levy that is calculated by reference to employers' annual pay bill. It amends section 100 of the Finance Act 2016 to ensure that earnings that are liable for the freeport and veterans zero rate of secondary class 1 NICs are still considered when calculating an employer's annual pay bill. This approach is consistent with other employees' NICs reliefs, such as the under-21 and under-23 apprentice reliefs.

James Murray: Clauses 8 and 9, which were discussed with earlier clauses, allow the Treasury to set an upper secondary threshold for secondary class 1 NICs specifically in relation to armed forces veterans and freeport earners every tax year. The Bill will therefore allow different thresholds to be set for veterans and freeport employees, and for those thresholds to be different from the thresholds that apply to under-21s and apprentices.

We welcome the fact that the Minister confirmed on Second Reading that the upper secondary threshold for veterans will be £50,270 in a veteran's first full year of civilian employment. After the Minister's explanation, however, I remain unconvinced by his argument for setting the threshold for employers in freeports below the average wage in freeport areas, as we discussed at length during debate on earlier clauses. If the Minister has had time to think further about his argument, I would welcome further explanation in his response. If not, I will leave my remarks there.

Jesse Norman: No, I have nothing to add. We have already discussed this at some length.

Question put and agreed to.

Clause 8 accordingly ordered to stand part of the Bill.

Clause 9 ordered to stand part of the Bill.

Clause 10

TREATMENT OF SELF-ISOLATION SUPPORT SCHEME PAYMENTS

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

Jesse Norman: It may help the Committee if I start by explaining some of the background to clause 10. We are making good progress, and we move now to the treatment of self-isolation support scheme payments in respect of contributions paid by the self-employed.

In response to the coronavirus pandemic, the Government announced last September the launch of a £500 support payment in England for low-income individuals who had been told to self-isolate but who could not work from home and would lose income as a result. The Scottish and Welsh Governments announced similar schemes shortly after that. To ensure that those payments, which are provided by local authorities, would not be subject to employee and employer class 1 and class 1A NICs, the Government introduced secondary legislation to exempt payments under the support schemes from employee and employer class 1 and class 1A NICs.

Clause 10 is intended to extend that exemption to the self-employed and retrospectively exempts Test and Trace support payments from class 2 and class 4 NICs for the 2020-21 tax year. The clause also enables the Government to ensure, through regulations, that future Test and Trace support payments will not be included in profits liable to class 2 and class 4 NICs.

James Murray: Clause 10 provides a national insurance contributions exemption for payments made under a self-isolation support scheme. That ensures that they are not taken into account for the purposes of computing profits liable to class 4 NICs or for the purposes of class 2 NICs.

As I set out on Second Reading, we welcome this exemption from national insurance contributions for payments made under a self-isolation support scheme. It is crucial that people who need support to self-isolate receive it, so we welcome any steps that make the system for self-isolation payments more effective and subject to less administrative burden.

The Minister may recall that on Second Reading I asked why the exemption for class 2 and class 4 contributions was not implemented earlier, in line with the exemption for class 1 contributions. In response, his colleague the Exchequer Secretary explained that

"class 1 NICs exemptions were made in regulations. However, the self-employed exemption requires primary legislation, and therefore is included in this Bill, as this is the earliest opportunity to legislate."—[*Official Report*, 14 June 2021; Vol. 697, c. 69.]

I accept that the formal processes for introducing the exemptions for the different classes of NICs may differ, but my point on Second Reading was that announcing the class 2 and class 4 exemptions earlier could have given much-needed certainty to self-employed people at an earlier point in the outbreak. I am sure that the Minister would agree that self-employed people would have benefited from such certainty. The Exchequer Secretary seemed to claim in her comments that the Government's intention was always to provide that relief for class 2 and 4 NICs, and the delay appears to have been for solely practical reasons.

I would therefore be grateful if the Minister confirmed exactly when the Treasury announced, by way of ministerial statement or other appropriate means, that the exemption for national insurance contributions would be extended to class 2 and class 4 contributions for payments made under a self-isolation support scheme.

10.30 am

Jesse Norman: The hon. Gentleman asks why it was not exempted earlier; the Exchequer Secretary was absolutely right that it is a quirk of our tax system that regulations should be used to exempt national insurance contributions on the employment side, but not these ones. I do not have the date that he describes at hand, and I am happy to write to him on that. It has always been the Government's intention that the self-employed should benefit from that, as one would expect, given the nature of national insurance contributions and the overall treatment of employment and self-employment.

Question put and agreed to.

Clause 10 accordingly ordered to stand part of the Bill.

Clause 11

DISCLOSURE OF CONTRIBUTIONS AVOIDANCE ARRANGEMENTS

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

Jesse Norman: Clause 11 widens the existing power in the Social Security Administration Act 1992 to make amendments to the disclosure of tax avoidance scheme regime known as DOTAS, which I mentioned earlier.

[*Jesse Norman*]

The changes enable HMRC to obtain information and documents much earlier for avoidance schemes that HMRC suspect should have been notified to them but have not been disclosed. The changes will allow HMRC to issue a notice to anyone they reasonably suspect of being a promoter or other supplier involved in NICs tax avoidance schemes. It would require the provision of all documents and information that relate to the schemes in question. The amendments will ensure that regulations can be made mirroring the changes to the DOTAS procedures that are included in the Finance Act 2021.

The changes here are necessary to satisfy HMRC that a NICs scheme is not notifiable. If HMRC are not satisfied, they would be able to issue a scheme reference number, or SRN. DOTAS was introduced in 2004 and seeks to provide HMRC with early information about new tax avoidance schemes, how they work and those who use them. The equivalent regime for VAT and other indirect taxes, known by the unattractive label of DASVOIT—disclosure of avoidance schemes for VAT and other indirect taxes—was introduced in 2017.

Currently, when avoidance promoters fail to meet their DOTAS obligations, it can take HMRC a considerable period of time to challenge that failure, often years. Throughout that delay period, there is no disincentive to promoters continuing to promote their schemes, meaning that taxpayers may remain unaware of the risks they face and could end up with large tax bills.

It is appropriate that we should continue to act to protect taxpayers and discourage such behaviour from promoters where they involve NICs. The clause provides that future modifications to part 7 of the Finance Act 2004—Disclosure of Tax Avoidance Schemes—can be applied or modified so that they apply to NICs without the need for primary NICs legislation. That will enable changes to be made efficiently and effectively, with the minimum of separation in time, to ensure the rules continue to move in step. It is usual practice where an existing tax rule is extended to NICs, and I hope the Committee will agree that it is appropriate to have that in place.

The DOTAS regime provides HMRC with important early information, on the basis of which we can make interventions. The prompt disclosure to HMRC of proposals and arrangements that bear the hallmarks of tax avoidance will allow them to be fully considered and tackled much earlier and more effectively, as appropriate.

James Murray: Clause 11 widens existing regulation-making powers so that regulations can be made for national insurance, mirroring the amendments to the disclosure of tax avoidance schemes—DOTAS—procedures that are included in the Finance Act 2021. This measure, and its counterpart in the Finance Act, means that when HMRC suspects someone has failed to disclose arrangements or proposed arrangements that should have been notified to them under DOTAS, it may issue a notice to anyone it suspects of being a promoter or other supplier involved in the supply of the arrangements. The notice explains that if the person is unable to satisfy HMRC that the arrangements are not disclosable, HMRC may allocate a scheme reference number to the arrangements.

As I made clear on Second Reading, we welcome any measures that help HMRC to track tax avoidance schemes. During the debate, I drew Ministers' attention to a

point made by the Chartered Institute of Taxation: that it believes that there is a hard core of between 20 and 30 promoters, identified by HMRC, who clearly do not play by the rules. I asked:

“Do Ministers recognise that number? If so, I would be grateful if the Exchequer Secretary set out what goals HMRC has to clamp down on those 20 to 30 hard-core promoters.”—[*Official Report*, 14 June 2021; Vol. 697, c. 53.]

Unfortunately, the Exchequer Secretary did not address those questions at the end of Second Reading, so I am glad to have the chance today to raise them again for the Financial Secretary to address. Would he comment on whether he recognises 20 to 30 as the number of hardcore promoters, and on whether there are any targets with dates by which Ministers expect the number of hardcore promoters at large to fall substantially?

Jesse Norman: Again, I thank the hon. Gentleman for his question. It is HMRC's view—as he says that it is the Chartered Institute of Taxation's view—that some 20 or 30 promoters are in the market at present. HMRC are vigorously applying themselves to curtailing that activity and to supporting and protecting taxpayers. The Bill will give them an important additional tool with which to do that. By their nature, the promotion of tax avoidance schemes is constantly changing and evolving; promoters are highly resourceful in seeking new ways to sidestep responsibilities and avoid the attention of HMRC. That is one reason why the earlier interventions and the greater flexibility that we have provided are so important.

For that reason, I do not think that it would be prudent to make an estimate or assessment of what the appropriate number of promoters is or could be. The number that we want, obviously, is zero: we would like to see no promotion of tax avoidance schemes in the market, because it is a reprehensible and disgraceful practice.

To reassure the hon. Gentleman and other members of the Committee, I will say that over the past six years, more than 20 promoters have left the market. That is a significant achievement that reflects the decisions that have been made. As I have also indicated, there has been a substantial reduction more widely in the overall tax gap, which bears testimony to HMRC's wider effective prosecution and collection of unpaid tax.

Question put and agreed to.

Clause 11 accordingly ordered to stand part of the Bill.

Clause 12

REGULATIONS

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

Jesse Norman: Clause 12 specifies how regulations are to be made under the Act and the parliamentary procedure that will apply to them. I ask the Committee to agree that it stand part of the Bill.

James Murray: As we turn to clause 12, which provides for regulations under the Bill to be made by statutory instrument, I would like to discuss which regulations can be decided by the negative and the affirmative procedures. It might be helpful to focus on clause 3(3), which is mentioned in clause 12.

Clause 3 gives the Treasury regulation-making powers to “provide for circumstances in which a freeport condition is to be treated as being met.”

That has the effect of making the relief available in circumstances in which it would not otherwise be. We note that clause 3 also gives the Government extensive powers to

“amend, repeal or otherwise modify”

the relief. Although it will always be easier for the Government to amend legislation by way of regulations, we recognise the concerns that the Chartered Institute of Taxation has articulated that the powers to make those changes are extensive. There may well need to be flexibility to allow the finer detail of legislation to be amended, but there is a strong argument that any fundamental changes should be subject to full consultation and scrutiny.

I would be grateful if the Financial Secretary explained why he considers that the powers granted in clause 12, with effect on clause 3, to make decisions by way of regulations are proportionate. Does he agree that the clause gives the Government more powers than are desirable to change key elements of the policy by regulations? In particular, given that regulations under clause 3(3), which relate to freeport conditions, are subject to the affirmative procedure, will he explain why regulations under clause 3(2), which also relate to freeport conditions, are subject to the negative procedure instead?

Jesse Norman: I thank the hon. Gentleman. Clause 12(2) specifies that regulations made under the Act are subject to the negative procedure, except for clause 3(3), which relates to the power conferred on the Treasury to add, remove or alter the qualifying conditions for the freeport relief; clause 5, which relates to the power conferred on the Treasury to apply for a freeport secondary class NICs relief in Northern Ireland; and clause 8, which relates to the power conferred on the Treasury to specify the amounts of veterans’ and freeports’ upper secondary threshold. All three are subject to the affirmative procedure.

As the hon. Gentleman will be aware, the Treasury takes extremely seriously the question of what are its appropriate powers, and there has been considerable discussion and indeed parliamentary engagement on what the appropriate powers for HMRC should be in each case. In this case, the normal procedure has been followed, which is to try to recognise the public policy intent and overall public benefit of a more flexible arrangement, but also to respect the parliamentary procedure that where a measure includes new burdens or new taxes, or makes material changes of those kinds, they should be subject to an enhanced level of scrutiny by Parliament, provided by the affirmative procedure. That is the approach that we have taken.

Question put and agreed to.

Clause 12 accordingly ordered to stand part of the Bill.

Clause 13

INTERPRETATION ETC

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

The Chair: With this it will be convenient to consider clause 14 stand part.

James Murray: I do not have any specific concerns to raise in relation to the interpretation or the short title. May I take this opportunity, as it is the final clause under consideration in Committee, to thank my hon. Friends for joining me on the Committee, to thank you, Ms Nokes, as Chair, and to give special thanks to the Clerks, the Library and the Chartered Institute of Taxation for all their advice during the passage of the Bill so far?

Jesse Norman: If I may say so in a similar spirit, as I may not have the chance to do so after the conclusion of deliberations on the final provisions, let me also offer my thanks to you, Ms Nokes, to the Clerks, to my colleagues and also to the officials at the Treasury and HMRC for the work that they have done to prepare the Bill.

Question put and agreed to.

Clause 13 accordingly ordered to stand part of the Bill.

Clause 14 ordered to stand part of the Bill.

New Clause 6

ZERO-RATE CONTRIBUTIONS FOR EMPLOYEES OF GREEN MANUFACTURING COMPANIES

(1) This section applies where—

- (a) a secondary Class 1 contribution is payable as mentioned in section 6(1)(b) of the 1992 Act in respect of earnings paid in a tax week in respect of an employment,
- (b) the green manufacturing condition is met, and
- (c) the employer (or, if different, the secondary contributor) elects that this section is to apply in relation to the contribution for the purposes of section 9(1) of the 1992 Act instead of section 9(1A) of that Act or section 1 of this Act.

(2) For the purposes of section 9(1) of whichever of the 1992 Acts would otherwise apply—

- (a) the relevant percentage in respect of any earnings paid in the tax week up to or at the upper secondary threshold is 0%, and
- (b) the relevant percentage in respect of any earnings paid in the tax week above that threshold is the secondary percentage.

(3) The upper secondary threshold (or the prescribed equivalent in relation to earners paid otherwise than weekly) is the amount specified in regulations under section 8.

(4) For the purposes of the 1992 Acts a person is still to be regarded as being liable to pay a secondary Class 1 contribution even if the amount of the contribution is £0 as a result of this section.

(5) The Treasury may by regulations make provision about cases in which subsection (2) is to be treated as applying in relation to contributions payable in respect of a tax week in a given tax year only when—

- (a) that tax year has ended, and
- (b) all contributions payable in respect of a tax week in that tax year have been paid.

—(*Richard Thomson*)

This new clause provides NIC relief for businesses in freeports dealing with green manufacturing products.

Brought up, and read the First time.

Richard Thomson: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 7—*Green manufacturing condition*—

(1) The green manufacturing condition is that the employer is engaged in the manufacture of products within the categories designated under subsection (2).

[The Chair]

(2) For the purposes of subsection (1), the Secretary of State must by regulations designate categories of products that in the opinion of the Secretary of State are manufactured with the aim increasing environmental standards. The categories of products designated must include—

- (a) wind turbines, and
- (b) electric vehicles.

This new clause is linked to NC6.

Richard Thomson: With your permission, Ms Nokes, I would like to speak to new clauses 6, 7 and 8, if that is possible. I will just wrap everything into one debate. I would like to add my own thanks to the Clerk and you, Ms Nokes.

The Chair: New clause 8 will be debated separately.

Richard Thomson: Okay. In that case, on new clauses 6 and 7, I simply seek to make the point that there is a strong appetite to find new ways to support the economy, especially in those sectors that can contribute to green recovery, beyond the covid recovery and into the future.

A key element in progressing that, along with the cost curve for new technologies, is driving competition and, through that, improvement. Providing exemptions on NICs and ensuring that they are targeted on businesses engaged solely in green manufacturing could do much to drive that innovation and improvement. That requires that incentives are targeted at enterprises that are engaged in green manufacturing and in driving that new green industrial revolution.

New clause 7 provides examples of two categories of products that clearly fall within that bracket, although there is certainly scope to expand beyond that, but I think that the principle stands. If that strategy is not to be achieved in that manner, it certainly should be achieved in other ways. I would welcome the Minister's remarks on that. It is not my intention to push the new clause to a vote.

Jesse Norman: I thank the hon. Gentleman for his speech and his attention to the Bill. The new clauses tabled by the Scottish National party would create a new zero rate of secondary class 1 NICs for employers that are classed as "green manufacturing companies", including those that produce wind turbines and electric vehicles. In considering such a measure, it is important for the Government to balance the different potential benefits and costs in a context that respects the requirement to manage public money and support public services.

A change to the tax system of this kind needs careful consideration and assessment of costs and benefits and goes far beyond what should be done via amendment in such a Bill. Designing a sector-focused relief is not straightforward and it adds complexity to the tax system. Having said that, the Government take supporting green manufacturing companies extremely seriously, and we have a raft of policies in place to do that. For example, since 2013, the Government have provided £150 million a year for the Aerospace Technology Institute, match-funded by industry to support the development of incremental improvements to existing aerospace technology, alongside zero-emission technology to protect and secure the sector. That includes £84.6 million of investment to develop zero-emission flights, and further support for other potential zero-emission aircraft concepts. There are many

other areas, including support for the Advanced Propulsion Centre and the Faraday battery challenge, let alone all the work that has been done to subsidise the development of offshore wind, which attest to the importance the Government place on green manufacturing and green manufacturing jobs.

I encourage the Committee to reject the new clause, but I acknowledge that the Government fully share the policy intent.

Richard Thomson: On the basis of the Minister's remarks, the principle stands, but on this occasion, I will not seek to progress by moving to a vote. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 8

SCOTTISH GOVERNMENT COVID PAYMENTS: EXEMPTION FROM PRIMARY CLASS 1 CONTRIBUTIONS

(1) A primary Class 1 contribution is not to be payable in respect of any Scottish Government Covid payment.

(2) For the purposes of subsection (1), a 'Scottish Government Covid payment' means a payment of £500 pro rata to any NHS Scotland or social care worker in accordance with the announcement made by the Scottish Government on 30 November 2020.—
(*Richard Thomson.*)

This new clause provides exemptions for Scottish Government Covid payments to social care workers.

Brought up, and read the First time.

Richard Thomson: I beg to move, That the clause be read a Second time.

As this will be my penultimate contribution, I would like to offer my thanks to the Clerks and everyone who has helped the proceedings to move so smoothly, through your chairmanship, Ms Nokes, which has helped considerably with that objective.

On Second Reading, I remarked on the unfairness that was caused by the Treasury's refusing to exempt income tax on the thank-you payment that the Scottish Government made to health and social care workers. It was in the form of a £500 thank-you bonus to reflect how health and social care workers were valued for their contribution during the incredibly challenging period that we have been through. The full benefits of that payment have been put at risk by the UK Government's ability to tax us. Contrary to a number of assertions, the Scottish Government do not have the ability to get round that, other than by paying far more than the £500. It would therefore be far better to have the exemption in place.

Although an exemption for the bonus would be welcome, we recognise that the majority of welfare employment powers reside with the UK Government. We therefore want to press the new clause to ensure that clarity is provided and that any future payments for health and social care workers can be exempt from national insurance contributions.

Jesse Norman: I thank the hon. Gentleman for his comments and, again, his attention to the Bill. The Government recognise, as he does, that covid-19 is the biggest threat the UK has faced socially, economically and in many other respects for many decades. Key workers, including social care workers and workers in the NHS, have demonstrated an astonishing commitment

to keeping the public safe in the fight against the disease. The Government massively value and appreciate those contributions. However, in this case, although I understand where the hon. Member is coming from, the Government do not believe that the new clause is appropriate or necessary. We fully recognise the hon. Member's concern, but we do not believe the new clause is the appropriate way to proceed.

Under long-standing rules, any payments made in connection with an employment are chargeable to income tax and national insurance contributions. They also count as income for the purposes of calculating entitlement to certain benefits. The £500 payments made by the Scottish Government to health and social care workers function as a top-up to wages. We therefore consider that those payments are taxable as earnings under normal rules, as I think has been recognised by the Welsh Government.

The UK Government have provided more than £5.9 billion of additional funding for the Scottish Government this year through the Barnett formula. If the intention of the Government in Scotland is for health and social care workers to benefit by at least £500, it remains open to them to gross up the payment to take into account the tax and NICs liabilities, as the Welsh Government have done.

Richard Thomson: I think everything that needs to be said has been said. On that basis, I would like to move to a vote.

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

The Committee divided: Ayes 1, Noes 10.

Division No. 2]

AYES

Thomson, Richard

NOES

Bacon, Gareth
Browne, Anthony
Buchan, Felicity
Coutinho, Claire
Millar, Robin

Moore, Damien
Norman, rh Jesse
Randall, Tom
Russell, Dean
Rutley, David

Question accordingly negatived.

Bill to be reported, without amendment.

10.52 am

Committee rose.

**Written evidence to be reported
to the House**

NICB01 Chartered Institute of Taxation