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Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
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House of Lords

Monday, 14 September 2015.

2.30 pm

Prayers—read by the Lord Bishop of Portsmouth.

Retirement of a Member: Lord Parkinson

Announcement

2.36 pm

The Lord Speaker (Baroness D'Souza): My Lords, I should like to notify the House of the retirement, with effect from today, of the noble Lord, Lord Parkinson, pursuant to Section 1 of the House of Lords Reform Act 2014. On behalf of the House, I should like to thank the noble Lord for his much valued service to the House.

Food Supply: Sustainability

Question

2.37 pm

Asked by ***The Lord Bishop of St Albans***

To ask Her Majesty's Government what plans they have to ensure the sustainability of the United Kingdom's food supply.

Lord Gardiner of Kimble (Con): My Lords, I declare my farming interests as set out in the register. Our world-leading food and farming industry is worth £100 billion per year. The Government are developing a long-term plan which will boost productivity, enhancing business resilience across the food chain. Food security depends on access to diverse global markets and, of course, domestic production. Public procurement export plans which lead the way for Great British food producers, clearer labelling and investment in agricultural technologies will all contribute to a sustainable food supply.

The Lord Bishop of St Albans: I thank the Minister for his reply. Despite the flexibility given us by last week's emergency EU summit, which related to early payments under the basic payment scheme, there is a real concern that the Rural Payments Agency will not be able to undertake the necessary checks in time to take advantage of that scheme. Bearing in mind that late autumn and early winter is always a drastic time for farmers' cash flow, there is likely to be a huge problem in the coming year with the collapse in prices, particularly of milk but also of lamb and beef. Will the Minister tell your Lordships' House what Her Majesty's Government are doing to ensure that farmers have access to financial assistance and relief, given that they will not get through the winter otherwise?

Lord Gardiner of Kimble: My Lords, I was at the emergency Agriculture Council last week and spoke on behalf of the United Kingdom. One of the things that we pressed was for the Commission to ensure that some of the checks required on CAP subsidy payments should be removed or changed for this year to enable prompt payment to be made so that there are immediate effects, but, of course, we have a longer-term plan as well.

Lord Dholakia (LD): My Lords, building a sustainable food chain requires thought at every stage of the process. Will the Minister explain what is being done in Defra to improve the transportation of the UK's food supply? The Minister will be aware that 70% of our food chain is chilled at one stage or another, so it would be helpful to know whether we have sustainable cold chains which can be monitored for their impact on pollution.

Lord Gardiner of Kimble: My Lords, of course the department is looking at a range of ways of ensuring that we have a stable supply of food and we want to ensure that the environmental impact of our food supply is also addressed. That is why we have a 25-year plan for food and farming and, alongside that, and complementary to it, a 25-year environment plan.

Lord West of Spithead (Lab): My Lords, this century, our nation was almost starved to death. Today, the largest proportion of our food comes by sea. Seventy-three years ago today, half a convoy full of foodstuffs was decimated, and at that stage we had 800 escorts. When I joined the Navy we had over 100 escorts; today we have 19. Does the Minister not agree that all parties should agree that this nation needs more escorts for the Navy?

Lord Gardiner of Kimble: The noble Lord should be congratulated on weaving in his very strong support for the Navy and all that goes with it. It is important to know that 76% of indigenous-type foods come from the UK, as do 62% of all foods. Interestingly, that is by no means low in the context of the last 150 years, and in fact between the wars, the proportions were much lower. However, I am of course very keen on British production.

The Countess of Mar (CB): Does the noble Lord agree that if we are to have sustainable food production, we must ensure that our soils are in good heart? Can he say what he is doing to protect the soil and to improve its condition?

Lord Gardiner of Kimble: My Lords, new national standards for agricultural soils under cross-compliance were introduced only on 1 January this year. Clearly, it is essential, if we are to be even more productive, to ensure that our soil is in good heart and that we improve it wherever we can.

Baroness Jenkin of Kennington (Con): My Lords, my noble friend may be aware that, globally, up to one-third of all food produced is wasted. Here in the UK, the equivalent of £60 a month is wasted by individual households. Will my noble friend tell the House what the Government are doing to bring down these figures, both across the supply chain and among retailers and individual householders?

Lord Gardiner of Kimble: My Lords, this is a very serious issue, and the Government have been working successfully with industry under the Courtauld commitment to reduce food and packaging waste in the supply chain. It has been reduced by 7.4% since 2010, and clearly this is a continuing process. The amount of food we all waste is disgraceful.

Lord Howarth of Newport (Lab): My Lords—

Lord Grantchester (Lab): I declare my interest as a farmer receiving EU funds. Sustainability could well be enhanced through local procurement along shorter supply chains. Does the Minister agree that this could increase the supply of fresh, healthy food, reduce farming's carbon footprint, support UK agriculture and more closely connect the consumer to the producer? If this is the case, what are Her Majesty's Government doing to enhance the supply of local food?

Lord Gardiner of Kimble: My Lords, this very much goes to the heart of public procurement. Only last Monday, the Secretary of State announced that Defra is reviewing buying habits across the public sector and working across Whitehall to improve transparency when government catering contracts are due for renewal. Following the launch of Dr Peter Bonfield's plan for public procurement, there is much more to be done on this.

Lord Howarth of Newport: My Lords—

Lord Elton (Con): My Lords—

Lord Hannay of Chiswick (CB): My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, it is the turn of the Conservative Benches.

Lord Elton: My Lords, will my noble friend tell us what has actually gone wrong with the Rural Payments Agency system and what is being done to put it right?

Lord Gardiner of Kimble: My Lords, I know that my ministerial colleagues are working with the RPA on this. We are seeking to ensure that all payments are made promptly and we are working to that effect.

Lord Howarth of Newport: My Lords—

Lord Hannay of Chiswick: My Lords—

Baroness Stowell of Beeston: My Lords, I am so sorry to interrupt but if we are doing it in turns, it is the turn of the Cross Benches.

Lord Hannay of Chiswick: My Lords, I wonder whether the Minister has done any studies of the effect on the strategies he describes of withdrawal from the European Union. If his department has done any, could he share them with the House? It is surely necessary that we should be in full possession of these facts.

Lord Gardiner of Kimble: My Lords, I have not been a party to those discussions but regarding the UK food supply, it is clearly essential that we are able to have diverse global markets. We are increasing our exports around the world, both in Europe and outside.

Soma Oil & Gas: SFO Investigation

Question

2.45 pm

Asked by ***Lord Avebury***

To ask Her Majesty's Government what measures they intend to propose to the United Nations Security Council in the light of the Serious Fraud Office's criminal investigation into Soma Oil and Gas Holdings, Soma Oil and Gas Exploration, Soma Management and others in relation to allegations of corruption in Somalia.

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): My Lords, the Serious Fraud Office's investigation into Soma Oil & Gas is an ongoing, independent investigation. It would not be appropriate to comment at this stage, nor to take any action on the basis of it. We are advising the federal Government of Somalia of the importance of establishing an effective legal and regulatory framework before signing oil or gas contracts, due to the high risks of corruption and conflict associated with the sector.

Lord Avebury (LD): My Lords, Soma has contracts with the Government of Somalia giving it rights over 60,000 square kilometres of the continental shelf and creaming off up to 90% of the state's oil revenues. Are the Government concerned that Soma paid civil servants advising on the deal a total of $360,000 and the so-called independent legal adviser another $500,000? When is the relevant Security Council committee due to consider the report on these payments, submitted to it on 3 August by the Somalia and Eritrea monitoring group?

Baroness Anelay of St Johns: My Lords, on the first question, I perhaps did not make it clear enough in my first Answer that this matter is being investigated by the SFO, and investigated as the result of a leaked confidential document. In light of both those circumstances, it is not the practice of any Government to comment on such matters. On the noble Lord's second question, I understand that the United Nations will discuss these matters again shortly.

Lord Leigh of Hurley (Con): My Lords, does my noble friend agree that we should note that all the companies concerned have strenuously denied any

allegations of wrongdoing, and that the Question perhaps denies the central tenet of English justice—which is that a person is innocent until proved guilty?

Baroness Anelay of St Johns: My Lords, it is not for me to comment on what others have said. The Government will await the outcome of an investigation before commenting.

Lord Watson of Invergowrie (Lab): My Lords, following his recent visit to the Cayman Islands, Grant Shapps, the Minister of State at the Foreign and Commonwealth Office, suggested that the Government may be weakening their position on corporate transparency in the overseas territories. Can the noble Baroness state that the Government will firmly encourage the overseas territories to ensure that central registers of beneficial ownership are produced for the companies based in those territories?

Baroness Anelay of St Johns: My Lords, I am not exactly an aficionado of cricket but even I can recognise a wide. In the spirit of co-operation, I will say that what we are doing with regard to Somalia, which is not an overseas territory, is to encourage responsible investment. We are strongly urging the Somali Government to ensure that any resulting investment and benefit from it is shared by the whole country. The benefit is clearly needed to reduce poverty there.

Lord Collins of Highbury (Lab): My Lords, I welcome the Minister back to her place and wish her a speedy recovery. She is looking extremely well. I accept what she says about not commenting on this specific issue, but will she assure the House that at the end of this process, any lessons to be learned are shared with the Department for International Development?

Baroness Anelay of St Johns: The noble Lord makes a perfect point. In practice, the person who briefed me today was previously with DfID and has given me the assurance that these matters are discussed. We need to learn the lessons from any such circumstance; clearly, we share that around Whitehall. However, the next time I go on a military helicopter, I will get out of it a little better than I did this last time.

Lord Chidgey (LD): While Somalia is struggling with the prospect of new-found oil wealth, al-Shabaab terrorists are murdering citizens and may massacre AU peacekeepers with impunity and almost at will. What is the Government's response to the grave concerns over AMISOM and Somalia's forces' operational capabilities, with a lack of effective co-ordination and shared command structures and, crucially, a lack of air power? What steps are the Government taking within the UN Security Council to support Somali President Hassan Sheikh Mohamud's declared ambition to reform financial governance of the national security sector, building a more integrated, accountable and transparent sector, subject to rigorous oversight?

Baroness Anelay of St Johns: The noble Lord raises the serious matter of how al-Shabaab may be defeated in the area and the role of AMISOM. We support the counter-al-Shabaab effort by funding, advice and support to AMISOM command, the United Nations Assistance Mission in Somalia, UNSOM, and the EU training mission. It is essential that we continue to do all we can with regard to skilling and supporting those military efforts. Somalia can have a successful future, but first it needs to overcome its security problems and encourage proper investment.

Lord Alton of Liverpool (CB): My Lords, setting aside the activities of individual oil exploration companies, can the Minister comment on the weight that the Foreign and Commonwealth Office attaches to the call by the United Nations last year for a moratorium to be imposed on any further exploration by any oil companies in Somalia because of the risks which it poses to a fragile state, with competing groups vying for gains to be made from any such exploration?

Baroness Anelay of St Johns: The noble Lord rightly draws attention to the fragility of states in those circumstances. We have strongly encouraged the federal Government and the emerging federal states to reach agreement on resource control and revenue sharing, and indeed to develop a legal framework which both supports that agreement and reflects best practice, before signing oil and gas deals. When it comes to the crunch, it is up to the sovereign country whether it signs those deals.

Lord Howarth of Newport (Lab): My Lords, with regard to the problem of corruption in Somalia and the associated problem of poverty, would not better progress be made towards the alleviation of poverty in Somalia—and, indeed, in other countries in the region, providing the better future for those countries that she and all of us wish for—if there were more rapid development of genetically modified crops? Is a more positive approach to GM crops in the European Union one of the reforms that Her Majesty's Government are seeking?

Baroness Anelay of St Johns: My goodness, I think I am going even beyond my initial cricketing analogy. However, the noble Lord comes to a key issue, which is that the role of this country overseas has been to ensure stability and security in other states. The way that we work together and with our European colleagues is important. The Prime Minister's golden thread is the way to go.

Tax Credits: Impact of Cuts

Question

2.52pm

Asked by ***Lord Dubs***

To ask Her Majesty's Government what assessment they have made of the impact of cuts in tax credits on middle- and lower-income working people.

Lord Ashton of Hyde (Con): My Lords, the Government are placing more emphasis on support to families on low incomes by increasing the personal allowance and introducing the new national living wage, rather than on topping up low wages through

[Lord Ashton of Hyde]
tax credits. Taking the welfare changes in the Budget together, with the record increases in the income tax personal allowance and the introduction of the national living wage, eight out of 10 working households will be better off in 2017-18.

Lord Dubs (Lab): My Lords, will the Minister confirm that 3 million of the poorest families will be £1,000 worse off and that the increase in the minimum wage will simply not offset the cut in tax credits? To put it another way, is it not true that 5 million of Britain's poorest children will lose an average of £750 each?

Lord Ashton of Hyde: My Lords, the trouble with this subject is that we could sit swapping statistics all day long. The evidence for children in poverty is clear that work is the best way for families to stay out of poverty. Children in workless families are nearly three times as likely to be in poverty. So we are increasing pay and raising the personal allowance so that families keep more of what they earn. Work and education are what matters, so we are extending free entitlement to childcare to 30 hours for working parents of three and four year-olds.

Baroness Wheatcroft (Con): My Lords, research by the Centre for Policy Studies showed that, by 2012, more than half the families in this country were net takers from, rather than contributors to, the state. Would my noble friend agree that that situation is both unhealthy and unsustainable, and that changes in tax credits are just a step towards redressing the balance?

Lord Ashton of Hyde: My Lords, this is a strategic change in how we deal with welfare in this country. It is worth bearing in mind the problem: we produce 4% of the world's GDP and 7% of the welfare payments, and nine out of 10 families were on tax credits. I completely agree with my noble friend that we want to increase people's pay and lower the amount of tax they pay so that all families benefit in this country.

Baroness Kramer (LD): My Lords, despite the Minister's disdain for statistics, he will be aware of the Institute for Fiscal Studies report last week that demonstrated that, among the 8.4 million working-age households currently eligible for benefits and tax credits but containing someone in work, the average loss from the cuts to benefits and tax credits is £750 per year. Among this same group, the average gain from the new minimum wage is estimated at only £200 per year. Does he accept that statistic?

Lord Ashton of Hyde: My Lords, I assure the House that I do not have any disdain for statistics. In fact, I have an enormous pack full of statistics that I have tried to learn. The problem with the IFS study is that the £12.5 billion of net cuts to benefits and tax credits and the estimated £4 billion increase in wages do not compare like with like for working families, because the reduction in benefits includes cuts to those families out of work.

Lord Flight (Con): My Lords, would the Minister agree with the fact that wages have risen faster in the past six months than since before 2007? Has that anything to do with the tax credit reforms?

Lord Ashton of Hyde: My Lords, I did not know that they had risen that fast. The former Chancellor, Alistair Darling, said that tax credits were never intended to subsidise lower wages. However, the current Chancellor has been very careful not to claim that tax credits have depressed wages. The fact is that we want to increase people's wages. We introduced the national living wage and we want people to keep more of what they earn, rather than subsidising people through the benefits system.

Baroness Hollis of Heigham (Lab): My Lords, is the Minister aware that, despite his statistics, the majority of children in poverty have parents in work? It is therefore not true to say that work is the best route out of poverty unless that pay is topped up by tax credits. Otherwise, a single person and a family get the same wage. Tax credits lift children out of poverty. Can we therefore hope that the Minister will take that information back to the Treasury so that, when we face the battle over welfare reform cuts, alleviating child poverty is at the heart of this House's attack on poverty?

Lord Ashton of Hyde: The noble Baroness is well respected for her mastery of the detail in this reform. We will address child poverty comprehensively in the Welfare Reform and Work Bill. I am sure that the noble Baroness will be involved in that. We still think that work is the best route out of poverty. The number of children growing up in workless families is at a record low, down by 390,000 in the last Parliament. We are particularly trying to help those on the lowest incomes. Families will still be able to earn up to £3,850 before the awards are taken away.

The Lord Bishop of Portsmouth: My Lords, bearing in mind that two-thirds of children who live in poverty are in in-work families, how will the Government monitor the impact of the proposed changes? In particular, will they review the exclusion of income-based measures from the suite of life chances indicators being brought in?

Lord Ashton of Hyde: The right reverend Prelate is correct to focus on these statistics and forecasting child poverty is very difficult. The IFS, for example, forecast in 2011 that there would be 2.8 million children in relative poverty and the actual figure was more than half a million less. We have considered the impact of the policy changes on children in poverty carefully in the summer Budget and we will continue to do so.

Baroness Sherlock (Lab): My Lords, just saying something over and over again does not, sadly, make it true. If the Minister is mostly concerned about children in working families, will he look please at the independent academic research for the Resolution Foundation, which found that, as a result of the Budget changes, most working families would be net losers? They may gain

some income, but they are going to be worse off as a result of cuts in tax credits. How does that help tackle child poverty?

Lord Ashton of Hyde: My Lords, I do not agree with that. Eight out of 10 working families with children will be better off when you take into account the tax credit changes, the national living wage and the increase in the personal allowance.

Care: Costs Cap

Question

3 pm

Asked by ***Baroness Wheeler***

To ask Her Majesty's Government what assessment they have made of the impact on patients, residents of care homes and their families and carers, of the decision to postpone the introduction of the cap on care costs from April 2016 until April 2020.

Baroness Chisholm of Owlpen (Con): My Lords, the decision to delay implementation of the cap on care costs followed careful consideration of feedback from stakeholders, and it was felt that April 2016 was not the right time to implement these significant and expensive reforms. I stress that we remain committed to these important reforms, which offer financial protection and peace of mind. We have had to make hard choices, balancing the benefits of the cap against the need to focus on supporting the system that supports our most vulnerable.

Baroness Wheeler (Lab): I thank the Minister for that response. The Government's election manifesto said that capping the amount patients can be charged for residential care from 2016 would give,

"everyone the peace of mind that they will get the care they need and that they will be protected from unlimited costs if they develop very serious care needs—such as dementia".

The assessment of one of the key stakeholders, the Alzheimer's Society, is that the delay until 2020 will cause unacceptable costs to continue to be borne by people with dementia in their families. These are people particularly affected by the cost divide between social care and NHS continuing care. What actions will the Government be taking in the lifetime of this Parliament to meet their commitment to this key group?

Baroness Chisholm of Owlpen: This is a very important group at a most vulnerable time in their lives. The Government remain fully committed to introducing the cap on social care costs and helping people to cope with the potentially high costs of social care. It is not cancelled and will be brought in by 2020, but until then means-tested financial support remains available to those who cannot afford to pay for care to meet their eligible needs. Where a person can afford to pay for their care, we are clear they should not be forced to sell their home during their lifetime to do so. Since April this year, deferred payments have been available across England for people with less than £23,250 in liquid assets who might otherwise face that risk. By entering into a deferred payment agreement, a person can defer or delay paying the costs of their care and support until later, including out of their estate if they choose.

Baroness Pitkeathley (Lab): My Lords, is the Minister aware that for many families, the postponement of the cap on care costs is seen as a betrayal that is adding to their disillusionment about the persistent underfunding of social care? Surely the Government must understand that families who look after people—for example, someone with Alzheimer's—cannot go on taking these responsibilities if promises are broken and if the support they need is either non-existent or too expensive. Will this problem not exacerbate the Government's existing problem with delayed discharges if families are in future less willing to take on caring, and is the Minister concerned about the delayed discharges issue?

Baroness Chisholm of Owlpen: This is indeed a concern, but I must emphasise that this delay is not a decision that has been taken lightly. A letter from the Local Government Association dated 1 July was clear that we need to think carefully about all the options, including postponing new initiatives. Therefore, we will make further announcements and they will follow in due course. Furthermore, we will continue with other efforts to support social care, in particular through the better care fund, which will drive the integration of social care and the NHS.

Baroness Greengross (CB): My Lords, when the care cap was postponed, the duty on local authorities to assess and meet the eligible care needs of self-funders was also postponed. There are about 460,000 of them. Last April, the department sent a letter to local authorities advising them on how to prepare for assessing self-funders. They have been given £146 million to carry out early assessments starting this October, which will cover about 50% of those self-funders. As the postponement is now planned, will the Minister tell us whether this money has been handed over and what will happen to self-funders who will now remain outside local care eligibility assessment and the advice system for another five years?

Baroness Chisholm of Owlpen: Indeed, £146 million was allocated to support local authorities to prepare for implementation of the cap in April next year. It is likely that money spent to date on preparing for the reforms will have wider benefits in terms of improving local authorities' systems and their understanding of their self-funding population. This is important because local authorities have a number of population-wide duties under the Care Act 2014, for example, the duty to provide information and advice services to facilitate a vibrant and diverse—

Noble Lords: Too long!

Baroness Chisholm of Owlpen: It is not too long. It is difficult to answer the question properly without saying something and this is very important. We are going to support high-quality care for the benefit of the whole local population.

Lord Campbell-Savours (Lab): My Lords—

Lord Foulkes of Cumnock (Lab): My Lords,—

Baroness Brinton (LD): My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston): My Lords, we have not heard from the Liberal Democrats. It is their turn.

Baroness Brinton: My Lords, as questioners have illustrated to your Lordships' House, we face a perfect storm with health and social care. There was cross-party agreement in advance of the 2010 election that the cap was vital. We have delayed discharges and local authorities facing a real crisis. Will the Government take action in the next few weeks to remedy this problem, of which the cap is an important part?

Baroness Chisholm of Owlpen: As I said, means-tested financial support remains available for those who cannot afford to pay for care to meet their eligible needs, but the introduction of the cap on care costs system will be the biggest reform to how care is paid for since 1948 and we must ensure that the new system works from day one. Local authorities and partners have consistently warned us of the risks of implementing this too quickly. We will therefore not be complacent and will work hard to make sure that there is additional time to ensure that everyone is ready to introduce the new system and that people can understand what it will mean for them.

Business of the House

Motion on Standing Orders

3.08 pm

Moved by ***Baroness Stowell of Beeston***

That Standing Order 40(1) (*Arrangement of the Order Paper*) be dispensed with on Tuesday 13 October to enable the second reading of the European Union Referendum Bill to be taken before oral questions.

Motion agreed.

Intelligence and Security Committee of Parliament

Membership Motion

3.08 pm

Moved by ***Baroness Stowell of Beeston***

That this House approves the nomination of Lord Janvrin and the Marquess of Lothian as members of the Intelligence and Security Committee of Parliament.

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): I beg to move the Motion standing in my name on the Order Paper.

Lord Harris of Haringey (Lab): My Lords, the Intelligence and Security Committee is an extremely important committee and is made up of Members of both Houses of Parliament. Perhaps the Lord Privy Seal can correct me if I am wrong, but my understanding is that it is funded by both Houses of Parliament, yet this House, which I think contributes a very significant proportion of the funding—it would be helpful if the Lord Privy Seal told us what proportion it funds—has only two of the committee's members. Will the noble Baroness explain the rationale for that? Will she tell us what recommendations or representations she made to the Prime Minister about the Lords representation on this important committee?

Lord Campbell-Savours (Lab): My Lords, I should like to clarify the position a little more. I understand that the Government intended that the costs should be shared between the two Houses but, because the Government could not find accommodation in the Commons or the Lords for the ISC to sit, it was decided not to go ahead with that arrangement, and now the Government themselves fund the committee's expenditure. Following upon the original recommendation, though, we were told that serious discussions were going on about the need to increase the Lords representation, perhaps to four members but at least to three. What has happened to those discussions? If they have been derailed, could they now be put back on the agenda?

Lord Foulkes of Cumnock (Lab): My Lords, we have had very little notice of this Motion. We should take some time to discuss it because, particularly now, this is a matter of great importance. Until 2010 the House of Lords had only one representative on the Intelligence and Security Committee, and in the four years until 2010 I was that Member. Some of us felt that that one Member was not enough. We lobbied hard to ensure that the number of Members from the Lords should be increased, at least to two, to ensure that there was an opposition Member as well as a government Member on the committee, and that was agreed. That is why we were very surprised in 2010 when the then Leader of the House moved that the representatives should be the noble Marquess, Lord Lothian, and the noble Lord, Lord Butler—with no disrespect to either of them. We accepted that and did not create a fuss on that occasion because we expected that account would be taken of the need to have an opposition representative the next time this matter was considered.

That is why I am very surprised that the noble Baroness the Leader of the House, on behalf of the Government, has come forward again not with an opposition Member but with another Cross-Bencher. With no disrespect to either the noble Marquess, whom I have known for many years, or the noble Lord, Lord Janvrin, who served with distinction as secretary to Her Majesty the Queen for a number of years, neither of them could be said to be the most radical, probing person on this issue. Given recent events, the Intelligence and Security Committee is now under intense public, political and media scrutiny, and that is not going to decrease. That is why I think—with

no disrespect, as I say, to either the noble Lord or the noble Marquess—that this matter should be taken away and considered again.

As I understand it, there has been no proper consideration with either of the opposition parties—the Liberal Democrats or ourselves—and now the Government have come forward with two names. With respect to the noble Baroness the Leader of the House, she—and indeed the Government, the Chief Whip, whom I know very well, and the whole Conservative Party—would gain a great deal if they accepted that this was a genuine and sincere matter and had another look at it. I hope she will agree to take it away and look at it again.

Lord Hamilton of Epsom (Con): Following the intervention by the noble Lord, Lord Foulkes, surely it is very important that these appointments be hurried through as quickly as possible, because if there is any delay the new leader of the Labour Party will have a great input into who stands on that committee.

Lord Harris of Haringey: My Lords, it is because we on these Benches take the security of the nation so seriously that these points have been raised by Labour Members today.

Baroness Stowell of Beeston: My Lords, the noble Lord, Lord Foulkes, is right to say that until the beginning of the previous Parliament in 2010 there was only one Member of your Lordships' House on the Intelligence and Security Committee. It was David Cameron, as Prime Minister, who thought at the start of the previous Parliament that it was right to extend that to two Members of your Lordships' House.

When it comes to the breakdown of the ISC's membership, it is worth me making two points to noble Lords. The first is that the ISC is not a Joint Committee of both Houses in the conventional sense; it is established by statute. It has nine places on it. As is customary, the Prime Minister consulted the Leader of the Opposition in the summer and—again, as is customary—it was the Leader of Her Majesty's Opposition who decided how she, as acting leader, wished to allocate the three places that had been provided for the main opposition party.

Lord Foulkes of Cumnock: I wonder whether the noble Baroness—

Baroness Stowell of Beeston: Perhaps the noble Lord will allow me to finish. The Leader of the Opposition has decided who will fill the three places that will represent the Labour Party on the committee, and they will be Members of the other place.

We feel it is right to follow the custom that has been in place for a long time, whereby one Member from the governing party in this House and one Member from the independent Cross Benches are on the committee. I am very pleased that the noble Lord, Lord Janvrin, responded to the Prime Minister's invitation and accepted his nomination, and I believe that the noble Lord, along with my noble friend Lord Lothian, will do an exceptional job representing this House on the very important Intelligence and Security Committee.

In response to the points raised about funding and accommodation, I do not have to hand information on the respective contribution that the two Houses make to funding, but I will be very happy to provide a letter in reply to that question and place it in the Library. However, I assure all noble Lords that no matter, whether it is about funding or about accommodation, has played any part whatever in the important nominations that the Prime Minister has made. I know full well that the noble Lord, Lord Janvrin, and my noble friend Lord Lothian will do an exceptional job and that they will take very seriously the responsibilities of sitting on this important committee.

Motion agreed.

Charities (Protection and Social Investment) Bill [HL]

Third Reading

3.17 pm

Amendment 1

Moved by ***Baroness Hayter of Kentish Town***

1: After Clause 14, insert the following new Clause—

"Conduct of charities: regulation of fundraising

(1) All charities raising funds of over £1 million per year must be members of the Fundraising Standards Board and abide by the Code of Fundraising Practice.

(2) In section 64A of the Charities Act 1992, as inserted by section 69 of the Charities Act 2006 (reserve power to control fund-raising by charitable institutions)—

(a) in the title omit "Reserve";

(b) in subsection (1) for "may" substitute "must"."

Baroness Hayter of Kentish Town (Lab): My Lords, we come to the Third Reading of the charities Bill. I will also speak effectively to Amendment 2, which is clearly related to Amendment 1. Amendment 1 stands in my name and that of my noble friend Lord Watson, and it deals with an issue which is as yet unresolved—namely, the appropriate way of regulating fundraising by charities from individual donors.

By way of background, although chugging and cold calling have long been issues of frequent complaint, it was the very sad case of the death of Olive Cooke, herself a lifelong donor and a volunteer poppy seller, which brought to light the unacceptable behaviour of a number of the big fundraising charities and the inadequacy of the current scheme of self-regulation. Although it was we who first raised the issue here, since then there has been widespread acceptance by the Government, the charities and even the so-called regulatory bodies—the code-setting institute and the Fundraising Standards Board—as well as by the Commons Public Administration and Constitutional Affairs Committee, which is carrying out its own inquiry, that the self-regulatory system failed. It failed to maintain appropriate standards, it let down donors and let down the wider public—which brings us to today.

[Baroness Hayter of Kentish Town]

When similar, indeed identical, amendments were tabled on Report, following discussion in Committee, the Government accepted the need for change and tabled amendments of their own. However, at that time, they were not fully convinced of our two proposals—first, that membership of the current voluntary membership body, the FRSB, and adherence to the appropriate code should be mandatory; and, secondly, that the Charity Commission's reserve powers on fundraising should be activated.

However, given that the Government accepted that we had not reached a final position on this and that further amendments might be required, the Government asked Sir Stuart Etherington, chief executive of the NCVO, to chair a group, which includes the noble Lord, Lord Wallace of Saltaire. I believe that Salts Mills in Saltaire was the venue for some of the wonderful photography in the BBC's "An Inspector Calls", broadcast last night. The committee also comprises the noble Lord, Lord Leigh of Hurley, and my noble friend Lady Pitkeathley, and was set up to consider whether further change might be needed and to report back to the Government. Regrettably, we find ourselves in the slightly odd position of having Third Reading this afternoon, just days before that committee is to report. This is, therefore, very much work in progress, and we will be sending the Bill to the other place a bit unfinished.

I know that the Minister is not behind this timetabling. I think, like me, that he would like to have this issue properly debated and decided upon here, because I know that he is genuine in wanting a robust system in place. If I was suspicious—and I never am—I would think that the Government were wanting to seize the initiative themselves, make a good announcement from the platform at the Tory party conference and take the credit. If so, I will cheer them on, given that we are not seeking change in order to get the credit but to make sure that we have the right solution.

However, it is clear that we do not yet know the best way forward, although I think that everyone accepts, including the big charities and the new chair of the Fundraising Standards Board, who appeared before Bernard Jenkin's committee, that membership of the board must become compulsory and that the board, which should be independent of the charities it regulates, must in some way have more power than naming and shaming, which is open to it now. There is also general agreement that the weak and unsatisfactory fundraisers' code must be beefed up. Furthermore, it seems obvious that such powers are bound to entail some role for the Charity Commission, either via a portal, whereby the standards board can report misbehaviour to the commission for subsequent investigation and statutory action, or via such a board being commissioned, licensed or authorised by the Charity Commission, such that there is a degree of statutory oversight to ensure independence and the board would have to satisfy the commission that the code and its procedures were robust and fit for purpose, and will work independently of its regulated community.

There is no doubt that the key players accept the thrust of this, although we regret that some of the charities and perhaps the Institute of Fundraising itself have not quite accepted the independence that a new system requires. Their letter to the *Sunday Times* was outwith any discussion with the Charity Commission or ourselves, which suggests that they want to hold on to a self-regulatory model, which has failed the public.

We are not wedded to any particular model, provided that it is independent and effective in order to enable complaints to be heard, and drives up standards. We are clear that such changes need to happen. We are happy to await the recommendation of the Etherington committee, albeit we wish that the timetable was different. The amendment therefore is to make it clear that the Bill as its stands, and as it will go to the Commons, is not yet adequate. The amendment is to allow the House also to hear from the Government how far their thinking has progressed over the summer. I beg to move.

Lord Wallace of Saltaire (LD): My Lords, I should admit that I spent the weekend in Yorkshire, where, to my surprise, my neighbours do not hate people outside Yorkshire and nor do they in fact hate each other. We had a very pleasant weekend. I should also admit that, some months ago, I enjoyed watching the filming of that part of "An Inspector Calls" in our very beautiful village.

We are concerned here with the future of charities. I have found it very constructive to be involved in the thorough Committee and Report stages that we have had on this important Bill. I think we all recognise that as government spending shrinks in the next three or four years, charities will have to play a more important part in looking after a range of good causes and disadvantaged people across our country. That means that the importance we attach to the regulation of charities—the subject of this amendment—is something that requires continuing attention. It also requires active support for philanthropy, and I trust that the Government will pay active attention to encouraging visible philanthropy. I was glad to see the *Financial Times* highlighting this last week.

Having been involved in the committee to which the noble Baroness referred, which will present its report to the Government shortly, I am slightly more sceptical about standards across the whole universe of charities than I was before. Clearly, there is need for tighter and more visible regulation. A number of charitable trustees have not understood how active and responsible their role should be, and these matters need to be addressed.

There is a continuing role for this House in providing oversight to the charitable sector. Perhaps we should consider, in future years, whether a sessional committee of this House might look at some aspects of the charitable sector. As we saw in Committee and on Report, there is some very valuable expertise in this House.

I think that all of us here accept that charities are not comparable to commercial enterprises, as I and others have heard it suggested on one or two occasions. Charities have a privileged status both in legal and taxation terms. The standards of behaviour that we rightly expect of them reflect that privileged status. These high standards should apply to the whole diverse field of charities: to the development charities, as well as to private schools; to libertarian think tanks, as well as to medical charities. We are entitled to expect that their trustees enforce that.

As a backstop, we need to consider what level of regulation is enforced and implemented and how that regulation is organised. We will indeed be reporting on that. I have some sympathy with the noble Baroness when she says that the role of the Charity Commission also needs to be re-examined as a backstop to whatever formal regulation the sector itself provides.

Having said that, I trust that when our report is presented there will be an opportunity to debate it, and certainly, when the Bill comes back from the Commons, there will be another opportunity to make sure that we have moved matters forward. I merely emphasise again that the charity sector is extremely important to our society and to aspects of our economy. It deserves, therefore, to be fully regulated and as transparent as possible.

Lord Leigh of Hurley (Con): My Lords, I declare my interests in charities as listed in the register of interests. I was going to declare my interest in the fundraising regulation review panel, but I am grateful to the noble Baroness, Lady Hayter, for doing it for me.

As she says, we are not yet in a position to present our report. On 10 July, Minister Rob Wilson rang me to ask us to start this report. That was an interesting call because, on 9 July, the Prime Minister had thanked me for accepting. But it shows that it is being taken seriously at a very high level. We will have an appropriate moment to thank Sir Stuart Etherington and Elizabeth Chamberlain of NCVO and Susann Hering from the Cabinet Office for the report, which we hope will be published extremely soon. If it is to be published at the Conservative Party conference—I do not think that is the plan—I will personally welcome the noble Baroness, Lady Hayter, and invite her to sit with me and listen to every word. I hope there will be opportunity for further debate in this House when amendments come back here.

3.30 pm

We met during August—it was a most interesting August—a large number of people, not just the IoF and FRSB but pretty much all the chief executives of the top 20 charities and chief executives of much smaller or medium-sized charities. The comment that has been made is correct: there is an element of denial, which is disappointing. The charity sector is quite rightly under massive review. It is astonishing to discover that the charity sector as a whole—within the wider definition of charities— raises some £68 billion a year, and the voluntary donation of the organisations that we recognise as charities, perhaps excluding organisations such as the Arts Council, is some £8 billion a year. I do not think that any of the chief executives in the top 20 earns a salary of less than £100,000, and more than 30 of them earn a salary of £200,000 or more. They therefore have great responsibility to a wider community. As the noble Lord, Lord Wallace of Saltaire, said, they have two inherent, enormous advantages. The first is the favourable tax treatment they receive and the second is the public's good will and trust. As one of the people we met in our review said to us, charities defy every rule of economics. No economist can understand it, because people are giving money for nothing in return; the rules break down. This special position of trust needs to be protected.

So we have specific ideas which do not involve the compulsion that the amendment suggests. The thrust of our comments is to try to instil in some of the charities the idea that they are no more than a conduit through which donors can make donations to the good cause, and they have to understand that donors are the source. Some of them seem to think that donors are cows that can be milked, but the reverse is true: it is the donors' money that enables them to do what they want to do, and they should perhaps regard donors a little more as shareholders than as people to be attacked.

It is most appropriate that the Bill talks a lot about the roles and obligations of trustees, but that is not the subject of this amendment, which focuses on the fundraising review and regulations, so I shall restrict my remarks to that. Before I sit down, I congratulate the noble Lord, Lord Bridges of Headley, on taking through his first Bill. His maiden speech was at Second Reading and we are grateful to him for seeing this Bill through.

Baroness Pitkeathley (Lab): My Lords, mindful of the rules at Third Reading, I will say that I have great sympathy with my noble friend's amendment but share her concern about the sad accident of timing that has befallen us as far as this Bill is concerned. Like her, I would have felt a lot better if the report of which I have been privileged to be part could have been received, with its recommendations understood, so that the Bill could have been sent to the Commons complete and with the work done. Be that as it may, I hope that when the report comes out Members will be satisfied with its recommendations.

In her introduction, my noble friend said that she was looking forward to seeing how the Government's thinking had changed over the summer. What has been very striking is how the thinking of charities, and perhaps particularly of some charities' trustees, has been influenced over the summer by focus on the negative aspects of fundraising. If they did not get it before, many of them get it now—and not before time. I hope that the report will be influential and welcomed and will make not only charity staff and chief executives but trustees much more mindful of their responsibilities in regulating their fundraising activities. Too many trustees have been content to take the money without being too fussy about how that fundraising has been achieved.

Wearing another hat, I chair the Professional Standards Authority for Health and Social Care. We have a concept of right-touch—not light-touch—regulation. We say that, amongst other things, right-touch regulation should be proportionate, consistent, transparent and accountable. I hope we can achieve that with charitable fundraising and, most of all, that in the future it will be far more effective.

Lord Moynihan (Con): My Lords, in the context of the regulation of funding and the regulatory framework for charities, I have a brief question for my noble friend of which I have given him notice. On Report, my noble friend gave a number of commitments to the noble Lord, Lord Wallace of Saltaire, myself and

[LORD MOYNIHAN]
the whole House on the question of public benefit. A lot of work has been done on this during the summer. He said that the Charity Commission would issue new guidance on public benefit and running a charity, that it would do further work on public benefit reporting guidance, that the ISC was going to provide guidance, that the Charity Commission would undertake a 12-month research programme and the ISC would launch a website this autumn. All of that would then be subject to a debate a year on, when the House could see how much progress was being made.

It is appropriate to mention to the House that a lot of work has been done. I could not be more grateful personally, and all those interested in the subject will also be grateful to the ISC and the Charity Commission for a very good start. We hope that, as the Opposition Front Benchers made clear during the latter stages of the debate, the website will be proactive regarding the facilities and engagement with local communities and be a point of contact—an effective method of linking with their local communities schools with charitable status and outstanding facilities.

I am certain that noble Lords in all parts of the House will continue to push for change not just in the sports world but in the arts world, and for engagement between schools that are endowed with superb facilities, excellent teachers and coaches, and the wider community. I would therefore be grateful if the Minister took this opportunity to update the House on the work undertaken during the summer and join me in offering congratulations on the good start, although there is clearly a long road to travel before we achieve the sort of developments that are essential to meet the mood expressed in the House in a number of previous debates. We must ensure that we have the material necessary to have a full debate in a year's time.

Baroness Barker (LD): My Lords, it has been a pretty miserable summer for the charitable sector and it has not been a great summer for the Charity Commission either. It is in the nature of being a charity to go through periods of being tested, and good charities come out the other side a lot stronger. One can but hope that that will happen as a result of what has transpired over the past few months.

I am not a member of this august committee—I never made it to the shortlist—but I had the great privilege of attending one of its sessions. It was really interesting—one of the most interesting breakfast discussions that I have had for a very long time. While it was absolutely true, as the noble Lord, Lord Leigh of Hurley, said—he was also present on that occasion—that some people still did not quite get it, as the noble Baroness, Lady Pitkeathley, said, a lot of people in the charitable world now absolutely understand that they cannot continue as before and that things must change.

I applaud the amendment moved by the noble Baroness, Lady Hayter, as it is keeping the pressure up on the issue, but I think that it is premature in terms of process. What was most interesting over the summer was the number of people who wanted to chat to me about the ongoing issues. Time and again, people within the charitable sector talked not just about the severe economic pressures but their wish that that sector could be better than the commercial sector and better regulated than the private sector.

I hope that the report from Sir Stuart Etherington's committee is hard hitting, not ambiguous in any way and issues a real challenge to charities. I am mindful that charities have to continue to raise funds and that people want to continue to donate to them. Although the reputation of individual charities has taken a battering over the summer, they are still among the most efficient and effective organisations tackling some of the biggest problems in our society.

The Charity Commission has not covered itself in glory this summer either, and I want to think long and hard about what responsibilities were given to it and the reserve powers to oversee fundraising. Charities know about the lives of vulnerable people much better than anybody else, and I want to give them the chance to come forward with a regulatory system that is better than the private sector's.

I, too, add my congratulations to the Minister, who has conducted himself throughout our proceedings in the most exemplary way. He has been extremely good to work with and I thank him very much. In saying that, I do not want him to accept the amendment moved by the noble Baroness, Lady Hayter, and I ask him to ensure that, when the Bill returns from the Commons, we are given sufficient time, through the usual channels, to pay detailed attention to these matters.

Lord Low of Dalston (CB): My Lords, I refer to my interests, which are declared in the register: I am vice-president of the RNIB and have had a long-standing involvement in the charity sector; and, most recently, I have been asked to chair a commission by ACEVO—the Association of Chief Executives of Voluntary Organisations—on better charity regulation.

I have not taken a large part in the proceedings on this Bill because I felt that its provisions were pretty uncontroversial. Indeed, that has emerged from the debates as the Bill has gone through its various stages. It has been discussed in matters of detail but the proposals have been broadly—indeed, widely—welcomed. I, too, pay tribute to the Minister for how he has conducted the debates on the Bill. He was kind enough to consult me at an early stage to take my views about the Bill. I appreciated that very much, and I appreciate how he has conducted the Bill from the point of view of the Government.

I was not planning to speak today at Third Reading but, listening to the debate, as I have been, I am prompted to make just one remark. It is perfectly true that charities have not had a very good summer, particularly on fundraising, but we have to be careful of tarring all charities with the same brush. I am sure that noble Lords have not intended to do that, but we need to be aware of it—I am sure that Sir Stuart Etherington's committee will be. The charities sector reflects a good deal of diversity. It is important that we register the point that, as well as the bad practice that has been exposed, there is still quite a lot of good practice among charities. It is important that we retain a sense of perspective in that light.

3.45 pm

Baroness Young of Old Scone (Lab): My Lords, I am very grateful that the noble Lord, Lord Low, said what he did. I declare my interest as a former charity chief executive and having had a connection with the charity sector for many years; and as a regulator on four separate occasions, though not in the charity sector, I can speak on regulation with some insight.

There has been a bit of a witch-hunt this summer. I am not saying that charities are getting it absolutely right, but there has been a huge focus on those charities that, from time to time, were getting it wrong, and on the admitted gross inadequacies of the Fundraising Standards Board. I do not quibble that we need an independent and effective regulator, but I hope that we are not going to be dragooned by the witch-hunt that the *Daily Mail* has led in quite an extreme fashion, to the point where charity fundraisers are now being followed around in the streets, in public places and in meetings of charitable donors and beneficiaries, just in case something can be picked up that can be used by the newspaper.

We have also had a bit of a knee-jerk reaction from some of the other players. The Information Commissioner is steadily redefining his position on data protection issues in charities, to the point where a charity now cannot phone a volunteer, who may have volunteered for that charity for many years, unless there is express permission in place that the charity may phone them. If they have signed up to the telephone preference scheme that would also prevent the charity from phoning.

We are in the position where some of the interpretation of the existing regulation is becoming incredibly counterproductive, to the point where my concern is that charities that are trying hard, that had good codes of practice, that have trustees who are interested and that enforce their rules with the agencies that work with them, are now being penalised. That makes their business not just of raising money, but of talking to their donors, who in many cases are also beneficiaries, more difficult.

I cannot support the amendments in the name of my noble friend Lady Hayter. The Fundraising Standards Board is so unfit for purpose that when the Government or the charitable sector make a decision following the Etherington review, I very seriously advise that they do not call it the Fundraising Standards Board, but that whatever new regulatory function comes forward is called some entirely new name. I would also be extremely nervous about enhancing the role of the Charity Commission in this area. I do not think, in the 45 years that I have been connected with charities, that I have ever seen a Charity Commission that feels more hostile to the sector that it undoubtedly is regulating, but which it is also there to promote and enhance. I believe that the Charity Commission needs to examine its soul on how it is currently behaving and how it has done for the last year.

I am sure that the Etherington review will talk a huge amount of sense. The noble Lord, Lord Wallace, and the noble Baroness, Lady Pitkeathley, both have in-depth knowledge of what they are talking about and are people of huge stature. I hope that whatever emerges from the Etherington review can go forward on a voluntary rather than a statutory basis. I believe that charities are very willing to look at how the public can be reassured. However, we need to make sure that all these changes, and all the anxiety that has been evinced over the summer, do not result in our lurching to a position where charities incur considerable costs in ensuring compliance with a statutory regulatory regime. Right regulation may not be light regulation, and therefore may involve considerable compliance costs. The one thing we do want to make sure is that charities are able to carry out the huge amount of work that they do for the public good in the best, most effective and publicly acceptable way, and in a way that has least dead-weight regulatory cost, because that is in the interests of the beneficiaries we all serve.

Lord Lexden (Con): My Lords, as a former general secretary of the Independent Schools Council, I wish to add to the comments of my noble friend Lord Moynihan to underline the seriousness with which the council takes the obligations and undertakings that it has given during our debates, and to make clear that it looks forward to remaining in touch with those Members who take an interest in its affairs as it seeks to build up the not inconsiderable partnerships that it already has with state schools and local communities to the benefit of all three participating parties.

Baroness Chalker of Wallasey (Con): My Lords, I have read the proceedings on the Bill in earlier sittings of your Lordships' House. I was not able to be present because, as many noble Lords will know, I have responsibilities in Africa connected with many of the charities which fall into the categories we are discussing. I support what the noble Baroness, Lady Young of Old Scone, has just said. The interactions between certain charities and the Charity Commission of late reflect a sad situation. I believe that Sir Stuart Etherington's committee will give us very valuable advice. I realise that it cannot report before we finish our discussion on the Bill. However, it must be very clear that future regulation has to be very transparent because there have been too many occasions when certainly I have wondered at the meaning behind the work of certain charities. Therefore, we need to have clear guidance determining charities' declarations of the management of their organisations. Many of them are now so large that they require much more financial supervision than they have at present. I am certain that the committee will respond on that basis.

I will say no more at present but I, too, emphasise that it is important to have a further debate in the months ahead when the Bill comes back from another place. I very much hope that I can arrange to be here rather than in Africa when that happens.

The Parliamentary Secretary, Cabinet Office (Lord Bridges of Headley) (Con): My Lords, I thank all those who have just spoken and those who said some very kind words about me. I would like to put on record my thanks, and those of the Government, for the significant contribution to the fundraising review that my noble friend Lord Leigh of Hurley, the noble Baroness, Lady Pitkeathley, and the noble Lord, Lord Wallace

[Lord Bridges of Headley]
of Saltaire, have made, as well as our thanks to Sir Stuart Etherington himself. They have given up their time and expertise over the summer to help develop a new approach to tackling the problems of fundraising that have been exposed in the media in recent months.

I fully accept that, as a number of noble Lords have said, the timing of the debate today is somewhat unfortunate, given that Sir Stuart is not due to report until later this month. However, as I am sure your Lordships understand, this was agreed through the usual channels and needs to fit in with the competing demands of other parliamentary business.

My honourable friend in the other place, the Minister for Civil Society, Rob Wilson, has engaged over the summer with the noble Baroness, Lady Hayter, and other noble Lords who have been supporting Sir Stuart Etherington's review. He has committed to continue that engagement when he pilots the Bill through the other place. I am very keen that your Lordships continue to debate and discuss these issues while the Bill is in the other place. My door is open to anyone who has been unable to express views as the Bill progressed up to this point or who has thoughts on the Etherington review's findings when they are published. We will also, of course, have an opportunity for further debate in this House on any amendments that may be made to the Bill. I would entirely support such measures, as I know that this House has an immense amount of expertise on the matters that we are discussing.

Before responding to the points raised in this afternoon's debate, and looking at the specifics of the amendment, it is worth reminding ourselves, as a number of speakers have, that the vast majority of charity fundraising is undertaken responsibly. The noble Baronesses, Lady Barker and Lady Young, made that point, and I entirely agree. It is the actions of a minority of charities, albeit high-profile ones, and in relation to particular fundraising methods, that have damaged public trust and confidence. Furthermore, charities need to ask the public for donations in order to carry out their vital work. In addressing the poor fundraising practices of the few, it is important to keep those points in mind and not to overburden the majority of charities, particularly small charities, whose fundraising activities are not at fault. As I said before while debating other points relevant to the Bill, it is absolutely critical that we get this balance right and keep a sense of proportion in what we may do.

One point on which I think there is now broad agreement is that the current system is too complex and has failed to deliver the standards that the public and Parliament expect. I owe a nod to my noble friend Lord Hodgson of Astley Abbotts, who got this spot on in his 2012 charity law review when he said:

> "Potential donors are currently faced with a confused landscape, with unnecessary duplication or division of functions … To date the sector has tended to dance around these issues".

It would appear that we are only now catching up with him. The current system has to change if we are to meet one of the overriding objectives of the Bill: to maintain and strengthen public trust and confidence in charities. The exam question posed to Sir Stuart Etherington and his review earlier this summer was: what should those changes be?

We have acted with the amendments to the Bill on Report, which will require charity trustees to take proper responsibility for their charity's fundraising and, in larger charities, to be more transparent and accountable about their fundraising activities in their annual reports. These changes will help, but Sir Stuart's review will provide the blueprint for the future of self-regulation.

I am sorry to disappoint noble Lords, but I do not want to pre-empt the outcome of Sir Stuart's fundraising review—and if the noble Baroness thinks that it is going to be published at the Conservative Party conference, I will make sure that I accompany her there. I know that several of the largest charities have already committed to making changes and supporting the recommendations of the fundraising review. As the noble Baroness, Lady Pitkeathley, said, this change of heart is about time, too. It is to be welcomed, as the whole charity fundraising sector will need to get behind the recommendations of the review and swiftly implement the necessary changes. As I said on Report, the response of sector leaders to Sir Stuart's recommendations will in part answer the question of whether fundraisers and the charity trustees who oversee them accept the need for and fully embrace change.

We take the view that charities should have the opportunity to redeem themselves and that they are capable of putting their own house in order and making self-regulation work so as to restore and protect the public trust and confidence on which they depend, as well as to show, as the noble Lord, Lord Wallace, said, that they are fulfilling the responsibilities that charitable status confers.

Some have suggested that we should legislate to make charities submit to self-regulation. That would effectively be statutory regulation, not self-regulation. We will need to see what Sir Stuart recommends, but we do not want to legislate for a new bureaucracy. In particular, we do not want to entangle with red tape the vast majority of small charities which have not had anything to do with the unacceptable practices reported in the media. Our preference therefore remains self-regulation, not a government-regulated solution.

4 pm

This brings me to Amendment 1, about which let me say this in the spirit, I hope, of constructive criticism. The first part of the amendment would mandate membership of the FRSB for charities raising over £1 million per year and would require fundraising charities to comply with standards set by the code of practice of the Institute of Fundraising—a body other than Parliament or the Minister. There would, therefore, be a real risk that we would have a delegation of power without proper accountability. The second part of the amendment would require the Minister to exercise the power to make regulations in connection with regulating charity fundraising. These would regulate standards that fundraisers would have to meet. It is unclear how this would work alongside the sector-owned *Code of Fundraising Practice*. If these powers

were exercised they would basically mean statutory regulation, which as I have said is not the Government's preference.

As I said earlier, my honourable friend the Minister for Civil Society has committed to engage with noble Lords once we have seen Sir Stuart Etherington's review and as the Bill proceeds through the other place. I, too, welcome the recent letter from the 17 charity executives to the *Sunday Times*. It is a good sign of progress, but we will need charities' actions to live up to their words in the months ahead, as they strengthen self-regulation in a way that the public and Parliament expect. I hope that in light of the debate this afternoon and the commitment for continued engagement, the noble Baroness will feel able to withdraw her amendment.

Before I sit down, I turn briefly to the point raised by my noble friend Lord Moynihan about the issues raised on Report regarding the charitable status of independent schools. I, too, thank the Charity Commission and the independent schools which have spent a lot of time working together during the summer to take forward the commitments from Report. I met them both last week and I know that they have been engaging with noble Lords on the work they are doing to promote sports, music and arts partnerships between the independent and state sectors, as my noble friend Lord Lexden said, and that they are committed to continuing that engagement.

I can tell the House that next month the Charity Commission will publish revised guidance which sets out illustrative examples of the ways in which an independent charitable school can carry out its purposes for the public benefit and a revised sample trustees' annual report for a fee-charging charitable independent school. The Independent Schools Council has committed to raising awareness among its members of this new guidance and examples. I repeat that I hope that noble Lords with an interest will continue to engage with the Charity Commission and the ISC as they continue this work over the coming months and years, especially on the other two items that we also agreed on Report, which I know are proceeding to be dealt with.

Baroness Hayter of Kentish Town: My Lords, that turned out to be a more educative and perhaps more interesting debate than I had hoped. I join the Minister in thanking everyone who has contributed. I apologise to the House that I forgot at the beginning to declare that I, too, am a trustee of a couple of charitable trusts.

I start with the same emphasis made by the noble Lord, Lord Low, my noble friend Lady Young and others on not tarring all charities with the same brush, and on the incredible importance of charitable work. I think that I have spent more of my professional life running charities than anything else, so I am absolutely aware of that. I will make a couple of comments because the follow-on is that, when I was able to raise funds, it was very much because of the public's good will and trust, in the words of the noble Lord, Lord Leigh of Hurley. They trusted not only that we would use their money effectively but that we had the expertise and specialism to look after the sort of clients that we had. We, as the charitable sector, must never lose that.

My noble friend Lady Pitkeathley said that she thought that charities' thinking had changed over the summer, and if ever your Lordships' House helped in that, it should take some credit for it. I am perhaps not thinking that they have all got there completely. The noble Baroness, Lady Barker, said that she wanted the Etherington report to be hard-hitting. I do not really know the noble Lord, Lord Leigh, so well but I know the other two Peers and I certainly know Sir Stuart, and I think that I could trust those four not to pull their punches.

I hope that what the Government said is not pre-empting that by appearing to rule out any statutory response. The noble Lord, Lord Wallace of Saltaire, used the word "backstop", which is close to what I was suggesting. My judgment is that a pure self-regulating system will no longer be acceptable. I absolutely concur with my noble friend Lady Young that the letters FRSB should not be used: it will not be a fundraising standards board, whatever it is. I also doubt whether it will continue as voluntary. When he gave evidence in front of Bernard Jenkin, its new chair, Andrew Hind, seemed to rule out the possibility of it remaining completely voluntary. If we can find something that is a backstop rather than a red-tape regulation, that may be the right way forward. As I said in introducing the amendment, it was to give us the opportunity for this debate; we have an open mind on what is the correct way forward.

I make only one other point, which the noble Lord, Lord Wallace of Saltaire, mentioned, which concerns the role of trustees. The Independent Schools Council seems to have grasped it. I hope that the trustees—if they are called that—of the various schools take that message on board as well and look proactively at what might be done with the state system. When I met the Charity Commission recently, it said that in its research it was going to ask to what extent fee-paying schools ask the local community, "What would be best for you?", so that it is not just paternalistic giving but real response to needs.

Having said that, before I beg leave to withdraw the amendment and we send this slightly unfinished Bill down the corridor, I take this opportunity to thank the noble Lord, Lord Bridges, who as everyone said, has really played a blinder over all this. It has been a real pleasure to work with him on the Bill. We must also thank the Minister at the other end, who has also met us and been very responsive. I also thank the Bill team, who, as ever, we have worked rather hard, and my noble friend Lord Watson, who joined me on the Front Bench for the first time, I think, and has done an awful lot of the heavy lifting on the Bill. With those thanks, I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

In the Title

Amendment 2 not moved.

Title agreed.

A privilege amendment was made.

4.07 pm

Bill passed and sent to the Commons.

Energy Bill [HL]

Committee (3rd Day)

4.08 pm

Relevant document: 6th and 7th Reports from the Delegated Powers Committee, 4th Report from the Constitution Committee

Clause 9: Interpretation of Part 2

Debate on whether Clause 59 should stand part of the Bill.

Lord Teverson (LD): My Lords, I have also put my name to this proposal, therefore I will speak on it on behalf of the noble Lord, Lord Whitty, as well as myself.

We come to one of the most important parts of the Bill, which concerns wind power. Although I fully accept there were strong arguments against onshore wind in the Conservative manifesto, that is very regrettable and it is important to have consistency in government policy. One element of that manifesto was that climate change measures and renewables should be at least cost. As I pointed out to the House before, onshore wind costs some £65 per tonne of CO_2 saved whereas with offshore—still one of the Government's favourites; I have no criticism of that—the cost per tonne of CO_2 displaced is almost double that at £121. In terms of financial support, onshore wind cost on a ROC basis is about £40 per megawatt hour and offshore is more than double that at some £85. That puts into context this part of the Bill and the two clauses that we start to consider here.

The irony is that in many ways I would welcome this clause because it repatriates planning decisions around certain energy generators—onshore wind above 50 megawatts—back to what many of us see as the democratic base of decision-making, which is local planning. In some ways, that is quite a positive thing. However, the inconsistency and the agenda behind it concern me. It seems that the Government are in favour of this reallocation or repatriation because they want to put greater obstacles in the way of this far more cost-effective and efficient form of energy: onshore wind. Yet in other areas of energy policy, not least fracking—I am not against fracking in principle—the Government try to move things in exactly the opposite direction. Due to the frustrations felt with Lancashire County Council, we have the irony of the Government trying to move decision-making up to the Secretary of State whereas onshore wind, which seems bad in terms of Tory ideology, is moving the other way and back to local authorities. That inconsistency concerns me.

My noble and learned friend Lord Wallace of Tankerness will doubtless come to this on the next clause, but it also means that the outside world, whether that is financial institutions within the UK or worldwide, starts to look at British Government decision-making as being very inconsistent and changeable, in a way that is not necessarily financially correct but comes from a bounce and ricochet of policies. It seems that we have a confusion and inconsistencies in UK energy policy that will deter investment. I know that that will be a continuing theme this afternoon.

I have questions to ask the Minister. First, paragraph 130 on page 18 of the Explanatory Notes says:

> "The Government currently expects that applications which have already been made under section 36 of the Electricity Act 1989 but not yet decided when the Bill provision commences, will continue to be considered under that Act".

However, I understand that we have no detail of how that will be done. Again, we have uncertainty in this area. I would be grateful to hear from the Minister on where we are in that.

Again on detail, the other thing I find difficult about this clause is that even if we accept that this level of planning should come down to local authorities, despite that inconsistency, I understand that it is also the Government's intention that approvals for onshore wind should be given by primary planning authorities only if they are also in line with agreements on neighbourhood plan areas. Now, no one is a greater fan than I am of the neighbourhood planning brought into being by the coalition Government. That is a great move forward and has been successful in housing and other areas so far.

Perhaps I may have some clarity from the Minister. I know that large areas of England do not yet have neighbourhood plans; in fact, many planning authorities do not have local plans. I should like to understand the detail of how onshore wind farm developers, who can surmount all these other hurdles, deal with this area. Neighbourhood plans must not be in conflict with local plans, so what happens in areas that do not yet have neighbourhood plans? I know it is obviously a DCLG issue, but I would be very pleased if the Minister could write to me and tell me how many neighbourhood plans have been passed and what proportion of the English landscape that covers. Indeed, I would like to know the same for local plans, a number of which are waiting to be agreed by the Secretary of State.

4.15 pm

Here we have a great deal of uncertainty and I would be very grateful if the Minister could give some clarity as to how these approvals can take place and when we will know that will be the case. Having said that, I am very grateful that the Minister has agreed to have a fourth Committee day about a number of these issues, which we will come to particularly in the next clause, which is a major step forward. But the industry is desperate to understand these issues now. I would not want that change to mean that these proposals in detail, under this clause and under Clause 60, should be delayed any longer than is necessary.

The only other thing that struck me today was this. I was, unusually, travelling from Bristol this morning and I read a sentence in the *Times* that put great disappointment into me as I travelled through Swindon. It said, "Matt Ridley is away". I thought it was a sad occasion for a Committee day on the Energy Bill because that spice—that grit in the oyster—would not be there. I am pleased to say that, yet again, the Murdoch press has been proved wrong. I look forward to hearing the noble Viscount's views on this matter as well.

Baroness Young of Old Scone (Lab): My Lords, I support the noble Lord, Lord Teverson, on whether keeping this clause in the Bill is sensible. I share his views entirely about the vagaries of the local planning system. It is true to say—it would be good if the Minister could confirm it at some stage—that not only are there not many neighbourhood plans in existence, but some local authorities have not yet published local plans, far less had them accepted. This provision might be okay in places where they have thought about it, but so many have not and show no signs of doing so.

The National Planning Policy Framework only encourages local planning authorities to consider identifying suitable areas for renewable energy sources and as a result the links in the chain that could fail are rather long. A local authority might not have got to the stage where it had a local plan and therefore there cannot be neighbourhood plans, because they have got to be in a consistent process with the local plan, and there is only a vague nudge in the direction of considering whether suitable areas have been identified for renewable energy. It does not feel like a well-honed local set of circumstances for fostering that vital and, as the noble Lord, Lord Teverson, pointed out, cost-effective way of meeting some very stringent climate change targets and budgets. I have concerns about the removal of the Secretary of State's consent in this respect.

It is rather strange that we are moving in one direction for fracking consents and in another for onshore wind consents. I simply make that remark without having any belief that there should be one without the other. I must confess that I need to meet my noble friend Lady Worthington to talk about some impacts of fracking other than simply energy generation, carbon reduction and cost.

There is one other issue in respect of the localisation of decision-making in terms of onshore wind, which is how we get some strategic perspective. It is going to be abominably difficult to meet our carbon targets, and we will need every tool in the toolkit to do so. In this clause, there is no mechanism for that happening on a scale larger than a neighbourhood or local plan, yet many of these decisions involving technologies other than onshore wind need to be part of the mix on a local and national basis for these decisions to be looked at on a more strategic basis at a higher level than the local planning authority.

I hope that the Minister will come back to us with answers to some of the questions we are raising about the advisability of removing the Secretary of State's permission.

Lord Howell of Guildford (Con): My Lords, I, too, am waiting for my noble friend Lord Ridley to give his limpid views on the future of onshore wind and, indeed, on the role of onshore and offshore wind power in the tasks of reducing emissions worldwide and producing a balanced energy policy for the British people. No doubt he will enter into later debates on the next clause which will cover very much the same ground.

I admire the noble Lord, Lord Teverson, for his frank admission of the dilemma he faces. On the one hand, localism is the flavour of the month, the year and the time, and there is a great desire to move from central administration in every area of policy, certainly including energy, into a greater role for local people, local planning and local authorities, yet he is also worried about inconsistency and fears that in some way the onshore wind cause is being abandoned. I do not see that. If you look at the proposals and the argument in the impact assessments behind the Bill, it is perfectly clear that, first, onshore wind has had a fantastic run over recent years. Some would say it was possibly too big a run given the very considerable economic advantages it brought to many wealthy individuals, gigantic corporations and energy companies and to those who are benefiting in all sorts of other ways from the proceeds and the subsidies, which are, of course, paid for by the consumer. In many cases, we know it is the poor consumer, and it is certainly the competitive consumer in industry. It is clear that subsidies have created this great growth. There must be a limit, as has been set quite clearly by government, and it is going to be exceeded unless the brakes are put on. There is a limit in two senses: first, the sheer weight of subsidy required to maintain the industry until it can get its costs down. I will come to that in a moment because there are real problems in getting costs down.

Secondly, there is managing a balanced grid system which can absorb the intermittency of wind. Every country that has gone into this business in a big way—Denmark is a good example—has found enormous difficulties. That is one reason why Denmark wants to have an interconnector with Britain for electricity. Intermittently there will be no charge at all for the electricity it supplies to us because it is a danger to it and an advantage to us. Spain has found enormous difficulties in going too fast and beyond the limits of engineering and electronic management in organising its grid when the wind blows too hard or too regularly.

Thirdly, there is the intermittency problem, which we all face. One day we will get over it because the storage will come at lower costs and intermittency problems will be much reduced. In the mean time, though, intermittency requires back-up, and back-up requires gas. There are other devices but gas-generated electricity is the area where most people in Europe, certainly in this country, think the gap can be filled. Far from being inconsistent, then, it seems to me utterly consistent that at this point the contribution of onshore wind should be restrained in the ways that are proposed.

As for the emissions angle, we know that we are driven by the European requirements for renewable energy, the formidable target of 15% of our energy from renewable sources by, I think, 2020, and Europe's target of 40% by 2030. It is quite clear from the present pattern that we are not going to meet that target, and that even if we were to double the onshore wind power we still would not get near it, even if we took into account merely the emissions that emerge from the production of energy. In fact, the emissions that emerge from our capital consumption of energy per head, and from all the vast imports that we suck into this country from countries with much lower standards with very high emission content, have not fallen very much at all; indeed, many would argue that they have increased greatly since 1990.

So the real problem is that the present policy is not actually working. Those of us who are concerned about climate change look at what is happening throughout Europe, notice the contrary tendencies in delivering emission reduction—much more coal burning and a failure of the heavy concentration of wind around the islands, like the one that we are living on—and ask whether we should not begin to think about an entirely new and different policy. I see no inconsistency at all. No doubt we will debate this a little further on in the afternoon in more depth and detail.

I worked very closely with my friends in the Liberal Democrats in the last Government and enjoyed doing so, but I find their stance on this almost impossible to understand. They seem to be favouring a system that does not do much for emissions, distributes money in massive ways from the poor to the rich and apparently produces all kinds of tax advantages that are going to be exploited. This is one irony of the situation: even with this restraint, it looks to me as though we are going to have continuous investment in onshore wind, even without the subsidies, because of the big tax advantages that are built into the system. Should we not be looking at those before we take a position on the question of local powers and so on?

It is a puzzle to me that we do not look in a more balanced way at what is being done. It seems utterly consistent. I do not think that I want to be a supporter of anything that promotes further a system that is unfair to the poorest people and consumers, and which delivers considerable tax advantages to clever people and yet does not do very much at all for emission reduction. It seems to me to be a sad mixture, and it is about time that it was changed.

Baroness Worthington (Lab): My Lords, I am grateful to the noble Lord, Lord Teverson, for introducing this clause stand part debate, and to noble Lords who have contributed to it. I shall make a few comments. As we enter the third day of Committee, I am grateful to the Minister for having agreed to extend the Committee for an extra day. I think that this has arisen because we felt—I have probably made myself fairly clear on this—that the handling of the Bill has been slightly suboptimal, and we are expecting more amendments to come to us before Report. We are very grateful that we now have an opportunity to discuss those in Committee before then.

Today we move on to Part 4, which it is fair to say is the more controversial aspect. People on both sides of the Committee may have different views about the benefits or disbenefits of particular technologies, but we must strive to ensure that we have a good policy and governance regime that will help investors not to waste their money. One of our concerns is that any manifesto, no matter how good the drafters, is prepared relatively hastily and usually without a great deal of thought for the detail. Yet here we are, just months after that manifesto was put into print, hastily enacting some of the statements in it and I think that we are still lacking some of the detail.

4.30 pm

One statement in the Conservative manifesto was that local people should have the final say, it seems, on onshore wind. Within that sentence are hidden quite a lot of important things. By and large, we have always felt that there needs to be a role for central government—for Westminster—in the setting of energy policy, and that is because it is of national importance. How much we pay for our energy, the sources of our energy and the security of supply of our energy are matters for which the Secretary of State, and indeed the Cabinet and the Prime Minister, should have due regard. However, Clause 59 says that onshore wind is no longer of any national strategic importance and that it should simply be decided at a local level. As the noble Lord, Lord Teverson, very eloquently pointed out, if you compare that with what is happening with fracking and the extraction of gas using unconventional methods, you see that there is a huge gulf in how different technologies are now being treated by this Government. That is regrettable.

Personally, I do not think that any Government should have an a priori view about any technology. There will be good and bad examples of the deployment of those technologies, and of course we always need to keep an eye on how we treat them and subsidise them to try to ensure that there is fair competition. However, it seems that this part of the Bill is becoming something of a crusade to stop one particular aspect of energy policy in its tracks. That is regrettable because it is an industry that is showing growth, it has attracted inward investment, it has generated jobs, it has helped to create benefits for communities, and it has reduced emissions and air quality impacts. Some people say that it is doing quite a lot for the money that we pay for it.

Therefore, we are very sympathetic to the opposition to this clause. It is incumbent on the Government to make it absolutely clear why they feel that a very successful aspect of our energy policy over the last few years is no longer considered to be of national importance. Of course, national means the United Kingdom, not merely England and Wales. This clause concerns England and Wales but we are going to come on to amendments where we discuss this matter in the context of Scotland, and that will raise a whole set of other questions. However, we are looking forward to hearing the Minister's response on this particular point, and I am grateful to the noble Lords who have contributed to the debate.

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, perhaps I may deal first with the so-called extra day in Committee and, for the first time, I thank the noble Baroness for getting back to me. I hope she accepts that twice over the weekend I tried to contact her and left a message. It would have been good to hear from her that the situation is fine—only now am I am hearing for the first time that it is.

Baroness Worthington: I communicated through our Whips this morning that it was acceptable. They are in communication with the noble Lord's Whips. Therefore, I have gone through the normal channels.

Lord Bourne of Aberystwyth: We had corresponded directly earlier but I accept that the situation is fine. Technically it is not another day in Committee, which

I believe is causing the clerks consternation; it is a day for recommital in the Moses Room, and I think that that is understood. I hope that noble Lords will accept that we have endeavoured to accommodate people's wishes in relation to the subsidies that we will be looking at.

It is very good to see the noble Baroness still in her place. I suspect that she and I will be agreeing much more than she will be agreeing with her leader, and we will perhaps come to that later. We will come on to decarbonisation in relation to nuclear policy. It is important that we have a responsible Opposition because they are an alternative Government, so we will come on to that and it is absolutely right that we do.

Lord Foulkes of Cumnock (Lab): I wonder whether the Minister can tell us how that relates to Clause 59.

Lord Bourne of Aberystwyth: The noble Lord has made a fair point but I am coming on to Clause 59 and will happily do so. Of course it has an effect on energy policy across the board.

I thank noble Lords who have participated in this debate and I will seek to answer their points, which have properly been raised. The issue obviously affects the energy mix that helps us to reach our decarbonisation targets. I should say that there is no way that we will reach them if we do not have new nuclear, so my point certainly is relevant.

Clause 59 seeks to amend Section 36 of the Electricity Act 1989 by removing the obligation to obtain consent from the Secretary of State for Energy and Climate Change to construct, extend or operate an onshore wind farm in England or Wales. To be clear, this requirement relates to new wind farms with a capacity greater than 50 megawatts. Smaller wind farms, including those owned by the community, are already consented by the relevant local planning authority.

The change, alongside further proposals to make secondary legislation amending the Planning Act 2008 and the Electricity Act 1989, will have the combined effect of removing the requirement for planning consent to be obtained from the Secretary of State for the construction of new onshore wind farms. Instead, developers will need to apply for planning permission under the Town and Country Planning Act 1990, where the primary decision-maker is the local planning authority.

The Government were elected with a clear commitment to give local people the final say on whether to have a wind farm in their area. This should not have taken anyone by surprise. These changes help deliver just that, as was stated in our manifesto. This is important. The majority of the population do not live in the vicinity of a wind farm. For those who do, we have seen many examples of local community groups vigorously opposing wind farm developments because of local impacts relating to noise, amenity and visual changes. It is against that background that the proposal appeared in the manifesto. By transferring decisions to the local level, we are putting local communities in the driving seat. Onshore wind farms should get the go-ahead only when local people have said they want them, and where. That said, onshore wind will continue to be important to help us deliver our renewables targets. It will certainly not disappear and we anticipate that there will be new onshore wind farms—community wind farms and so on.

I turn to some of the specific points raised. The noble Lord, Lord Teverson, mentioned paragraph 130 of the memorandum. It remains the case that all electricity applications are caught by the policy. I believe that all existing Electricity Act 1989 applications have been decided, and the issue should therefore not arise. If I am wrong, I will write to the noble Lord, Lord Teverson, and to the other noble Lords opposite. We will consider this issue soon when the Electricity Act order comes before us.

The noble Lord, Lord Teverson, and the noble Baroness, Lady Young, also raised the issue of planning authority and neighbourhood plans. There is a transitional arrangement for when a valid planning application for a wind energy development has already been submitted to a local planning authority and the development plan does not identify suitable sites. In such instances, local planning authorities can find the proposal acceptable if, following consultation, they are satisfied that it has addressed the planning impacts identified by local communities and therefore has their backing. This is set out in the ministerial Statement made by my right honourable friend the Secretary of State for Communities and Local Government in another place, and I will make sure that it is circulated to noble Lords so that they are aware of it. That should cover the point.

My noble friend Lord Howell made some powerful arguments on onshore wind, the ongoing situation and the potential—or almost certain—overdeployment of onshore wind, even following this action, in terms of both the budget and the plans for onshore wind. Onshore wind is becoming cheaper. My right honourable friend the Secretary of State for Energy and Climate Change has met with some developers who are happy to carry on deploying without the subsidies. I appreciate that we are not being specific about this at the moment, but we anticipate the continuing importance of onshore wind. However, it is important to look at the whole range of renewables, not just onshore wind.

It would be interesting to know the Opposition's position on fracking. It is legitimate to ask that because the issue has been raised. We are obviously trying to encourage new energy sources in order to reduce costs and increase energy security. However, local communities, across the range, must be fully involved in planning decisions—be it shale or onshore wind—and we proceed on that basis. There should and will be a full public consultation for both. On that basis, I believe that Clause 59 should stand part of the Bill.

Lord Teverson: My Lords, I thank the Minister and everybody else who has taken part in this debate.

First of all, I absolutely agree with the noble Lord, Lord Howell, that where subsidy—whether it be through tax breaks, ROCs or whatever—starts to be excessive, we must cut that back. Indeed, when he was Secretary of State, Ed Davey took a number of very tough decisions around solar and wind energy that did exactly that. None of us, certainly on these Benches, want profiteering from this area. That is not really what we

[Lord Teverson]
are getting at in this debate. Clearly, value for money is important; the more that we can make it competitive, the better.

I press the Minister to tell us the challenge there still is to get neighbourhood plans across England, so we can understand; perhaps he will not be able to come back on it now. Whether this mechanism decided on by the Government works or not, I would still be very interested to hear where we are on it. Only by that being effective can even this system, as revised by the Government, really work. I would be pleased to get further feedback on that.

Clearly it is not appropriate to have a vote here, but I am very concerned that we have government policy going in one direction on one form of energy and in completely the opposite direction on another. That means inconsistency and a lack of confidence nationally and internationally in terms of finance. However, based on the Minister's reply, I withdraw my opposition to the clause.

Clause 59 agreed.

Clause 60: Onshore wind power: closure of renewables obligation on 31 March 2016

Amendment 34AA

Moved by ***Baroness Worthington***

34AA: Clause 60, page 31, line 36, at end insert—

"( ) In section 32LA (1) after "order" insert "subject to subsection (2A)".

( ) After section 32LA (2) insert—

"(2A) The power to make a renewables obligation closure order applying to Scotland may only be exercised by Scottish Ministers.""

Baroness Worthington: We now pass to the second relatively controversial aspect of this Bill: the decision to close the renewables obligation a year earlier than had been originally legislated for in the Energy Act 2013.

Many of the people involved in the Energy Act 2013 will be aware of discussions that were had at the time when we debated the rights or wrongs of closing the RO. This amendment would return powers to control how the RO was dealt with in its final years to Scottish Ministers. We tabled this amendment to give ourselves an opportunity to state, for the record, that when we were debating the RO closures in the House of Lords—the power to close the RO was introduced by amendment in the House of Lords—it was under quite an unusual set of circumstances. The Minister was not present, so I hope it will be helpful if I give him some context.

Before the Energy Act 2013, Scottish Ministers had full control over the renewables obligation in line with the Scotland Act 1998, which devolved powers to the Scottish Government in respect of supplying electricity from renewable sources. The Energy Act 2013 took back this control through a government amendment tabled in this House, giving the Secretary of State the power to close the RO, including in Scotland. The justification for this change in the law was that it would facilitate a coherent and transparent closure across the UK and a move towards the new contract for a different system. However, that was not without concerns, and concerns were certainly raised in the other place. Fergus Ewing MSP was particularly vocal in his concern that the way this had been chosen to be dealt with was the stripping of Scottish Ministers' powers in this area of discretion.

Since then, we were all working on the assumption that it would be an orderly transition from the RO to a new system of support. As recently as January this year, we had a statement from Ministers that there was no intention to review the RO and that it would continue as was planned. Then we saw the manifesto from the Conservative Party. I know that it is stating the obvious, but manifestos are not a document of government; they are a document of a political party. While you can claim that you can use the Salisbury convention, this is a rapid change in policy with significant implications not just for investors in the private sector—and the knock-on effect for all investors who are looking to bring their technologies and their investment to the UK—but particularly for Scotland, where there has been a real need for inward investment and a greater role for the private sector in creating jobs. For that to be so significantly affected by this manifesto commitment is truly regrettable, and I know that the Scottish aspect will be talked about in great detail when the Bill leaves this place and enters the other place.

4.45 pm

The most important thing to remember is that, prior to the Energy Act 2013, the RO was devolved and devolved for good reason: because it was believed that it fitted with our devolution commitments to Scotland. We also have the Smith commission, which needs to be honoured in terms of how we continue to devolve power to Scotland where it is appropriate so that it can by and large make its own decisions about its economic development. We have tabled the amendment because we think that the repatriation of powers to Whitehall would be a controversial move and have a big impact on investor confidence. We look forward to the Minister explaining why he believes that the measure is justifiable. As I have said, this is a probing amendment at this stage, but I think that it is an issue that we will return to at later stages in the Bill. I beg to move.

Lord Foulkes of Cumnock: My Lords, I first say a word of thanks to the noble Lord, Lord Bourne, because I sounded a bit intemperate when I intervened earlier during his speech. I have known him for a while, both for his work in Wales and as a Back-Bencher before he received his well-deserved promotion. He has been one of the most diligent Ministers in keeping Members of all sides in touch with progress. I have had more letters faxed from his office than from anyone previously. It is really helpful and I am grateful to him for it.

My noble friend Lady Worthington has tabled one of the most significant political amendments to this Bill. I know that the noble Lord, Lord Bourne, will listen carefully, but I hope that he will consider all the implications of this measure. I know because I have worked with him that he understands devolution, because

of his Welsh connection having been a Member of the Welsh Assembly, and he will know that there are political implications as far as Scotland is concerned.

As my noble friend said, these powers were repatriated to Westminster under the previous Energy Act on the clear understanding and promise from the Government that there would be no policy implications. It was said that it was just a technical change and that it would not affect any policy decisions. It was accepted by all sides, here and in Holyrood, because of that assurance. The Minister will know—and the noble and learned Lord, Lord Wallace, knows a lot about this—that it is an exceptional thing to repatriate powers. Normally, they are going in the other direction: from here to Holyrood, month in and month out. So it was exceptional and, as I understand it, done without acrimony. But the Government have now used that for an entirely political purpose—a policy purpose—in contradiction and contravention of the promise they made, without any consultation whatever with the Governments of Wales and Scotland. That is why Fergus Ewing MSP, the Energy Minister in Scotland, was understandably very upset. He continues to be annoyed about it.

This action has been taken in bad faith. I see the noble Viscount, Lord Younger, who knows Scotland very well. I remember his father extremely well as a very diligent Secretary of State for Scotland. He would have understood the issue. I hope that the Minister and the Government will consider restoring the powers to the Scottish Parliament and Scottish Government up to 2017 so that decisions within Scotland about onshore wind and ROCs in Scotland should go back to the Scottish Government. That is not a lot to ask and I think the Government are honour bound to consider that in light of the promises they gave when this power was repatriated.

I understand the problems of giving assurances off the cuff and on the spur of the moment, but I hope that the Minister will agree to take this away and consult his colleagues in the department and either accept this amendment or bring forward an appropriate amendment to deal with what is an action taken in very bad faith.

Lord Wallace of Tankerness (LD): My Lords, I welcome the amendments tabled. I thank the noble Lord, Lord Bourne, for indicating that he would be willing to recommit these relevant clauses of the Bill when we have an opportunity to consider the grace period provision that the Government intend to bring forward. That shows a constructive response to the concerns that have been raised.

This is not really an interest to declare but, when I was Minister for Enterprise and Lifelong Learning in the Scottish Executive, as we then called it, I had some responsibility for the renewables obligation. The Labour and Liberal Democrat coalition in Scotland did much to take forward the case for the development of renewable resources in Scotland. To give the figures for Scottish renewables, around three-quarters of United Kingdom's onshore wind developments are in Scotland. Therefore, that is where the impact of this measure will be most heavily felt. My noble friend Lord Teverson just handed me the Conservative manifesto and there is nothing in the wording on local decision-making to indicate that the period would be brought forward from April 2017 to April 2016, so I do not consider that this provision of Clause 60 is a manifesto commitment.

Given that the Scottish onshore sector directly employs more than 5,400 people and contributes £9 million to local people in community benefit each year, and that some 70% of people in Scotland support further development in wind and the benefits that it brings, it would be helpful if the Government recognised that there is a particular Scottish dimension to this. Obviously, planning matters are devolved to the Scottish Parliament. Clause 59, which we have just debated, does not apply to Scotland so, to that extent, a distinction has already been made. In terms of this proposal, it would be in the spirit of devolution and constructive working with the Scottish Parliament and the Scottish Government if Scottish Ministers were able to determine that the current situation—as we understood it—will continue to 2017. That would allow the position to be tailor-made for the part of the United Kingdom where there is the greatest concentration of onshore wind power.

My understanding is that the particular provision was devolved to Scottish Ministers by executive order under the Scotland Act 1998 and thus it was executive devolution. That is why, when it came to the 2013 legislation, it was possible legislatively for the renewables obligation to be withdrawn. However, as the noble Lord, Lord Foulkes, said, the understanding was reached on a timetable which has suddenly now been changed. I know that the industry in Scotland is extremely concerned about it and I would therefore encourage the Minister to look at what is being proposed to see if there can be a particularly Scottish carve-out for this. If he does not feel he can go that far—I hope he would be able to—when we come to debate what might be done in terms of grace periods, perhaps provision could be made to enable Scottish Ministers to devise their own grace period provisions, given that there are some very particular issues with regard to the development of onshore wind in Scotland.

Viscount Ridley (Con): My Lords, before coming to the substance of the amendment, perhaps I may express my gratitude to the noble Lord, Lord Teverson, for his surprise that I am in my place and remind him that one should never believe everything one reads in the newspapers. I am only too glad to do my best to provide some grit for his oyster.

Before I go on, I should declare my energy interests as listed in the register, mostly in coal, although the wind industry has not in fact been a particular threat to coal. It has been more of a threat to the gas industry, which in some ways would have been a threat to coal. I urge my noble friend the Minister to stick to the Conservative manifesto commitment on this and not to visit upon Scotland a ruination of its landscape that would not be acceptable in England. I would say to the noble Baroness, Lady Worthington, and the noble Lord, Lord Foulkes, that, yes, there is a difference between the policy of the coalition Government at the start of the year and the manifesto commitment of the Conservative Party, but that is because we had a change of government at the election.

[Viscount Ridley]

The Government should not be taken in by the wind industry's assertion that most people do not object to onshore wind. The commonly quoted research on this is often out of date and simplistic. For example, a MORI survey which is used to show that people do not mind or are supportive of wind farms was conducted in 2003, when a 15-turbine wind farm was considered large. Nowadays in Scotland they often comprise more than 30 and sometimes as many as 70 turbines. The land area of Scotland from which turbines are visible has dramatically increased over a short period. According to data from Scottish Natural Heritage, 20% of Scotland was theoretically visually impacted by turbines in 2008, whereas by 2013 it was almost 46%.

Lord Foulkes of Cumnock: The noble Viscount is making a powerful and coherent argument, but does he not agree that all we are suggesting is that this debate, in which he is taking part, would be better conducted in the Scottish Parliament where these matters are being considered? Indeed, it is now looking at energy in its overall, global sense. Would that not be much more appropriate? That is all the amendment is suggesting?

Viscount Ridley: Yes, but the point is that a lot of the subsidy that would go to Scottish wind farms comes from English taxpayers, so English taxpayers do have a role in this. Moreover, we are looking at this as a United Kingdom; I think most of us in this Chamber feel very strongly about that.

The noble and learned Lord, Lord Wallace of Tankerness, mentioned community benefit. It is worth pointing out that community benefit from wind farms is small when compared with other benefits. Supporters of onshore wind argue that community benefits can be substantial, but such claims need to be put into context and their worth assessed against wider factors that are important to communities. The Scottish Borders draft development strategy for 2014-20, which came out in July, compared the value of tourism with the value of current wind farms to the Scottish Borders economy. It found that in 2012 the gross value added of serviced, non-serviced and self-catering accommodation and day visitors was £182 million. In comparison, onshore wind energy contributed around £10.8 million gross value added.

Again, I urge my noble friend not only to stick to his guns on the renewables obligation, but to resist pressure to include the contracts for difference in a different way for Scotland. That would probably affect Scotland and Wales differently from England because of the planning constraints in England. That would beg the ethical question of whether it is acceptable to protect England from further intrusion but allow Scotland's landscapes to be ruined.

5 pm

Lord Bourne of Aberystwyth: My Lords, I thank the noble Baroness, Lady Worthington, for moving the amendment and noble Lords who have participated in the debate.

First, I shall set out the Government's position and then deal with the points raised by noble Lords. The purpose of the amendment is to enable Scottish Ministers, rather than the United Kingdom Government, to close the renewables obligation in Scotland in relation to onshore wind.

For background, the legal powers for the Government to close this, as has been rightly said, were included in the Energy Act 2013. The reason for that was to ensure that consumers and the industry had clarity on the closure arrangements associated with the renewables obligation as part of the transition to the contracts for difference regime, and the confidence that closure would take place consistently across Great Britain during this process of transition—a point made by my noble friend Lord Ridley. The energy situation is on a GB basis and it is best that we move on that basis. These reasons still hold firm today.

Furthermore, energy policy across Great Britain is reserved to the United Kingdom Government. We are committed to implementing the recommendations of the Smith agreement, which are forthcoming in the Scotland Bill, and we are doing that throughout that Bill. We are doing it based on the Smith agreement and the agreement within that process of the five political parties of Scotland—the Conservative Party, the Labour Party, the Scottish National Party, the Liberal Democrats and the Greens. However, transferring legal authority to close the renewables obligation in Scotland to Scottish Ministers goes considerably further than this. My department has engaged and will continue to engage with Scottish Ministers and officials, as I do, throughout the development of this policy, in line with the spirit of the Smith agreement.

Finally, this proposed change could prevent the United Kingdom delivering on its ambition to end new subsidies for onshore wind. I appreciate that this is not popular throughout the House but it is, after all, based on a change of Government and on policy enshrined in the manifesto at the other side of a general election. It could also have wider impacts on the management of low carbon spend with possible increases to consumer energy bills.

To deal with the points made on the history of this, I appreciate that they were made absolutely correctly by the noble Baroness, Lady Worthington. I thank the noble Lord, Lord Foulkes, of whom I am a considerable disciple on devolution issues, as he knows. The noble Lord was at his disarming best, which is considerable, and I appreciate what he was saying about the need to keep Scottish Ministers involved. I also thank the noble and learned Lord, Lord Wallace of Tankerness, for his kind words on consultation and what he said about the need to keep the Scottish Government involved. It is common ground between the Scottish Government and the United Kingdom Government that the currently integrated GB-wide energy arrangements are in the interests of everybody, with Scotland being a net beneficiary of that. That is very much at the forefront of our thinking on this issue and it influences our thinking.

I take seriously the points made absolutely correctly by my noble friend Lord Ridley—I am very pleased that he is here today—on the importance of acting on a United Kingdom basis. That is what is behind this amendment. It is certainly not to do down Scotland—far from it. As noble Lords appreciate, this party—as are others here—is very much committed to ensuring that

Scotland gets more than a fair deal within the United Kingdom. That is clearly important. With that, I respectfully ask the noble Baroness if she will withdraw her amendment.

Baroness Worthington: My Lords, I am grateful to the Minister for his response, and for the contributions from other noble Lords in this debate.

This is an issue that will not go away; it will come back and be debated with different amendments. As I said, this is a probing amendment, which is designed to enable us to have this debate. It is a very important debate. I know that the noble Viscount, Lord Ridley, has well-known views on this, but surely it is a matter of some subjectivity whether one considers the landscape to be ruined. Perhaps we should be weighing that against the economy being ruined by destabilising a very important, growing industry in a country that desperately needs inward investment and jobs. Comments were made, but it is the job of government to run the country in a way that tries to enable a good and sound policy environment that people can understand and act on in good faith.

We will spend the rest of the afternoon discussing these clauses—there is plenty to get at—so I will not make some of the points that I will make later, but I will flag in particular that the Minister has talked about a transition. I have sufficient concern that we are transitioning to something very uncertain. We do not know when the next round of CFD auctions will be held. We have seen a departure from the expected schedule already, very soon into the new Government. That will cause considerable concern and we will come to it.

The justification is that this is about an orderly transition. That masks the political nature of these clauses. As my noble friend Lord Foulkes said, this is quite a political amendment and quite a political part of the Bill. I do not think the Government will be able simply to brush this off and say that it is all for the good of the UK. Clearly, we have the Scottish Parliament for a reason. When it comes to these matters, where it has had powers in the past, it seems to go completely against the trend that there should be no concession from the Government on the Scottish Parliament having some say in this, particularly in this case, where the Government have taken the Salisbury convention and stretched it to its maximum. It is true that there is nothing specific in the Government's manifesto about the sudden alteration of a policy that was discussed at length following a great deal of consultation not that long ago.

On the basis that we will return to this, I am happy to withdraw the amendment at this stage.

Amendment 34AA withdrawn.

Amendment 34B

Moved by ***Baroness Worthington***

34B: Clause 60, page 31, line 39, at beginning insert "Subject to subsection (1A),"

Baroness Worthington: In moving Amendment 34B, I shall also speak to Amendments 34C, 34D and 35D in this group on the detail associated with the closure of the renewables obligation as we see it in the Bill. We have tabled a number of detailed amendments because we have been promised that the Government will bring forward detailed amendments to help to create some level of understanding and detail of how this provision of the early closure will work in practice. It is one thing to write a sentence in a manifesto, but something else to implement it in a way that does not cause great uncertainty or see people who have invested in good faith lose money because of what is essentially a political decision taken by a party that has been given the opportunity to form a Government. Being in government is very different from writing a manifesto, as I have said previously and will no doubt say again.

The amendments are designed to put some detail into this part of the Bill. They relate to the grace period, meaning how we will strictly define in law which projects are deemed to be sufficiently advanced to be allowed to continue under the RO, and the dates by which that will be judged. Amendment 34D would extend the renewables obligation accreditation period to 31 March 2017 for those schemes that submitted a planning application by 18 June 2015—the date on which all this was made public by the Government in their announcement.

Amendment 35D relates to the RO closure and grace period. Proposed new Section 32LD requires the Government to set out the grace period in regulations. This is just a placeholder while we await the Government's promised amendments, which I hope we will be able to debate after the recess when we have the recommital to Grand Committee. We have gone into detail about what should happen in the event of variations of planning permissions and set out circumstances by which planning permission will be deemed to have been granted where there has not been a clear resolution. Proposed new Section 32LH sets out a means by which the grace period would start only once the clause has commenced.

These opposition amendments are rather detailed due to the absence of detail as yet from the Government. I have further comments to make about the clause which I think we will be given an opportunity to discuss when we discuss whether Clause 60 stand part. Therefore, I will keep my comments on the generality of the clause until then and move Amendment 34B on the grace period. As I say, I do so in the absence of the Government's own amendments, which we look forward to seeing.

Lord Wallace of Tankerness: My Lords, I am very grateful to the noble Baroness, Lady Worthington, for speaking to these amendments regarding the grace period. We will come on to the principle of what is happening but I think it is recognised that there are important reasons why there should be a grace period, not least because of reasonable expectations that have been raised within the industry. If those are ditched, a stream of litigation could follow in its wake. Obviously, it would have been far preferable for the Government to bring forward their own amendments, although we recognise that that will happen. The Minister has indicated that he will seek a recommittal of some clauses. Can he give us any indication of a timescale of

[Lord Wallace of Tankerness]
when the amendments might be tabled? It would be very unfortunate if we got them only some 48 hours or less before we had to consider them in detail.

We know from the impact assessment that has been made available that there has been an engagement exercise with hundreds of industry representatives, developers, investors and supply chain representatives right across Scotland, Wales and England, which concluded on 31 July. I am sure that the issues around the grace period must have featured prominently in those discussions. If the Minister can give us a flavour of the representations the Government have received, that would be very useful.

The comments of the noble Baroness, Lady Worthington, on the opposition amendments were helpful as they indicated some of the things that we can reasonably expect to see in the Government's amendments when they are brought forward—for example, that the grace period should be extended by an equivalent period of time as between 18 June and Royal Assent where projects have not been able to make a credit commitment prior to Royal Assent in cases where otherwise the project would have been capable of generation by 31 March 2017.

One of the things that the industry finds very difficult to grasp is why the requirement appears to be that planning permission has to be granted rather than sought. I think I am right in saying that in some of the solar cases the requirement was that an application was pending. There is a whole range of reasons why consent may not have been given, many of which are beyond the power of a developer to do anything about. Therefore, it could be somewhat arbitrary to say that a planning application had to have been consented to as delays could be beyond the developer's control—for example, a rather tardy planning authority could be involved. What is the position if there is an appeal? Clearly, planning permission will not have been granted but an appeal may well be made on very solid grounds and could subsequently be granted.

One of the other issues that has been raised concerns delays to grid connections. Delays are sometimes caused due to aviation concerns coming into play. From my previous incarnation as a Scottish Minister, I know that these were often pertinent reasons that could delay an application. Even where planning permission and a grid connection contract are in place, there may well be delays due to the timing of the connection—for example, where there is a long wait for a significant line reinforcement and upgrade. I have had specific representations on that. I do not think that it would be helpful or proper to air those and name companies on the Floor of the Chamber but I will write to the Minister and I would be grateful if he would respond to the points made in that regard. That is the flavour of issues that we look to the Government to respond to when they bring forward their amendments. In the mean time, we are grateful to the noble Baroness, Lady Worthington, for flagging up these issues.

5.15 pm

Lord Cameron of Dillington (CB): My Lords, I support this group of amendments. I was not sure whether I would speak to this group or in support of the clause stand part Motion in the next group. I want to make a small but vital point and endorse the point touched on by others about the need for government consistency and clarity as soon as possible.

First, I declare an interest as a farmer and landowner, and also as a trustee of a trust in Scotland that has renewable investments, although no wind farms are involved. I also declare myself someone who would like to see the proper and ordered development of our renewable capabilities in this country.

It seems to me that it does not matter whether you are for or against wind farms, onshore or offshore—like the Government, you may prefer the more expensive and, to my mind, much more risky offshore wind. The point is that if a Conservative Minister can say in January that your investments are safe and that no changes in the rules are proposed, but then six months later the rules have changed, that undermines not only energy investment in this country but all investment. It makes banks run a mile. Say the Treasury had made promises to a car manufacturer to invest in northern England, and the investor spent millions preparing for the project on marketing exercises, planning and costings—I know from my own experience that preparing a project can often account for as much as a quarter of the total cost of a project. What if then the Treasury went and pulled the rug out and changed the rules? There would be a universal outcry—similar to that if a referee changed the rules in the middle of a game of football. To some extent, this is a game—an international game of investment. If we are going to compete economically, we must continue to be seen as a reliable country in which long-term investments are safe.

I admit that the Government's manifesto commitment on land-based wind farms introduces a mitigating factor, but as the noble and learned Lord, Lord Wallace, pointed out earlier, it is only a peripheral factor to this clause, which is why I am speaking in favour of this group of amendments rather than in the stand part debate. But we must get a firm investment background sooner rather than later, and these amendments bring a degree of consistency back to the table. None the less, it would have been better if the Government had produced their own paper on grace periods, as they promised to do before Committee.

Even if we agree the government proposals on grace periods next month, that may be too late for some projects even if they are eligible at that stage. The trouble is that they are dependent on banks and credit, and banks are naturally cautious and, in my experience, inordinately slow about getting their processes and procedures in place, and even about producing the money. It could be months before these eligible projects get the go-ahead to proceed or to reproceed with their investment.

I will not say any more, but we really must get the rules fixed as soon as possible and then stick to them. That also applies to the basic ground rules for CFDs in the future. Bearing in mind that it takes at least five years to prepare for these projects, bankers and other investors must know with certainty where they stand as opposed to the state of limbo the Government have left them in at the moment. I hope that the Government will be able to respond positively to these amendments and give us some hint of exactly when we are going to hear what their views are.

Lord Foulkes of Cumnock: My Lords, I have just remembered that I should have declared an interest earlier, as I did at Second Reading, in that I am a trustee of the Climate Parliament, a grouping of Members of Parliament from around the world concerned with climate change. While we were discussing this earlier, I got an email inviting me to the annual Scottish Renewables reception on 27 October in Dover House, which David Mundell, the Secretary of State for Scotland, is hosting. That should be a very interesting occasion given our debates today and previously, as well as those we will have subsequently. I am certainly looking forward to it, although I do not know whether David Mundell will be.

There is very little to add, noble Lords will be pleased to hear, to what has been said by my noble friend Lady Worthington, by the noble and learned Lord, Lord Wallace, and, particularly, by the noble Lord, Lord Cameron. I thought his arguments about investment and uncertainty were very powerful indeed. I have had a number of letters—I have no doubt other Members have too—of concern from people who have invested money in this area in good faith and really think that the Government have let them down. The noble Lord, Lord Cameron, put that very well.

I find it peculiar and worrying that the Government have taken so long to come up with any indication about what grace period or arrangements might be agreed. As I think the noble and learned Lord, Lord Wallace, said, I hope that the Minister will give us some indication that we will be told as quickly as possible, preferably well in advance of our sitting in October. I was disappointed to hear that it will be in the Moses Room. I hope that that can be looked at again and that it could take place on the Floor of the House, so that there is proper consideration of it. But wherever it is, I hope that we will know well in advance the proposals that the Government are putting forward and, even more importantly, that the industry and all those involved know of them well in advance. I know that my noble friend Lady Worthington and, I am sure, the Liberal Democrats will make it clear to the industry that we will go along with the Government if we agree with their proposals. That will give some degree of certainty to the industry. As I say, since so many good arguments have been made by the previous speakers, there is no need for me to repeat them.

Baroness Byford (Con): My Lords, perhaps I may make a small contribution. I apologise to other noble Lords that I was not able to be in the Chamber when the first amendment was moved, which is why I did not take part then. We come to an area on which I spoke at Second Reading: my slight concerns about the grace period and not having enough information on it. It would be remiss of me not to follow up on that. I have listened to the whole of the discussions on this issue.

I remind noble Lords that we are not talking about a few pennies here. In fact, at Second Reading the Minister rightly reminded the House of the costs. He said that:

"In 2014, operational onshore wind farms in Great Britain received in the region of £800 million",

which is a lot of money,

"under the renewables obligation",

and that the Government,

"would expect this to increase to £1.1 billion per year if, as expected, a total of around 11.6 gigawatts of onshore comes forward".—[*Official Report*, 22/7/15; cols. 1120-1.]

Because of that, and having listened to the various contributions on uncertainty, I would press the Minister to tell us as much as he can about where we are and how we are to proceed. That is the nub of the question. I do not think there was disagreement; perhaps some would like it to continue and be honoured for ever and ever. However, as I said at Second Reading, when new industries are being started, to me, government money is needed to pump-prime them. It is to start things and get them off the ground and once they are up and running, they should be able to come in at a cheaper rate. Looking to long subsidies was therefore not something I favoured.

I certainly hope that the Minister will be able to tell us a little this afternoon about the Government's plans for the grace periods. The noble and learned Lord, Lord Wallace of Tankerness, said that litigation might follow. I do not know whether the Minister has information on that, because it would be quite worrying. Maybe the noble and learned Lord can help me a little.

Lord Wallace of Tankerness: The point I was making was that if the Government had not done anything about grace periods, litigation might have followed. That is doubtless what has driven the Government to accept that there has to be a grace period.

Baroness Byford: I fully understood what the noble and learned Lord said and I took it on board, because clearly one wants to avoid that if we can. Nobody wants to end up there—not only because of the litigation but because of the delays it incurs, which other noble Lords have spoken to.

At the moment, I have slightly mixed feelings on this. In principle, I am quite supportive of what the Government are trying to do. In considering whether the approach should be different, in that a Scottish Minister should be able to decide, we should note that three out of four of these onshore wind farms are based in Scotland, so three-quarters of that money would be coming from England to support what Scottish Ministers might or might not decide to do. That is another debate we could have, but I hope the Minister can tell us more about the grace periods and when we are to receive more information.

I suspect that, like me, other noble Lords—and the Minister and his department—have found it difficult dealing with the Bill after the Recess in what is not the formal, long period for debate. We deserve greater clarification and, if the Minister cannot give it to us tonight, I hope it will be provided quickly in another of his wonderful letters that have kept us up to date with government thinking.

Lord Bourne of Aberystwyth: My Lords, I thank the noble Baroness, Lady Worthington, for moving the amendment. I hope to explain a bit about the Government's thinking on this area and then to address the points reasonably raised by noble Lords.

[Lord Bourne of Aberystwyth]

Clause 60 introduces a provision to close the renewables obligation to new onshore wind farms in Great Britain from 1 April 2016—a year earlier than originally planned. There are two key reasons why I believe that that is the right approach. First and foremost, I and the department are committed to delivering the Government's ambition to end any new subsidies for onshore wind while continuing to combat climate change. I appreciate that that is not something that all political parties or all noble Lords want, but I return to the point that there has been an election. I accept that things were said under the previous Government, but they were a different Government. It may be that the transition is more difficult because they were a coalition Government, but it should not have taken noble Lords entirely by surprise that this Government sought to make a change in this area. Secondly, the Government are committed to keeping domestic energy bills as low as possible.

With that context in mind, let me turn to the amendments. Their purpose is to clarify the terms of the grace period applying to the closure of the renewables obligation to onshore wind, specifically allowing those projects which had applied for planning permission as at 18 June—the date of the policy announcement—to continue to be able to accredit until the original renewables obligation closure date of 31 March 2017. In addition, the amendments would provide further detail about how the grace period would operate in certain planning scenarios and propose extra time for projects that have encountered difficulties in securing financing.

When my right honourable friend the Secretary of State announced the early closure of the renewables obligation to onshore wind, she also proposed a grace period to protect investor confidence, as I think noble Lords are aware. The proposal was to offer a grace period to those projects which, as of 18 June 2015, already have relevant planning consents, a grid connection offer and acceptance of that offer—or confirmation that no grid connection is required—and access to land rights.

At the time of her announcement, the Secretary of State also said that she wanted to hear the views of industry and other stakeholders before framing the terms of the legislation. As such, my department has been conducting an engagement exercise to understand whether our proposed grace period draws the line in the right place. This means balancing the interests of onshore wind developers with those of the wider public. That is what we are considering at the moment. We are still reviewing the feedback and evidence provided by stakeholders in order to inform our final policy position.

I am not in a position today to frame the final terms of the grace period, and it is not right that I should trail a running commentary on where we are, as I have been invited to do by noble Lords who, as I can understand, want to hear more. I must wait until the final terms of the grace period are fully thought through, following the conclusion of the department's analysis.

I appreciate the understandable wish that all this had happened earlier. The noble Baroness, Lady Worthington, the noble and learned Lord, Lord Wallace, the noble Lord, Lord Cameron, my noble friend Lady Byford and the noble Lord, Lord Foulkes, all expressed frustration at the fact that we do not know what the grace period proposals will be. I understand why I am being pressed on this, and I will ensure that the House has reasonable notice of the Government amendments.

I agree that 48 hours is insufficient and hope and believe that we can do better than that. If I may, I will provide a commentary on where we are on this by the usual letters if there is any difficulty with bringing the amendments forward in a timely way. I quite understand that the House wants to know exactly what the Government are doing or seek to do in this area. I confirm that we will endeavour to give appropriate, reasonable notice of the amendments ahead of the day and recommittal in the Moses Room.

5.30 pm

On the comment made by the noble Lord, Lord Foulkes, about it being in the Moses Room, it is interesting that there is a division on this within the House. When I discussed this with other noble Lords in trying to ensure that we got that extra day, some noble Lords—not on my side of the House—said that they would prefer it in the Moses Room. I am in a position of not being able to please everybody on that. I am afraid that, because of the government timetable on things such as the Scotland Bill, which the noble Lord will understand, it is not possible to have the extra day in the Chamber. However, I am sure that we will have a good discussion in the Moses Room on these issues.

On the specific issue of moving from planning consent to planning applications, I question whether that is the right approach—in particular, moving the grace period criteria proposed by the Government from projects that received planning consent to those that have applied for it. That would have fundamental impacts on delivering on the manifesto pledge and managing our low carbon spend—the two reasons for implementing early closure of the renewables obligation to onshore wind. Based on my department's analysis, this change to the grace period criteria could mean that anything up to 7.1 gigawatts or around 250 projects could accredit under the renewables obligation. That equates to the amount of projects that have submitted a planning application but not yet received consent.

Based on our analysis of the time taken for a project to progress from planning application to accreditation, it is highly unlikely that any projects that had not yet submitted a planning application on 18 June 2015 would intend to accredit under the renewables obligation. Therefore, the approach taken by these amendments would not in fact constrain the number of projects coming forward under the renewables obligation in any meaningful way and so would fail to deliver on our manifesto commitment. Furthermore from an affordability angle, because this change could allow anything up to 7.1 gigawatts of additional capacity to deploy under the renewables obligation, we would remain at risk of deploying beyond our best estimate of what we would need to meet our 2020 targets and what we can afford under our low carbon spending cap, which could add more costs to consumer bills.

On providing more time for those projects that encountered difficulties in securing financing, I reassure noble Lords that the department is thoroughly considering and taking on board the matters raised during the engagement exercise, including those in relation to investor confidence and access to finance. As I said previously, I will confirm a position in relation to the terms of the grace period ahead of the onshore wind clauses being recommitted to the House in October.

The noble and learned Lord, Lord Wallace, raised the issue of aviation difficulties and the radar delays. As part of the existing renewables obligation closure arrangements, the Government confirm plans to offer projects that were subject to unforeseen grid or radar delays a 12-month grace period to enter into the renewables obligation until 31 March 2018. We expect that to remain in place for projects eligible for the grace period, but have not confirmed our final grace period proposals. I am trailing a bit of information that I hope is of use to the noble and learned Lord—and contrary to my saying earlier that I would not give a running commentary. I appreciate that this issue concerns noble Lords and I well understand that concern. On that basis, I ask the noble Baroness, Lady Worthington, to withdraw the amendment.

Baroness Worthington: My Lords, I am grateful to the Minister for his comments and for the contributions from other noble Lords. As I said, we will have the opportunity in the next debate to discuss the principle of this clause. Here, though I am tempted not to, I will keep my comments to the grace period issues. I am very grateful to the Minister for giving us an assurance that he will give us sight of those amendments with more than 48 hours' notice. That would be absolutely correct. The noble Lord may find it annoying to keep us posted with a running commentary but it is not as annoying as we find having to respond to huge amounts of information that is very delayed and late.

Lord Bourne of Aberystwyth: I hope I did not give the impression that I find it irritating to give a running commentary. I do not. It is absolutely appropriate that I should and, as I indicated, I am very happy to do so on where we are on the grace periods. I indicated that I will seek to ensure that the House has reasonable notice of those amendments. Furthermore, I will give an indication that we are or are not on course for that. I hope it will be the former case.

Baroness Worthington: I thank the noble Lord. The grace period is incredibly important. We are talking about sunk costs of hundreds of millions of pounds that people have put in, in good faith, on the back of the Energy Act 2013, which has been changed rather intemperately with very little notice and no consultation. You can see why people are concerned about getting the detail and getting it early. We have had two months since the Bill was introduced in which to have these amendments come forward, and it is regrettable that we still do not have them.

As I said, the next debate will give us the opportunity to discuss the broader context and particularly the impact assessment and what it tells us about the logic and rationale for this more generally. Given that we will have the opportunity to discuss these amendments in the Moses Room after we come back from recess, and that we will have good early sight of them, I am happy to withdraw this amendment.

Amendment 34B withdrawn

Amendments 34C and 34D not moved.

Debate on whether Clause 60 should stand part of the Bill.

Lord Wallace of Tankerness: My Lords, we gave notice that we would seek to oppose that Clause 60 stand part of the Bill as an opportunity—one already foreshadowed—for a general debate on the merits of the proposal that no renewable obligation certificate should be issued under a renewable obligation order in respect of electricity after 31 March 2016 by an onshore wind generating station accredited after that date, in other words a year earlier than the established timetable that coalition Ministers signed up to.

I take the point made by the noble Lord, Lord Howell, although my noble friend Lord Teverson effectively rebutted it. Of course one does not wish to pour money in to help profiteering or have dead weight. However, it is very clear that the coalition agreed that the renewable obligations for onshore wind and others would cease on 31 March 2017. It is bringing that forward by a year that gives rise to such consternation in the industry. It is an understatement that the announcement, made just over 10 months before it takes effect, has caused widespread dismay in an industry in which, by its very nature, there will always be very long lead times. One developer who wrote to me said,

> "Unilateral changes to policy have impacted upon investor confidence and the sector will without doubt see retrenchment that will result in a loss of jobs and growth in Scotland and around the UK. The loss of clean, affordable and secure energy is coupled together with a loss of investor confidence in the UK Government's willingness to remain as a reliable, long term partner for infrastructure developments, that often take upwards of five years merely to bring to a planning application stage."

That reflects what the noble Lord, Lord Cameron of Dillington, said on the last amendment. It is not just with specific regard to wind power that this change at relatively short notice can have an impact. All the sources of renewable generation of electricity have long lead times. There will now be a question mark over each of them as to whether the Government, if they are capable of changing policy at very short notice in respect of onshore wind, will also change it in other developments. Inevitably, that could have a chilling effect on these developments.

It is interesting that the *Renewable Energy Country Attractiveness Index* published by Ernst & Young in June indicated that in terms of onshore wind the rankings for the United Kingdom had gone down from eighth to 11th. I think that was in the course of just one year. It noted that onshore wind was quickly becoming one of the country's cheapest sources of energy. The Government's intention to withdraw support for onshore wind therefore contradicts their pledge to reduce emissions at least cost; energy prices could be

[Lord Wallace of Tankerness]
pushed up as more expensive sources such as offshore wind are used to fill the capacity gap as onshore wind projects fall away. Of the many sources of renewable generation of electricity, possibly with the exception of hydropower, onshore wind might be said to be the most mature.

I indicated in an earlier debate that 75% of these developments are in Scotland, which directly employs more than 5,400 people. They generated more than a third of Scotland's electricity needs in 2013 and are driving billions of pounds of investment to allow the United Kingdom to meet its renewables and climate targets. What concerns us about this clause is the threat to business confidence, to jobs and to the prospect of the United Kingdom meeting its climate targets.

With regard to business confidence, I have already indicated that what can happen in one sector can happen in others. The conclusion of the Ernst & Young survey of lender attitudes to the early closure of renewable obligations support mechanism and a survey undertaken for Scottish Renewables published over the weekend states:

"Raising project finance for UK onshore wind RO projects has become more complex, more expensive and increasingly more difficult since the early closure of the RO and supporting grace period. As a result there are fewer banks willing to lend to UK onshore RO projects. Those that are considering lending are seeking better terms and some form of mitigation against the situation with no ROC revenue; and as we move closer to the RO accreditation end date, the ongoing uncertainty makes it harder for projects and sponsors to raise senior finance".

So there would appear to be an issue of business confidence. The Minister said in an earlier debate that the Secretary of State had met the developers and assured them that wind power would continue. He mentioned in another context that there would continue to be community developments. The sense I am getting is that this is not the cast-iron guarantee that he indicated the Secretary of State's approach seemed to be. There is also the question of the position on onshore wind power with regard to future CFDs and, in particular, when the next CFD will be. If business confidence is damaged there is inevitable damage to jobs and the industry as a whole. RenewableUK said the changes to financial support for onshore wind threatens survival of the industry in the UK and 19,000 jobs supplied to the sector.

One cannot readily understand why a Conservative Government, who purport to be business-friendly, are threatening what has become a very important business in the United Kingdom over recent years. The purpose of this debate is to try to flush out the Government's expectations. What reasonable expectation can the industry have that onshore wind will be included in a future CFD round? Can the Minister give an indication when that will be? We are always told that one of the reasons for doing this is to drive lower consumer bills. I cannot fathom why you would prejudice the renewable technology sector, which is likely to deliver most and is becoming steadily cheaper? If you take out onshore wind, solar and hydro, then you are looking to the more expensive options such as offshore wind, tidal power and wave power—developments that I would very much support, but which I readily acknowledge would be far more expensive. Nuclear power is often the Government's other option, but we hear that Hinkley Point is probably looking as far ahead as 2027 before that is actually commissioned and, again, it is more expensive than onshore wind. I believe that there is a threat to our climate targets.

The fourth carbon budget, published in December 2013, set out the requirements on decarbonisation including projections on how to decarbonise electricity by 2030, which the climate change committee says is necessary to maintain the most cost-effective path to the low-carbon economy. It set out four scenarios and it looked at the high and low scenarios in favour of nuclear and wind. If one takes out onshore wind, which is not going to reach its expected level because of the lack of developments from this measure, and if we believe that the contribution of nuclear is going to be very delayed, how do the Government think they will meet these decarbonisation targets? Uncertainty impacts on a whole range of renewable technologies and it would be useful in this debate if the Government gave the House a clear indication as to how they see the road to a lower carbon economy, given that they are taking away support for the cheapest option and will have to rely on the more expensive options.

The Government talk a good game—they talk about going to the Paris climate change talks and wanting to give leadership. But it is difficult to see how leadership can be given when the practice is to undermine some of the very measures that would allow us to move forward and meet our renewables targets. Therefore, if the Government are to give any leadership at all in Paris, and have any credibility there, they must set out very clearly how they see the components of their renewables strategy as we move forward. On the back of this particular clause I do not think that any of us have much confidence that they will do so.

5.45 pm

Viscount Ridley: My Lords, I kept my powder dry on the general points until now, which ran the risk that some of the points I would like to make have been made, particularly by my noble friend Lord Howell, and very eloquently. I would like to encourage the Minister to stick to the manifesto promise to get rid of onshore wind subsidies, to stand up for consumers and not to do the bidding of what is, effectively, a crony capitalist industry addicted to state subsidies.

The Government wish to pursue decarbonisation without making energy either unaffordable or insecure. We have heard this many times as the principle behind both the Government's and the Opposition's stance, but, like the Minister, I am curious to know what the Opposition's stance will be after this weekend. Wind simply does not help in this regard; it is not solving the trilemma at all. It is putting up energy costs, reducing energy security and failing to make a significant dent in emissions.

The fact is that the increased onshore wind production of recent years has failed to make any measurable reduction in carbon dioxide emissions, due to significant, intractable problems of intermittency, location and energy density. We know that the best way of cutting emissions is for gas to replace coal and, indeed, for

coal to go to supra-critical use, which is much more efficient. That is not happening in this country because nobody wants to invest in new up-to-date combined cycle gas because wind is dumped on to the system at zero marginal cost. As a result, no new CCGTs are being built because the economics of operating them has been destroyed. I challenge those who support these amendments to give me a number in tonnes or percentages of emissions that have been reduced as a result of the wind power that has rolled out already. I cannot find such a number and it is impossible to say that it is significant at all.

I, too, like the noble and learned Lord, Lord Wallace of Tankerness, had a letter from a wind company saying that wind energy is clean, affordable and secure. I am sorry, but I do not think it is any of those things. It is not true to say that it is cheap. The industry keeps saying that it is the cheapest form of renewable energy, but that is wrong. We know hydro is cheaper, as the noble and learned Lord, Lord Wallace, said.

Besides, a lot of the cost of onshore wind is still hidden. The Department of Energy and Climate Change has not used a total-systems approach in its cost modelling. In other words, it does not factor in the costs of transmission, grid integration, back-up during periods of intermittency, and so forth. The department appears to understand this as it has recently commissioned Frontier Economics to undertake a study into the true costs of energy generation by wind. It would be wise for the Government to wait for the outcome of this research before providing any more financial support to onshore wind.

The wind industry is, as my noble friend Lord Howell said, a Hood Robin industry: it takes money disproportionately from the poor, for whom energy bills are a larger proportion of spending, and gives it largely to the rich, in the form of landowners or investors. A lot of the money in wind is sheltering from inheritance tax through business property relief, as we learnt in this morning's papers, which is something only rich people need to do. Does the Minister share my amazement that this monster of regressive redistribution was invented by Ed Miliband, encouraged by the Lib Dems and may or may not be supported by Jeremy Corbyn's Labour Party? This is yet another case where the Conservatives are standing up for ordinary people, while the left looks after the interests of the metropolitan rich.

It is just not true to say that onshore wind is clean. True, it emits no smoke or effluent here, but the rare earth metals in a wind turbine's magnets, roughly a tonne of neodymium per turbine, are mined and refined in China in one of the most polluting industries on earth, and the steel in the turbine's tower can only be made using coal.

We have not solved the problem of adding an intermittent source of supply to the electricity grid. The very large amounts of wind generation currently being added to the system are not solving the security problem. In fact, they are the problem. In other words, the greater the percentage of electricity from wind in the system, the more some other kind of quick-response generation is needed, and this often means keeping old, fossil-fuel stations going.

It is worth reiterating that the Secretary of State has confirmed that the UK has enough onshore wind projects in the pipeline to meet the 2020 renewables targets, so there is no need to offer any further financial incentives.

Finally, the noble and learned Lord, Lord Wallace, and, with respect to the previous amendment, the noble Lord, Lord Cameron, said that the wind industry needs certainty. Like me, the noble Lord, Lord Cameron, is a farmer. Farmers would have loved some certainty about the wheat price earlier this year. It plummeted, and we had no warning at all. To argue that this industry peculiarly needs certainty when others do not is not fair. Once a subsidy is in place, it should be possible to withdraw it. Otherwise, if we say that we are going to withdraw a subsidy, people will always respond that they have not had time to adjust to that. I hope the Minister will confirm that he will stand firm against this attempt to keep electricity more expensive, more unreliable and probably no less carbon-intensive.

Lord Howell of Guildford: My Lords, I declare my interests, as I did on earlier days in Committee, as president of the Energy Industries Council, chairman of the Windsor Energy Group and adviser to industries and investors concerned with energy as in the register. I echo what the noble Lord, Lord Foulkes, said earlier. The noble Lord, Lord Bourne, has been exceptionally helpful in the way he has circulated and kept us all up to date with the evolution of government thinking. I realise that this is a changing situation, and even when we have finished with this legislation, we will be looking at further changes in the pattern of energy and energy support, and in world, European and national perceptions of how best to move towards meeting the challenge of climate change and lowering emissions globally, which is itself a matter of constant debate.

The noble Lord, Lord Cameron, was right to say that investors need certainty. Of course they do. Investors always long for maximum certainty, minimum risk and nice returns. That is nirvana for investors, but when investors or their advisers are dealing with projects and commitments of finance that depend on government support and state subsidy, a certain degree of sagacity and caution is called for. I make a distinction between specific projects where one of the partners is the state or the Government. They must go forward in a legalised, contractual form and should not be departed from. It would be an appalling act of arbitrary sequestration for such things to change. It has happened, I am afraid, but it is not something I wish to see from a British Government. One expects the funds that have been promised by Governments to be given.

When it comes to a commitment to an apparently unending pattern of subsidy heading into the future, the noble and learned Lord, Lord Wallace, reminded us that the coalition Government had an idea that this sort of subsidy should end. When it comes to investing in something where you will depend on the continual supply of taxpayers' money, sensible investors ought to be very cautious. Governments change, as my noble friend reminded us, and technological changes change the basis on which the original subsidy policy was evolved. Moods change, and—dare I say it?—even

[Lord Howell of Guildford]
science changes. I would not go as far as Cardinal Wolsey, who lay on his deathbed saying, "Put not your trust in princes", but there has to be a sensible assessment when an investment is profitable simply because taxpayers' money is promised to it for a long period into the future. There has to be a sensible assessment by the investor, the entrepreneur and the project organiser of how it is going to stand up and how big a risk is being taken. It may be that people see that they can pop in with short-term investments and hope to get out before the policy changes, but that does happen, and a certain realism is required. I agree with the noble Lord, Lord Cameron, that ideally all investors would love total certainty about their returns for ever, regardless of the source.

The noble Lords who gave notice of their intention to oppose Clause 60 standing part of the Bill want subsidies to go on or feel that they should not have been curtailed in the way they have been, even though, as my noble friend Lord Ridley pointed out, the pipeline is full, which is language for saying that the amount of subsidy element that has been assigned for this has reached its peak in terms of political reality, common sense and our obligations, whether imposed through our Climate Change Act or through conformity with European objectives. Noble Lords think the subsidy is gone, but my question is: when will the subsidies cease? If this is a mature industry, at what point does a mature industry cease to need a very substantial degree of subsidy, quite regardless of the point we made earlier that the subsidy tends to end up in very well-lined pockets and costs a lot for those who can least afford it? As my noble friend Lord Ridley said, onshore wind electricity is still expensive. It is true that it is not expensive compared with offshore, but when you add in the roads, the system costs, the requirements for integration and balancing in a very complicated electricity system and all the other items that my noble friend itemised, we are not talking about cheap electricity. One day, it may be so; one day, onshore, and possibly offshore, will be able to get costs down to competitive rates, possibly to lower rates than anything that is likely to come out of the latest nuclear project from EDF at Hinkley, which has an enormously high rate for 35 years to come. I hope that long before then wind power electricity will be considerably cheaper than anything that EDF is planning, but that still will not make it cheap. We are heading for a major glut in gas production; we can already see that from the fall in oil prices. As gas prices are related to oil prices, the barrel of oil equivalent of the gas price will, for many years to come, be not at all expensive and probably low. Compared with all that, these renewable sources, which have their place, which must contribute and which I support, will remain expensive. In other words, someone has to pay for them.

Lastly, the noble Baroness, Lady Worthington, has alleged, I think along with others, that there is a contrast between the need to restrain further subsidies—not to halt the development of onshore wind, because if it can get its costs down and, as I mentioned earlier, if many investors believe that they see tax advantages in it, it will go on, even if the subsidies are withdrawn and we close off the renewables obligation completely—and the Government's attitudes to fracking. I hardly dare mention fracking because almost anything one says in this very controversial area gets wildly distorted. If fracking proceeds in the UK—I say "if" because oil is at $50 and likely to become lower, with many people now talking about $25 and $30—the investment attraction of gas or oil extraction by hydraulic fracturing will, frankly, not be great. It could become an additional gas source to the many already available to us. There is LNG, obviously, and Norway is willing to pipe us a lot more gas, while even the Russians want to sell us gas direct through their Nord Stream pipeline extension. If all those ifs fall into place, we will have gas.

6 pm

Why is that an advantage and not inconsistent with restraint on further onshore wind power? Simply because gas is needed at present to make wind power work. Without back-up from combined-cycle gas turbines, which are not being built at the pace that we want—indeed, they are hardly being built at all—wind power cannot deliver. It can get into the system when the wind is blowing at a nice moderate level, but when it is blowing too strongly or not at all the generators cannot contribute and gas has to take the load. So gas and wind live together at present. The day will come—this may be soon or a long way ahead—when storage is so effective for intermittent onshore electricity, and for offshore electricity, that we do not need back-up facilities. At the moment, though, the nation needs facilities to ensure that there is a reasonable chance that our electricity system remains reliable. There are even doubts about that; there is a very awkward story in this morning's *Financial Times* about the way our margin next winter will be reduced to 1.2 gigawatts, which is the lowest margin for years of the surplus available if something goes badly wrong in the system.

So for years ahead, possibly decades, we will need an effective marriage between adequate gas supplies from somewhere and the effective operation of wind power and the wind sector. That is why I think the amendment is sadly misplaced and why the Government should certainly stick to their line and, I hope, develop a more robust pattern of energy and climate policy that delivers the emissions reduction needed to be an example to the Chinese, the Russians, the Indians and all the other places where this will really be decided, and at the same time maintain and deliver reliable electricity and what we certainly do not have at the moment: affordable electricity. We have one of the most expensive patterns of electricity in Europe, if not the world, and our industry needs cheaper power while our poorest families need lower energy bills. These are worthy social and economic aims, and we should give them a proper balance and a proper place in our energy policy.

Lord Teverson: My Lords, perhaps I may intervene on a couple of those issues. The noble Lord, Lord Howell, completely forgets about the demand side in demand response management. That will become a lot simpler and more important as time goes on. No other part of economics that works properly in this world concentrates only on supply and ignores demand. That is one of the real challenges in policy-making, and it is starting to move forward.

On investment and guaranteed returns, I agree. When people investing in renewables sometimes complain about what is going on, I often compare the energy system to the common agricultural policy, as was, and say that this is heaven: there are guaranteed prices out into the future. Why do we do that? Because it is recognised that the Government are not going to invest, CEGB-wise, as they did in the old days. The biggest component in that conversion is capital costs. The biggest way you can make a difference to the cost of high-capital-intensity energy—not just renewables but nuclear and a lot of other technologies too—is by keeping the cost of money absolutely down. That is a decision that we make for good policy reasons: to keep the cost of energy as low as possible because the capital costs and cost of financing are as low as possible.

The noble Lord asked when we will get to a point where we stop subsidising. I suppose the answer is when we start charging fossil fuels the cost of the pollution that they put into the atmosphere and what they are going to cost future generations who will have to cope with climate change—next to the migration issues that they will face in the future, what we have now is nothing—along with all the issues and costs that there will be around it. When fossil fuels count that back into the present cost, that is how a realistic carbon price can be arrived at, as is often talked about on all sides of the House. That is one way of doing it but we have not managed to do it sufficiently. The Chancellor in the previous Government decided to cap the carbon price floor where it was, so that policy has been blocked as well. Those are some of the answers to the noble Lord's questions. Are we left with a perfect world? No, we are not. That is why we have a mixture of technologies at the moment to try to drive this agenda forward, so that we move towards a sane and safer future for us all.

There are two important points here. First, I am probably on the same agenda as the noble Viscount, Lord Ridley, on the gas side, but the way to get gas into this equation is to take coal out of it. That is the most important thing that we can do, as Dieter Helm often preaches at us as policymakers. So that whole area needs to be taken into consideration.

Secondly, it is one of the ironies that through this legislation we are throwing away one of the cheaper, though admittedly not perfect, technologies. Yes, there is variability in wind power. As I have said many times in this House, I can see many wind turbines from my own house. Do they ever stop? Hardly ever but, while it is not intermittency, I agree that there is a high degree of variability. However, I remember a government statistic from about five years ago, when we had started going through the alternative planning system for major infrastructure projects in the Moses Room. This was a time when wind power did not make up the proportion of energy generation that it does now and then the utilisation of the total UK fleet of generators—sometimes we make it sound as if it were something like 90% to 95%—was in fact 50%. So we have major redundancy even within our conventional power systems. Some of these arguments can be rather exaggerated.

Viscount Ridley: Before the noble Lord sits down, I wonder if he could answer the question that I posed: how much has wind power reduced emissions by? If you take into account the full integration costs and the fact that, as he has just said, we have been unable to drive coal off the system with gas because gas does not want to come on to the system because of wind, it is very hard to argue that there has been any significant reduction as a result of wind power.

Lord Teverson: I absolutely agree about the failure of gas to drive out coal. That is why I have been a major advocate of emissions performance standards, which we brought in with the Energy Act 2013, but we have delayed actually doing that. I wish that I had the numbers with me. My noble and learned friend is showing me a document but I do not have my glasses on, so I hope I will be forgiven for not being able to read it. I do not know what the CO_2 figure is—I am sure that government documents from DECC have said what it is and I shall have to look it up—but I am absolutely certain that through the increase in the proportion of energy transmission through renewables the levels have gone down, because renewables, which are zero-carbon technologies, are a much bigger proportion of our generation. Over the same time, I am pleased to say that energy efficiency has gone up by 2% per annum, or whatever the figure is. I look forward to finding out that information and informing the noble Viscount. I do not necessarily recognise a lot of his figures within the context of what he is talking about but I am sure that they are as good as any quoted in the House.

Baroness Worthington: My Lords, I am grateful to the noble and learned Lord, Lord Wallace, for opposing the Question that the clause should stand part of the Bill. It is tempting to engage on the many points that have been made about the principle of onshore wind in general, but I would rather stay focused on Clause 60 and say why I have a great deal of sympathy with the noble and learned Lord's proposal that it should not form part of the Bill. That is mainly due to the process by which the Government have conducted themselves. I do not wish to misquote the Minister but he said that he needs time to think things through in relation to the grace period, and that is quite a telling statement. It is clear to me that this clause has not been fully thought through and that it has been put in hastily, without due consideration of the full implications and without due consultation. For those reasons, I am very supportive of the idea that we should simply take the clause out, do the thinking and consulting, and then come back with something that is fit for purpose.

With regard to things being fit for purpose, during the course of the Bill we have had exchanges about the impact assessment. We now have an impact assessment in relation to this clause, but I have to say that it was not exactly worth waiting for. It does not cover some of the most important issues in enough detail. It is incredibly lacking in proper detail in its attempt to make a net present value calculation of the implications of introducing the clause, and I find that it has significant weaknesses.

[Baroness Worthington]

My overall impression is that the department is building the aeroplane as it takes off from the runway and that not enough thought has been given to this clause. It all seems to hinge on two words in the Conservative Party manifesto: "new" and "subsidies". There is a great deal of subjectivity in interpreting the phrase "new subsidies". It cannot be claimed that the RO is a new subsidy—it has been in existence for a number of years—and it cannot be argued that the RO provides, in the words of the noble Baroness, Lady Byford, subsidies for ever and ever. It does not do that. It does not create an unending subsidy. The RO is closing. It will close, as we agreed in the Energy Act 2013, in March 2017. That is not far away—in the grand scheme of things, it is about 12 months. In their haste to generate some kind of political benefit from this attempt to destabilise onshore wind, in those 12 months the Government are destabilising investment across the energy market, and that is deeply regrettable. I am very grateful to the noble Lord, Lord Cameron, for stating the wider implications of what the Government are doing here. There is a question of how we deal with industry and how we encourage people to invest in the UK.

I raised a general point about my disappointment with the impact assessment. I made it clear in a letter to the Minister and on the Floor of the House that we wanted to see the impact assessment properly make the case for the Government's concern about the levy control framework running out of money or not having sufficient money. I am afraid that there is insufficient detail in the impact assessment. It does not give us any sight of the Government's numbers on this or explain why they are so concerned.

More than that, the impact assessment makes me fear that the department does not even understand the energy policy that it is governing. When it comes to considering the benefits and costs of this intemperate change to policy, which was changing anyway, it considers only the positive benefit of a reduction in resources—by which I assume it means the amount of money that has been spent on onshore wind—and then it sets against that the increased cost of the EUA purchases. It makes very precise calculations over a period of 24 years to 2040. I am in the business of monitoring the carbon market in Europe and not a single analyst can give you any degree of confidence about the numbers relating to the carbon price over that period. I am afraid that the table on page 15 is really a work of fiction.

6.15 pm

Of more interest are the non-monetised impacts on pages 16 and 17. They are numerous and quite significant, and they have been completely omitted. Paragraph 4.22 raises the risk of our missing the 2020 renewables target. It gives all of five lines to an issue that is going to see us on a collision course with Europe. We have signed up to legally binding targets and we are going to miss them because we are tying our hands behind our back and removing one of our most successful industries which would help us to meet those targets. We will talk about that more when we come to subsequent clauses. The fact that the impact assessment does not even mention that that will have a cost seems highly regrettable. It is not just the fact that we may be fined, which we may well be; we have seen in the press intimations that the Government will simply purchase their way to compliance. That will incur a cost. The fact that that is not even mentioned makes me wonder whether we have officials who are across the detail of what they are currently doing. It also means that the Minister has to look at this issue in the round and put it in the wider context.

There are sufficient concerns about this element of the Energy Bill for it to be right and proper to ask for it not to be part of the Bill at the stage, and I have significant sympathy for those who oppose the clause. We now need to hear from the Minister. I will go back to my team and consult it on what we can do about the absence in the impact assessment of the information that we have requested. I have referred to the fact that there is no mention of the LCF assumptions upon which this is all predicated and to the rather partial and, I think, very substandard monetisation of costs. There is insufficient detail. At one point, the impact assessment says that there is too much uncertainty to include the impact on jobs and inward investment. There is uncertainty across every element, not least the one thing that has been monetised over 24 years.

I am afraid that the impact assessment is not a very good piece of work. I am sorry that we have had to wait so long for it. Had we had it earlier, we might have been able to raise our concerns earlier and have had more information about the clause from the department. It is a very controversial clause and it is highly politicised. This Bill is starting in the Lords and it should therefore, by convention, be uncontroversial. This is not uncontroversial and, as I said, I sympathise with the opposition to it. I look forward to the Minister's response.

Lord Bourne of Aberystwyth: I thank the noble Baroness, at least for her very last point about how she is looking forward to my response. I thank the noble and learned Lord, Lord Wallace, for tabling his opposition to the clause, as it provides me with the opportunity to explain why Clause 60 should stand part of the Bill. I will then turn to specific points made by noble Lords during the debate.

Clause 60 would close the renewables obligation to new onshore wind projects in Great Britain a year earlier than originally planned. On the one hand, we had some noble Lords saying that it is only a year; on the other hand, we had some talking about it as though it were the end of civilisation as we know it. Therefore, there is something of an inconsistency in some of the arguments being deployed.

There are two key reasons why I believe that closing the RO is the right approach. I should say, first, that onshore wind will remain important and will remain massively deployed. We will spend more on onshore wind next year than we are spending this year, so, again, that needs to be accepted. Jobs are, and will continue to be, provided by that industry. Perhaps I may pick up on one point about jobs uncertainty. It is because we are still considering the situation in relation to the grace period that we are unable to say with any degree of certainty what the jobs position will be.

First and foremost, I am committed to delivering on the Government's ambition to halt the spread of onshore wind while continuing to combat climate change. Secondly, it is essential that the Government keep domestic energy bills as low as possible for consumers and act when necessary to ensure that costs are contained and remain within our low-carbon spending cap. That is not to say that the Government do not recognise the need to strike the right balance in taking developers' interests into account when implementing this policy. I have indicated what we are doing in relation to the grace period and the engagement exercise that my right honourable friend the Secretary of State is engaged in. I will explain this further in due course.

Let me set out why the Government are taking the necessary steps to close the renewables obligation to new onshore wind projects. The Government's ambition for onshore wind was made very clear within our manifesto. I know that many noble Lords understandably regret the outcome of the general election, but there was a general election; it was a manifesto commitment and, of course, we remain committed to implementing it. That is what democracy is about. The essence of that is choice and people made their decision. As such, we now have the mandate to halt the spread of subsidised onshore wind. Clause 60 aims to deliver part of this pledge by closing the renewables obligation to new onshore wind from 1 April 2016—a year earlier than originally planned.

I would like to provide reassurance to noble Lords that by taking this step, the Government are not shying away from their commitment to tackle climate change. We are confident that we can meet our 30% renewable electricity ambition by 2020 without additional onshore wind, other than that already deployed. Indeed, we are running ahead of the projections.

Baroness Worthington: We will consider this matter later but it is simply not true that we are ahead of our European renewables target. That target relates to all energy and we are not on track in regard to it.

Lord Bourne of Aberystwyth: I hope the noble Baroness will agree that we are on track in relation to the electricity ambition.

Lord Teverson: The obligation relates not to electricity but to energy. There is no electricity obligation of any kind.

Lord Bourne of Aberystwyth: My Lords, onshore wind has deployed successfully to date and is an important part of our energy mix. Our analysis demonstrates that when we take early closure of the renewables obligation into account we still expect total UK deployment of onshore wind to fall within our *Electricity Market Reform Delivery Plan* projections of between 11 and 13 gigawatts by 2020. This is our best estimate of what we would need to meet our 2020 targets and what we can afford under our low-carbon spending cap. In fact, the department's projections relating to the 18 June announcement estimated that by 2020 onshore wind deployment, in the absence of intervention, could be between 12 and 15 gigawatts. The upper end of this range is significantly higher than the 11 to 13 gigawatts set out at the time of the delivery plan. Without any action, we could deploy beyond this range. As the 18 June announcement made clear, we therefore considered it appropriate to curtail further deployment of onshore wind, thereby balancing the interests of onshore wind developers with those of the wider public.

This takes us on to my second point: affordability. My noble friend Lord Ridley referred to the trilemma and the fact that the Government are seeking three things, as the previous Government did: to ensure affordability, security and carbon-free. That very much remains the aim. Tackling climate change must be done in a cost-effective way. We want to ensure that consumer energy bills are kept as low as possible while we cut carbon emissions.

The Government have provided vital financial support to the renewables sector, which has helped new and innovative technologies, reduced our emissions and increased the amount of low-carbon electricity that powers homes and businesses across the United Kingdom. In short, subsidy is necessary to give some impetus to development, and that is what we have done, but we have to keep the costs under review and control.

However, the Office for Budget Responsibility's latest projections show that subsidies raised from consumer bills are currently set to be higher than expected when the schemes were set up under our low-carbon spending cap, the levy control framework. This is due to a number of uncontrollable factors, including lower than expected wholesale prices and greater than expected renewable generation. The revised levy control framework forecasts indicate that spending in 2020 is projected to be £9.1 billion in 2012 prices for low-carbon generation. The Government set a limit of £7.6 billion. As such, the current forecast is £1.5 billion above that limit. These additional costs could be met through increases in consumer energy bills. It is therefore only right that we now look at ways to protect value for money and affordability under the levy control framework. My department has announced a package of measures to deal with the projected overallocation of renewable energy subsidies. The onshore wind measures are therefore part of a co-ordinated approach to managing spend under the levy control framework.

Baroness Worthington: I am sorry to interrupt but this is an important part of the Bill. Can the Minister explain how it will be possible to spend less under the levy control framework by removing the ability for more and cheaper renewables to come forward? Either we miss our European targets or we will be using more expensive renewables to hit our targets, which will run through the levy control framework even faster. I simply do not understand how one can use the framework as a reason to remove one of the cheaper forms of renewables. If affordability is our goal—which I agree it should be—then surely we should enable technologies to compete fairly on price and not rule out some of the cheapest versions.

Lord Bourne of Aberystwyth: On that specific point, the noble Baroness will know that the costs of deploying some renewable technologies is falling. That is certainly true of onshore wind; it is also true of solar. It is

[Lord Bourne of Aberystwyth]
important but I have to say to the noble Baroness that, in reaching our decarbonisation targets, nuclear remains a vital part of the mix. I see that she agrees and it would therefore be interesting to hear at some stage whether the Opposition are committed to backing the Government in relation to that important point, as they have done previously.

That brings me to the issue of investor confidence. It is a fair point to make. I can understand that there is a need for certainty but it must be balanced against the need to get it right in relation to the grace period. That is why we have taken somewhat longer than expected and why we are to have recommittal to a fourth day in the Moses Room to consider that issue. We cannot rush engagement on the grace period and get the intention right in relation to investor confidence. I come back to the point that no one should have been taken by surprise that the Government were going to alter the position in relation to onshore wind; it was in the manifesto. I do not therefore accept the uncertainty argument that somehow people are taken by surprise. I have indicated that we will bring forward amendments on grace periods and will ensure that noble Lords receive them in a timely manner, ahead of the recommittal stage in the Moses Room.

I shall seek to deal with some of the points made by noble Lords. The noble and learned Lord, Lord Wallace, rightly said that business confidence was an important part. I agree and I hope that I have dealt with how we regard that as important, but we want to get it correct.

My noble friend Lord Ridley made telling points about how we have to balance interests in relation to the trilemma and our commitment in the manifesto. He reminded us of the fact that there are sometimes no easy ways in which to deliver, even in relation to onshore wind. As he said, there are carbon costs and costs in relation to the manufacture of turbines and so on. There are no easy answers.

My noble friend Lord Howell correctly reminded us of the need for back-up facilities, which takes us back to nuclear. Many renewables are intermittent in nature and we therefore need back-up to them. That point was well made.

The noble Lord, Lord Teverson, correctly said that there were things to be done on the demand side that were not in the Bill. I accept that but I can reassure him that work is continuing in the department on innovation, improvements in white goods and regulation. The important programme of smart meters, which started under the previous Government, is continuing apace. All these are important points that we take on board.

I accept the point that the noble Baroness made: this is a political position—there is no doubt of that. It was a difference between parties in their manifestos. On that basis, I remind noble Lords that it was in the manifesto and therefore respectfully beg that this clause should stand part of the Bill.

6.30 pm

Lord Wallace of Tankerness: The Minister has indicated that a justification for the position is to reduce domestic consumer bills. That is not an unreasonable thing to try to do. However, I just want to make sure that I understand the impact assessment. On the second page, it says:

> "Reduced risk to LCF from over-allocation of renewable energy subsidies, and benefit to consumers from reductions in consumer energy bills (in 2016/17 average household electricity bills could be up to £3.40 (0.6%) lower, with a central estimate of around £0.30 (0.05%), compared to the Do Nothing option) (2014 prices)".

I am more than ready to stand corrected, but am I right in thinking that the central estimate of the Government in this is that this measure will save 30p in an annual domestic electricity bill?

Lord Bourne of Aberystwyth: The noble and learned Lord has correctly identified the part of the impact assessment that deals with this. It could be a saving of up to £3.40. I accept that that is not a massive amount, but it has to be taken account of in the context of the fact that we are seeking to keep within the deployment estimates that we put forward. I do not think it should be sniffed at: this does not appear, on the face of it, to be a massive amount, but it makes quite a considerable difference to some consumers that we are reducing bills by that amount. That is what we are seeking to do and I make no apology for it. However, that is only part of the consideration.

Baroness Worthington: As I said, the impact assessment is really rather lacking in detail. It may make those assumptions, but it does not give any detail as to what the ingoing parameters are on those numbers. If instead of onshore wind we build offshore wind to compensate for the lack of delivery on the target, there will be a net increase to customers' bills under this clause.

Lord Bourne of Aberystwyth: I accept that obviously there is a question about what is used instead. However, I remind the noble Baroness and the House that, even with this action, we are well above the deployment estimates that were made in relation to onshore wind.

Lord Wallace of Tankerness: My Lords, I am very grateful to all noble Lords who took part in this debate and, indeed, to the Minister for his response. He has set out the position that the Government are coming from.

It is important that we look at this clause in detail. Like the noble Baroness, Lady Worthington, when I saw that there would be no new public subsidy, I took it to mean that there would be no "new" subsidy, as opposed to an old one—ROCs are certainly quite old. However, I hear the interpretation that the Minister and his Conservative colleagues place on it. One can only speculate as to whether they ever thought they would have to deliver this policy.

The noble Lord, Lord Howell, with wonderful understatement, thanked the Minister because he thought that we were hearing an evolution in government thinking. The noble Baroness, Lady Worthington, said that it was like building an aeroplane as it was taking off along the runway. Some might say that it is making it up as you go along. The lack of clarity in some areas of the impact assessment and the fact that we

do not yet know what will happen with the grace periods gives some indication that perhaps this was a policy that had not quite been fully thought through, if I can just leave it at that. However, some concerns continue.

I can understand why the Minister said at the outset of his remarks that, on the one hand, people say it is just a year but, on the other hand, people say it is the end of civilisation as we know it. I take the political point that the Government won an election, but to change an important policy less than a year—just over 10 months—from when it will come into effect is causing considerable concern in the industry and calls into question whether such a change could take place in other spheres of renewable policy.

I have always supported the idea that there should be a balance; a mix of different renewable sources. If one source is seriously challenged because there is a sudden change of policy, it begs the question as to whether others will follow.

I cannot quite yet get my head round the cost. I do not quibble with the fact that, for some people, 30p a year, or just over half a penny a week, might make all the difference—although I find it difficult to buy that. However, the other part of the equation that I cannot quite follow is this: if renewable onshore electricity generation is not going to qualify and therefore its future is more under question, and the others, including nuclear, are going to be more expensive, how can that lead to benefits in the longer term for the domestic consumer? The noble Baroness made that point in her final intervention. That has not yet been explained to us, and perhaps a reworking of part of the impact assessment might highlight some of these issues.

The noble Viscount, Lord Ridley, asked whether any use of onshore wind had led to carbon emissions. I just look at the Government's impact assessment—I may have been slightly critical of it but I will now use it. Paragraph 4.26, on environmental issues, says that option 2, which is the proposal,

"will lead to lower levels of onshore wind deployment and hence increased carbon emissions within the UK power sector relative to the Do Nothing option".

So the Government themselves believe that it will lead to increased carbon emissions by having lower levels. The impact assessment goes on to say that,

"these will be offset by decreases in emissions elsewhere in the EU within the capped EU-ETS traded emissions sector".

We must polish up this sentence. Here, the Government say that what they are doing will actually increase carbon emissions but that Europe is going to come to their aid. It is not very often we see a Conservative document saying that the European Union is going to come to our aid. It is probably worth it just for that.

I will share with the noble Viscount, Lord Ridley, figures that come, I think, from a briefing by the RSPB and which make reference to this. I saw this only this afternoon and have not had a chance to check out the reference, but it suggests that a modern wind turbine has a capacity of 2 megawatts and is expected to avoid emissions of over 1,880 tonnes of carbon dioxide in an average year. I will share that reference with him and, as with all these things, we will trade statistics. However, that and the Government's own impact assessment suggest that there will be a reduction.

I am not going to press this, but it has been useful to flush out some of the Government's thinking on this. No doubt we will return to some of these issues when we come to look at periods of grace.

Clause 60 agreed.

Amendment 35

Moved by ***Lord Grantchester***

35: After Clause 60, insert the following new Clause—

"Renewable and other technologies

Within six months of the passing of this Act, the Secretary of State shall publish an assessment of the progress towards decarbonisation of energy supply, including a strategy for the development of renewables and a strategy for energy efficiency within the supply system."

Lord Grantchester (Lab): My Lords, I rise to propose Amendment 35 and declare an interest, in that I am undertaking a planning application with regards to solar technology.

The Energy Bill is largely focused on securing the value of energy supplies of oil and gas in the North Sea through the creation and operation of the Oil and Gas Authority. It is encouraging and positive. In contrast, the final two clauses bolted on to the Bill do the exact opposite. They seek to bring onshore wind to an early closure, dismantling the least costly form of renewables technology. They undermine investor confidence, as others have stated already tonight and as Ernst & Young reports in its research. They raise alarm bells throughout the renewables sector. These clauses raise wider questions and concerns regarding how wind power, and indeed other renewables, will feature and impact on an overall energy strategy.

Just recently, the Minister's department issued a further consultation on the feed-in tariff regime for solar power. All this is against the back-cloth of the European Commission's report in June, which highlighted that the UK is falling behind the trajectory necessary to achieve the UK's national renewable energy targets, which are so necessary to achieve substantial decarbonisation of the energy supply.

On transport, the aim is for 10% to come from renewable sources by 2020. At present, the UK is at only 3.5%. On heat, the target is for 15% to come from renewables; at present, the figure is only 4.9%. While the electricity sector may presently be on track, there are misgivings that its renewables element will continue slowly to fall following this Bill. Quite simply, this Bill is moving in the wrong direction on both fossil fuels and renewables. It facilitates recovery of oil and gas for generation while reducing support for one form of renewable energy, onshore wind, making more difficult the installation of the cheapest form of renewable energy. This legislation will increase consumer bills.

The help for operators recovering oil and gas in the North Sea is said to include substantial tax breaks. Can the Minister confirm that private contracts between operators and HMRC are being drawn up and include

[LORD GRANTCHESTER]
offsetting decommissioning costs against previous tax payments? That is a worrying development set against reduced support for wind renewable technology.

The amendment would require the Government to give an account of how their carbon reduction programme is progressing. They must set out the pathway to achieve the 2020 targets for carbon reduction, for renewables use and for energy efficiency—the so-called 20-20-20 strategy. Discussions are continuing on the EU target for 2030, which is to be set out in Paris at the end of the year. Discussions are focused on a single target for 2030 rather than on several targets. While this is recognised, we nevertheless need to understand that strategies will still be required to meet the overall reduction in a co-ordinated way through carbon reductions in supply, heat and transport and efficiency. While the Government may claim that they can meet their 2020 target, they are certainly uncoordinated and unclear about what happens beyond that.

The impact of recent government decisions is to reduce support for renewables—onshore wind in this Bill; solar in changed arrangements for that sector—while making it easier to use North Sea oil and gas and easier for fracking ventures. The direction of energy policy in relation to energy decarbonisation is further shown through measures on onshore shale gas and oil, giving rise to considerable doubts about the Government's overall intentions. This is aggravated by the reported delays in bringing new nuclear power capacity into the system, given the problems at Hinkley Point with EDF. Of considerable concern is the position in relation to state aid. Existing clearance was predicated on the basis of technology-neutral auctions. As the Government no longer appear neutral, is this in jeopardy? Can the Minister confirm that DG Competition, in the Commission, could re-examine their judgment?

All this raises doubts about the trajectory of decarbonised electricity. It is therefore important that as early as possible in this Parliament, the Government make clear their decarbonisation strategy and how far it is working. Let us see their analysis and how they can be so confident that the targets will be met, while they tie the hands of very successful aspects of the renewable energy industry. This amendment would require the Government to produce for Parliament an assessment of their strategy and progress towards decarbonisation of electricity supply. The report should include the Government's assessment, first, of the expected contribution from renewables and, secondly, of measures designed to improve the overall energy efficiency of the electricity supply, reducing demands for carbon in this manner.

Such an assessment should also cover the broader aspects of energy efficiency—commitments notably absent from this Bill and from government pronouncements since the election. I accept that this is beyond the scope of the Bill and, hence, it is not referred to in the amendment; I therefore refer explicitly only to energy efficiency within the supply system. Energy, and hence carbon, is wasted at each stage: in generation, transmission, distribution and use. In reality, to be comprehensive, such an assessment would also look among other things at the contribution of both nuclear power and demand reduction and redistribution technologies, but this amendment confines itself to those aspects covered by the remit of the Bill.

The objective of the amendment is that Parliament receive a report within six months of the passing of the Act, which will enable us to assess the progress of and plans for decarbonisation of the electricity supply in a holistic manner. If the Government are not prepared to accept the amendment, I would expect them to tell the Climate Change Committee how they propose to report to Parliament about the impact of the Bill and other policy changes on the difficult aim of decarbonising electricity supply. I beg to move.

6.45 pm

Lord Whitty (Lab): My Lords, my name is also on the amendment, but I must apologise to the Committee for not being here during its long discussions on the previous two amendments, which relate to the contribution that renewables, in particular wind power, make to the reduction of carbon emissions and the decarbonisation of electricity supply.

This clause or something like it is necessary in the Bill because of the consternation that the changes in support for and expectations of wind power, solar power and other renewables have caused within those industries. They are concerned not that, understandably, the Government wish to reduce the subsidy as those technologies become more competitive with conventional energy, but that they should change the pace at which and the terms on which they are doing it at such short notice, and with such drastic impacts on projects conceived and put to planning long before those changes were proposed. Some of that will have been covered in earlier debates, but the fact is that the renewables industry will lose confidence in this Government's support for and wider commitment to the objectives established under the Climate Change Act, and those we hope will be established at EU and global level, if they are not prepared to continue such support.

If the Government have a better way of reporting to this House and to the country how well they are doing on their carbon reduction targets and their overall trajectory towards reduced carbon use, it would be helpful for the Committee to hear of it, but, in default of that and in reaction to what has been already announced, it is legitimate for us to put within this Bill an obligation on the Secretary of State to produce a report within six months of the passage of the Act. I hope the Minister can accept something like this amendment or indicate what alternative methods of report the Government are now proposing.

Lord Teverson: Although I agree in principle with what this amendment is trying to get at, I have a recollection—I cannot find it, so I may be wrong—that under the Energy Act 2013 the Secretary of State has to give an annual report to Parliament anyway. If that is the case, I just want an assurance from the Minister that that report would cover the sort of issues discussed in this debate. We could have endless reports, but the main thing is to have a key area of reporting where all these things come over at one time, and that Parliament can debate them.

Lord Bourne of Aberystwyth: My Lords, I thank the noble Lords, Lord Grantchester and Lord Whitty, for proposing this amendment, and the noble Lord, Lord Teverson, for his timely comments, which I will come to. I found some of the contribution of the noble Lord, Lord Grantchester, reassuring in that he is pushing us on the Hinkley state aid issue. I hope he is in a position to confirm that it is still the Opposition's policy to encourage new nuclear because that is what it sounds like to me. I am able to give him the reassurance that we remain confident that the commission's decision that Hinckley is compliant with state aid rules is legally robust. But of course, on decarbonisation in general, I return to the point that new nuclear is a vital part of the mix. Without it, we would be nowhere near achieving our goals. Therefore, I hope we can get some sense of what the Official Opposition's policy is on new nuclear—and on new coal. Some things that the new leader has said indicate that he is in favour of regeneration of the coal industry in the United Kingdom, which would undermine what we seek to do. Some clarity on that would certainly be welcome.

The Government are already obliged and will report in the coming months on their progress towards decarbonisation of the energy supply, the development of renewables and the development of energy efficiency. We have obligations under the Climate Change Act, the EU renewable energy directive and the EU energy efficiency directive to report on these topics in the coming months. Therefore, the Government cannot support the amendment, which could lead to unnecessary duplication. You do not fatten a pig by continuously weighing it and we already have these three obligations, which I will refer to in more length.

The Committee on Climate Change reports annually on the Government's progress towards meeting carbon budgets, which includes an assessment of progress towards decarbonisation of the energy supply. Under Section 37 of the Climate Change Act, we are obliged to respond to the Committee on Climate Change's annual progress report by 15 October each year. That remains true this year. We will publish our response to the Committee on Climate Change's 2015 progress report by that date, and that will specifically address progress towards decarbonising the energy supply.

On renewables, the 2013 *Electricity Market Reform Delivery Plan*—which I think is what the noble Lord, Lord Teverson, was referring to—set out our ambition of achieving at least 30% of electricity from renewables in 2020. We are on course to achieve that, with renewables representing almost 20% of generation in 2014. We will also report by the end of this year on progress against our 2013-14 interim targets as part of the EU renewable energy directive.

Finally, we are committed to energy efficiency as a vital element of meeting our statutory goals on fuel poverty and climate change. We set out our strategy in 2012 and updated it in 2013. We will report by the end of April 2016 on progress achieved towards national energy efficiency targets, as part of the EU energy efficiency directive. In the light of those already substantial obligations and the reassurance that I have given, as well as the work that is done in the department, which takes considerable time, I hope that the noble Lord proposing the amendment will feel able to withdraw it.

Lord Grantchester: My Lords, I thank the Minister for that reply and for being keen to hear about our policies. I was questioning only whether state aid issues could be re-examined by the commission if the UK appeared to divert from its stated neutrality towards renewable technologies. I am heartened by his reply, notably that the Committee on Climate Change will press forward with its annual reports to which the Government are mandated to reply. On that basis, I beg leave to withdraw the amendment

Amendment 35 withdrawn.

Amendment 35A

Moved by ***Lord Whitty***

35A: After Clause 60, insert the following new Clause—

"Decarbonisation obligation

(1) Within six months of the closure of the renewables obligation on 31 March 2016 for onshore wind generating stations, the Secretary of State must bring forward regulations for a decarbonisation obligation.

(2) A "decarbonisation obligation" means the level of carbon intensity of electricity generation in the United Kingdom that a relevant supplier may not exceed in respect of the total kilowatt hours of electricity that it supplies to customers in England and Wales during a given year.

(3) In setting a decarbonisation obligation, the Secretary of State must first obtain and take account of advice from the Committee on Climate Change.

(4) In this section, "relevant supplier" means electricity suppliers supplying electricity in England and Wales."

Lord Whitty: In the unavoidable absence of my noble friend Lord Foulkes, I will speak to Amendment 35A. As we have just discussed, electricity decarbonisation is a key component of our carbon reduction strategy. The amendment would provide a mechanism whereby decarbonisation by supplier is built in and becomes transparent, and is therefore enforceable supplier by supplier. It would require the Secretary of State to issue regulations to place on each electricity supplier—subject to definition in the regulations—a maximum level of carbon intensity in the electricity that it supplies within England and Wales. This decarbonisation obligation would be a proportion taken over the year of the carbon content of the electricity supply to its consumers over the course of that year.

The amendment of course does not specify exactly how the obligation would be expressed nor the level, nor whether there would be a single figure or whether that would be varied supplier by supplier depending on their pre-existing achievement of reductions in carbon intensity. That is a matter for consultation prior to the regulations being promulgated. The only specification in the amendment is that the Secretary of State needs to take the advice on this issue of the Committee on Climate Change—I am glad to see that the noble Lord, Lord Deben, has joined us at an appropriate point. Therefore, that would be the benchmark against which the Secretary of State calculates the requirement. It is noticeable that the amendment would apply only in England and Wales. There would be different arrangements in Scotland and Northern Ireland.

[LORD WHITTY]

The amendment would give a crucial mechanism to the Secretary of State for ensuring that the pace of decarbonisation in the electricity supply was maintained, transparent and understood supplier by supplier. It would be an important additional weapon in the Secretary of State's armoury. The Minister has assured us that we are on track for 30% of renewables by 2020. We need to go much further than that to meet what will be the requirements for carbon reductions over the years beyond 2020. I beg to move.

Lord Teverson: My Lords, I was pleased to add my name to the amendment, although I do not pretend to be an expert on exactly how it would work. There was a great celebration in February this year when our Prime Minister, to whom I give full credit, made a declaration jointly with Nick Clegg, the then Deputy Prime Minister and Ed Miliband the then leader of the Official Opposition. They made pledges through the Green Alliance, one of which was to accelerate the transition to a competitive energy-efficient, low-carbon economy and to end the use of unabated coal for power generation.

That was a fantastic declaration at the beginning of a general election campaign when politics was running high and competition between political parties was starting to move into a more confrontational stage. Yet three party leaders came together and said that low carbon and taking out unabated coal would be key. I see the amendment as something that could move us towards that solution in a concrete way. That is why I support it so strongly.

The Energy Act 2013 started off being about decarbonisation. It made it clear that the Secretary of State had the ability to—and in parliamentary Bill language that presumed that the Secretary of State would—declare a decarbonisation target in 2016 when the Committee on Climate Change came forward with its recommendations for the fifth carbon budget. My question to the Minister on this key area in meeting Climate Change Act obligations is whether the Secretary of State intends next year to follow that through in the carbon budget that is recommended and the one that is subsequently agreed.

The other attractive thing about this amendment is that it tries to find a least-cost way through to decarbonisation. As previous debates have shown, in this House we are united in wanting to decarbonise our economy at least cost. We all know that that is important to consumers, for fuel poverty and to the competitiveness of our economy. This amendment finds a way to do that.

I welcome the amendment and I agree entirely with what the noble Lord, Lord Whitty, has put forward. I will be interested to learn from the Minister how the Government intend to take forward the pledge the Prime Minister made in February. Will the Government move next year to a decarbonisation target for 2030 and, as part of that, will they make sure that coal really does disappear from our system as soon as that is practically possible?

7 pm

Lord Deben (Con): My Lords, it is not for the chairman of the Committee on Climate Change to comment much on the means whereby we reach the targets which have been set by the committee. That is not its role. The committee's role is to set the targets and to insist that they are met. That is one of the difficulties of being the chairman because my instinct is to comment on all these things with enthusiasm and some pretty clear views, but that is not what I am statutorily allowed to do.

However, it might help the Minister if I say this. This may be a formulation that works; I am not sure. There are complications in it which might lead the Government not to want to do it. I want to say a word about a decarbonisation target, which the Committee on Climate Change has recommended. It has done so because a decarbonisation target would give security to those who are investing in low carbon technology, and above all in low carbon generation. One of the problems that all Governments have to face is that the timetable of private industry is very tight. First there is the timetable for how long a particular managing director will be in place and what is going to happen over the next two or three years—I am told that it is generally about three years. The second timetable is an important one, covering the length of time major investment takes between thinking about something and actually delivering it.

One difficulty—it is one which the Committee on Climate Change emphasised in its report to Parliament this year—is that most of the measures we have in place will fall off the cliff in 2020. We are now talking about "tomorrow" in the investment cycle because people often have an investment cycle which lasts certainly for five years and very often for seven or eight years. The committee sought to ask the Government to ensure that we knew where we were going to be in a progressive way after 2020. The Government have made it clear that certain things will continue, but not how much and how long. That security is important for investment.

The second point is that it is occasionally the belief of all politicians that if they promise something in 2050, everyone will believe it and proceed to get there. But I remember an embarrassing debate in this House when I pointed out that the previous Labour Government had an energy Bill from which they had removed every date except 2050, and I worked out that there was not a Member of the Government who was likely to be alive when the one promise that had been made would be delivered. That is a dangerous position because if we are to be taken seriously, we ought to make promises that will be delivered at least in our likely lifetimes.

What I want to put to the Minister is simply this: we need to have some sort of interim point between 2020 and 2050 towards which people can work with some confidence, and we have suggested a carbon intensity target for 2030 entirely on that basis. I hope that the party opposite will not be upset by this, but one of the reasons I want the target is because I am a capitalist and I do not want to judge what is going to be the best way of achieving it by 2030; in other words, I want to be as unrestrictive as I can. I just want to deliver the ends, and that is why I always talk about targets, not means. I do not know what mixture of means will enable us to reach the target, and that is why I am less enthusiastic about those who insist upon this proportion from renewables, that proportion from other low carbon

technologies and this proportion from nuclear. I have always felt that a portfolio is what we want, and if possible I want an unprescriptive target because we do not know the ways in which we are going to achieve it. But we must give people the confidence that if they pursue those ways, there will be a proper return from the market on the investment that they have carried through. That is why a carbon intensity target is a valuable thing. I hope that the Government will wish to do that in 2016, for reasons we all now know. A carbon intensity target would be unprescriptive, but it would give real confidence.

This amendment, on the other hand, is much more precise. It gives a role to the Committee on Climate Change, for which I thank the noble Lord, and I am sure that if we were asked to carry through this role, we would do it to the best of our ability. But I wonder whether this particular mechanism is the best one. There are complications which the Government might want to think about, but I hope that in discussing it, the Government will not cast aside the need—I think it is that—for a decarbonisation target for 2030 to give people the confidence to plan. It is no good saying that they know that our emissions must be cut by 80% by 2050. Frankly, it is true and statutorily based, and we all think it is important, but it is not going to drive investment. That is why a decarbonisation target for 2030 is important. I doubt whether this is the right way forward, but I am pleased that it has been tabled as an amendment, not least in order to ask the Government to think hard about the needs of investment and confidence.

Baroness Worthington: My Lords, I am grateful to my noble friend Lord Whitty for introducing this amendment and to the other noble Lords who have spoken in favour of it—or if not directly in favour, at least in favour of us having a debate about decarbonisation. I recall that a similar amendment was tabled by my noble friend Lord O'Neill of Clackmannan during the Committee stage of the Energy Bill in 2013. We had a good debate at the time, and the arguments which were put forward were important then and are even more important now. I say that because we all engaged with the Energy Bill in good faith. We raised our concerns and we went forward on the basis that we hoped that we had a system that may be a transition to something more market-based and slightly less interventionist in order to encourage us to decarbonise our electricity system.

I apologise for stating the obvious, but the reason electricity is so important is that once it is fully or substantively decarbonised, it can then be used to decarbonise transport and heat in an effective way. It is not the only way, but it is one way. It is the sector with possibly the most commercially available technologies and certainly the widest range of known technologies, certainly at this stage, to help us. That is why electricity is focused on and why we have a 30% target for renewable electricity as opposed to 10% or 12% in the heat and transport sectors. It is right to focus on electricity.

This idea is definitely worthy of merit and I do not disagree with the noble Lord, Lord Deben, when he says that we have in the past debated a broader definition of the decarbonisation obligation or decarbonisation target. In fact, that was rather exhaustively dealt with in the debates around the Energy Bill in 2013. The way it was left was that the Government may introduce a decarbonisation target for 2030 in line with the fifth carbon budget being set. I very much look forward to hearing some strong words from the Minister stating that that is still the Government's intention: that a decarbonisation target will be set in 2016 once we have that fifth carbon budget in place.

For all the reasons given by the noble Lords, Lord Deben, Lord Teverson and Lord Whitty, we lack a moment of clarity to help shake people's investment decisions beyond 2020. We have renewable targets to 2020, as part of the European renewables directive, but beyond 2020 there is big uncertainty as to what low-carbon technologies, if any, will be supported by the Government. Therefore, there needs to be a framework. Why I like the idea of a decarbonisation obligation on the Government and on suppliers is because it does exactly what the noble Lord, Lord Deben, said, which is to create a market-based system.

I often find myself wondering whether I am Alice who has stepped through the looking glass. Here we are in a world where the Government—a Conservative Government—are presiding over virtually the renationalisation of the energy system. There is no element of the energy system that is not now reliant on the Secretary of State to sign a contract of some sort or another, perhaps with the possible exception of some of the interconnectors, but even there it is quite highly regulated. Now any new clean capacity needs to be signed off by the Secretary of State with a contract for difference, and all the existing capacity receives capacity payments also through the Secretary of State's gift. Here we are, very oddly, presiding over pretty much a state-run energy system, and here I am on the Labour Benches saying that we need a much more market-based system that allows more choice and for capital to flow to the most cost-effective ways.

It is an odd situation but that is where we are. So I press the Minister to help us to understand whether the Government share our objective, which is to move towards a slightly less interventionist system with more ability for a broader set of players to dictate how we meet our targets, which means the Government setting the framework, and being clear about our objectives, but allowing a wider pool of people to find those solutions for us at least cost.

Amendment 35A is an interesting idea which proposes that rather than the Government taking on the obligation and the target, they should be passed down to the supply companies. It has some merit. It is worth noting that suppliers have been obliged to report on the carbon intensity of their electricity supply for some years now. They have a fuel disclosure requirement and an infrastructure and reporting mechanism that enables them to do that with certificates of origin. That enables them to calculate the carbon intensity of their electricity annually and report to Ofgem. Those numbers then probably sit on a website or in a document. Very little attention is paid to them, which is a great shame because we are encouraging these data to be collected but doing very little with them. If we were to look at those numbers, sadly we would see that carbon

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intensity has remained stubbornly similar over the past decade. We did very well in decarbonising when we had the dash for gas and replaced a lot of our old coal, but since then carbon intensity has just moved around, largely dictated by commodity prices where gas prices are higher than coal or vice versa. So there has not really been a grip on carbon intensity.

An obligation such as this would address that problem and mean that the full range of decarbonisation options, including fuel switching and phasing out of coal, would be incentivised in the most logical way forward. I am very grateful to the noble Lord, Lord Teverson. He and I have worked previously on the phasing out of coal and the use of performance standards to make sure that our old coal, in particular, is phased out in an orderly and certain way so that we can make room for clean investment. A decarbonisation obligation would help us to ensure that that transition out of coal took place. It is not the only way it can be done, but it would be a market-friendly way to meet the obligation because there would be an incentive not to purchase the coal that would count against the target. It would help to make it harder to hit the targets. The other benefit is that it would help renewables to stand on their own two feet and compete alongside other technologies. We would genuinely see which are both affordable and able to be supported by the general public.

7.15 pm

This carbon intensity number is one that we as a country should care about. It is really the Committee on Climate Change that has made the carbon intensity of electricity something that is in the public discourse. It is worth noting that at around 400 grams we are able to shave off more than 150 grams simply by using our existing infrastructure more wisely. If we were to change the merit order and run gas ahead of coal we would take off up to 200 grams without needing to invest in anything new. That is why those numbers matter and why we should be scrutinising them.

I pay tribute to my ex-boss at Scottish and Southern, Ian Marchant, who now claims he has invented a new law—the Marchant law, which is that over 10 years the carbon intensity of our electricity should halve, so we should go from 500 to 250, from 125 to 62.5, from 400 to 200, or from 100 to 50. We should do that over a 10-year cycle, which would give us a good pathway and is certainly achievable with the range of technologies we have. Speaking personally, that includes nuclear, carbon capture and storage, gas and renewables; to cite President Obama, I am an all-of-the-above person when it comes to climate change, with the exception of unabated coal. There is a role for everything and we must try to ensure that we invest in those things that are delivering. That is the best outcome. We also need to act swiftly because, as we know, climate change and the need to decarbonise are becoming ever more apparent and we need to move with alacrity towards decarbonising our energy fully. We should be leading the world in committing to do that.

I am very grateful to the noble Lord, Lord Whitty, for moving the amendment and for the contributions we have had. It has been a good debate and I look forward to hearing from the Minister in relation to the broader question of decarbonisation targets as currently described in the Energy Act 2013 and the interesting idea of including suppliers in this and getting them to apply their great understanding of the markets to help us to achieve those targets with the least cost.

Lord Bourne of Aberystwyth: My Lords, I thank the noble Lord, Lord Whitty, for moving the amendment, but perhaps I may turn first to the opening comments of the noble Baroness, Lady Worthington. Although I am, as she will know, her great admirer in the area of climate change, I cannot allow the allegation to go unchecked and unanswered that we are in the business of nationalising the energy supply. It shows considerable chutzpah to come up with such an argument in view of what happened at the weekend. It is far from the truth. The area is certainly highly regulated but I make no apology for that. It needs to be so.

We are committed to ensuring that the United Kingdom continues to do its part to tackle climate change in line with the Climate Change Act, which, of course, has legal backing and legal obligations. As I indicated earlier, we will respond to the progress report; as the noble Lord, Lord Deben, mentioned, we will do so by 15 October, as we do annually.

Decarbonisation remains a clear goal of the Government. Emissions from carbon intensity fell by 12% in 2014, according to the Committee on Climate Change, and we are very much wedded to that. The noble Lord, Lord Teverson, referred to the commitment of the Prime Minister and our obligations in relation to unabated coal. I agree with the noble Baroness, Lady Worthington, when she said that there is a part for all forms of energy except unabated coal. That is certainly right and I would not dissent from it. We must do this as cost effectively as possible to ensure that our energy is secure and affordable as well as low carbon, as I indicated previously.

Locking ourselves into an expensive and inflexible target for the power sector is not the way to do that. There are just too many things that we cannot predict about how the energy system will develop up to 2030. The costs of getting it wrong would be picked up by consumers for decades to come. The amendment as set out would, in effect, require the Government to introduce an additional power sector target, in the form of an obligation on electricity suppliers in England and Wales. The manifesto on which the Government were elected clearly stated that we will not support additional power sector targets.

Noble Lords will know that the subject of setting a decarbonisation target has previously been debated in this House, as has been indicated, on at least two occasions: during the passage of the Energy Bill in 2013 and of the Infrastructure Bill in 2015. I therefore know that noble Lords will be familiar with the arguments against setting a target such as this. I agree that investors want to know that we have clear, credible and affordable plans. However, the CBI has said that clarity on future financial support for low-carbon electricity will be more important in driving investment than targets. That is why we have said that we will set out totals for the levy control framework beyond 2020, providing a basis for electricity investment into the next

decade. That is why we have also said that we will set out plans in the autumn on future contracts for difference allocation rounds.

For those reasons I cannot accept the amendment. I hope that the noble Lord will withdraw it.

Lord Teverson: The Minister will forgive me if I did not catch this properly, but are the Government saying that they will not undertake the clause in the Energy Act 2013 that says that the Secretary of State "may"—with the presumption that the Secretary of State "would"—set a decarbonisation target for the electricity sector for 2030? Did he say that the Government will not do that?

Lord Bourne of Aberystwyth: No, my Lords. I was saying that we would not support additional power sector targets. As I understand it, that target is already in existence.

Baroness Worthington: The target is not in existence. The power was created in the Energy Act to allow the Secretary of State to set a target, but it prevents the Government setting a target until 2016. That is the only thing on the statute book. I encourage the Minister to be very precise in his wording. I will have to read back over *Hansard*. The expectation is that the Government will set a target, but they certainly are not required to. We would like clarity on what the intention is.

Lord Bourne of Aberystwyth: My Lords, I appreciate that point. On the clause as set out, I have made it clear that we will not come forward with this additional obligation. The manifesto is absolutely clear that there will be no power sector target. That is the position of the Government.

Lord Whitty: My Lords, if I understand that right it is very disappointing. I can understand the objection, or at least the querying by the noble Lord, Lord Deben, as to whether we need a detailed mechanism for setting carbon intensity coefficients by supply, but he argued very persuasively, and has done before, for a decarbonisation target for 2030. That is why that was written into the 2013 Act and why there was an expectation and general indication from the Minister's predecessors that there would be a target set in 2016, but only in the context of the carbon budget, which they are obliged by the Climate Change Act to come forward with. I did not accept that argument, but I understood it in terms of the timing. There was some considerable debate about that during what became the passage of the 2013 Act.

It is very disappointing, not only to us in this House but to the various industry operators, including the supply companies, that there seems to be an abandonment of that commitment in what the Minister has interpreted from the Conservative Party manifesto. As I well know, manifestos are pretty flexible things. I hope that he can consult with his colleagues as to whether it actually meant that, or whether there was some more room—

Lord Teverson: I am not quite sure how to ask the noble Lord, Lord Whitty, this, but having read the Conservative manifesto many times and having it on my iPad on iBooks, I have not seen this obligation not to have a target anywhere in it. Has he?

Lord Whitty: My Lords, I am not quite such a conscientious and diligent reader of the manifestos of various parties—even my own—as the noble Lord, Lord Teverson. The best thing we can ask the Minister to do is to go back and talk to his colleagues—whether it was in the manifesto or not—about whether they are definitely now not going ahead with what was allowed for in the 2013 Act. If that is the case, there are ramifications. I understand why the Minister is opposed to the mechanism proposed in the amendment. I would have thought that having set the 2030 target for decarbonisation would be a useful addition to the armoury, as the Committee on Climate Change and the noble Lord, Lord Deben, advocated. If the Minister feels that that would be too much interference in the market mechanisms, I understand that. It would still be up to the supply companies how they met that obligation and what kind of technologies and contracts they entered into. The market is still operating there. I understand and accept that the Minister is not prepared to go along with that.

Lord Bourne of Aberystwyth: To be helpful, in view of the fact that there is a degree of uncertainty about what the manifesto says specifically—not least with me—I am happy to go back and have a look at it. We can come back to it on Report to ensure that I have understood the position correctly. I undertake to do that and we can pick it up on Report if that is helpful.

Lord Whitty: My Lords, that was very generous of the Minister. I thank him very much, as I think the Committee will as a whole. Before I withdraw the amendment, I will just comment on something that the Minister said on markets and nationalisation. When the then Energy Bill of 2013 first came before us, the noble Lord's colleague, the noble Lord, Lord Lawson of Blaby, described it as "Gosplan". There is something in that. There is nothing from any element in the Labour Party that goes as far as that. I beg to ask leave to withdraw the amendment.

Amendment 35A withdrawn.

Amendment 35B

Moved by ***Baroness Worthington***

35B: After Clause 60, insert the following new Clause—

"Statement on costs of non-compliance with EU renewable target

Within six months of the passing of this Act, the Secretary of State shall report to Parliament on the estimated cost to the taxpayer should the United Kingdom not comply with the 2020 EU renewable target."

Baroness Worthington: My Lords, that was an interesting debate. It has slightly changed the context for the next two amendments, if that does indeed transpire. We look forward to getting clarity on this. It hinges on the word "new". In fact, so much of the Bill hinges on the word "new", because it was a manifesto commitment to have no new subsidies for onshore

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wind, which could have been interpreted in lots of different ways. I think there was a manifesto commitment that there will be no new targets. We need to start to understand how the Government use that word.

As I have mentioned, Amendment 35B seeks to make up for one of the biggest holes in the impact assessment, which is to consider the implications of this new change of policy. Indeed, when we come on to talk about the last amendment, our concern about the transition to the contracts for difference regime is that this will have an impact on the taxpayer that is not yet being monetised, described or communicated by the Government.

Amendment 35B would simply require:

"Within six months of the passing of this Act, the Secretary of State shall report to Parliament on the estimated cost … should the United Kingdom not comply with the 2020 EU renewable target".

Of course, the wording is not written in a way that it should be in a final version. However, it is an appropriate moment to raise the point that it is not the case that we can simply change our policies without due concern and reference to the implications if we were then to miss our EU requirements. As I have said in previous debates, there would be two implications. First, we would be forced to purchase renewables certificates from other countries. Let us just think about that for a second. That would mean us sending our money to other countries to purchase their investments, which would make them have more jobs and supply chains, and help them to decarbonise. We would be spending our hard-earned cash on their development of a very successful renewables industry. That does not seem like sensible policy to me, but that is what would happen if we decided simply to buy our way out of this target in the mistaken idea that this would somehow be better value for money for the Government. I would like to hear from the Minister whether there is any truth in the speculation we have seen in the media that that is one of the Government's ideas—that they would be prepared to buy their way to compliance in terms of the targets, and what that would cost us. Secondly, we may be fined if we are in non-compliance. I would like clarity from the Minister on what the penalty regime looks like if we fail to meet our EU renewables target.

7.30 pm

I am sure that the Minister will lead off with his often-stated, confident assertion that we are on track to meet our target. Let us just look at the numbers, shall we? We have a 20% renewables target overall across all energy, which translates into a 30% target for renewable electricity, and I believe there is a 12% renewable heat target, and therefore a 10% renewables target. There is no breakdown of those targets at a European level into those subsectors: it is simply an all-energy target, and there is no further subdivision into technology types. That is purely a rod of the department's own making. The department and the Government have chosen to subdivide and subdivide until we all have little pockets of so-called allocations of CFDs and subsidies that they are seeking to manage into a perfect solution in 2020 when we hit our targets. It all looks rather statist, I have to say, but that is the current system. You can see it writ large throughout the impact assessment. The thing that has most attention devoted to it is these subdivisions of subdivisions into how much onshore wind we think we might need. From my experience of working inside and outside the Civil Service, that makes me nervous. If there is one thing I have learned, it is that it is incredibly hard to predict the right way forward in terms of technologies. It worries me when I see documents emerging from the Civil Service seeking to predict and provide a very detailed plan—I hesitate to say "Gosplan"—of how our electricity system will look in 2020. It will almost certainly be wrong.

How are we doing in relation to the divisions of the targets that we have? As has been mentioned, we were at just under 20% of electricity from renewables in 2014, so you could argue that we are on track to hit our 30% by 2020, although there should be no complacency as there is still quite a hill to climb to deliver another 10% in only five years. As has been pointed out, there is something of a time lag in all these technologies. If you take your foot off the gas now, get it wrong or destabilise the sector, you may find that you will have to make up a lot of ground in a very short time towards the end of this decade.

Unfortunately, we are not doing quite so well as regards heat, and in 2013 we hit only 2.8% of the target. As I say, we are trying to hit a target of 12% for heat, so a quadrupling over the next five years looks like quite a challenge. From everything that I have heard about how the renewable heat incentive is going, things are picking up, but we have significant underspend of the budget that has been made available for the RHI. I find it very difficult to get any clarity on what exactly the Government's policy on renewable heat is going forward. I would welcome some clarity from the Minister on that.

As regards transport, we are at 4.4% of our target of 10%. Here it gets even harder for the Government to make up ground because we have a frozen renewable transport fuel obligation which stipulates that 5% of our transport fuel should come from renewable sources. There has been no sign of whether that 5% cap will be alleviated. If policy on that is not changed, and we do not see a return to the escalator in that policy, we will be at merely 4.4% or lower, depending on whether anyone stays in a business that is essentially contracting in size.

What are the implications of missing our targets? The very helpful and excellent report by PwC, *Investment in Renewable Electricity, Heat and Transport*, contains some very interesting charts. If we read across and assume that we stay at 3% for heat and 4% for surface transport—I hope that we will not stay at 3% or 4% respectively, but that is where we are at the moment—the implication is that, to meet our target overall, we will need to see in the region of 50% to 52% of electricity being renewable to comply overall, or we will purchase a significant volume of certificates from other countries, or we will face a fine. Let us be generous and say that we can double our heat figure to 6% and perhaps inch up to 5% or 6% for transport. However, we would still require 45% of electricity to come from renewables. Therefore, we cannot say that the Government are

comfortably on track to meet their targets—far from it. Now is not the time for complacency, to destabilise the industry or to introduce capricious changes in policy without consultation. The Minister can say that this point was in the Conservative manifesto, but a manifesto is a manifesto—nothing more. These Houses are here to keep a Government in check and to scrutinise proposals. These proposals lack detail, have not been thought through and are not fit to leave this House in the way that they arrived or to receive Royal Assent in anything like the shape in which we see them now.

We believe that we need more information on the amendment we are discussing. I have sympathy with the noble and learned Lord, Lord Wallace, who I think suggested that we should ask for a redrafted impact assessment. I will certainly go away and talk to others about whether that could be progressed, and what the process for that might be. However, in the absence of information, this amendment is tabled to ask the Government at least to start to consider the implications of the reality of the situation—namely, we are not on track to meet our EU targets, and that will come at a price.

Lord Bourne of Aberystwyth: My Lords, I thank the noble Baroness, Lady Worthington, for moving this amendment. She is right: we are continuing to make progress towards the 2020 renewables target of 15% of final energy consumption from renewable sources. The provisional figure released on 25 June showed 6.3% of final energy consumption for 2013 and 2014 came from renewable sources, against a target level of 5.4%. The Government set out their plan to meet the target in 2010. We are on track to meet the next interim milestone. In fact, as I say, the provisional figure indicates that we are ahead of it. We have a clear plan for meeting the target. I wish to say something about the specific areas of heat and transport which the noble Baroness mentioned, where there certainly are challenges. First, in relation to heat, under existing schemes the Government have supported almost 33,000 homes and 10,000 businesses, schools, farms and other organisations with new renewable heating systems. That is on top of the generation of 3.4 terawatt hours of eligible heat—enough to heat the equivalent of more than 225,000 United Kingdom homes for a year.

On transport, the Government are investing more than £500 million over the next five years in making ultra-low emission vehicles more accessible to families and businesses across the country. I think our record on this bears comparison with other EU countries, and across government departments we are putting in a lot of effort on this. As noble Lords will appreciate, the lead department on ultra-low emission vehicles is the Department for Transport but the Department of Energy and Climate Change is, of course, represented in that process and we are pushing forward with it.

We have a clear plan for meeting the target and already have many reporting requirements. I cannot accept the amendment and I hope that the noble Baroness will withdraw it.

Baroness Worthington: My Lords, I am grateful to the noble Lord for his response although I do not believe that it adequately addressed the points that I raised, particularly on vehicles and fuel which are obviously two separate things when it comes to energy. We can have as many zero-carbon vehicles as we like but if they are powered by electricity that is generated at 400 grams per kilowatt hour, that is not a solution. Equally, it is true that the escalator is frozen. I heard nothing about whether or not that will be lifted in order for us to hit the 10% figure. I hope the Minister will write to me giving a detailed response to the points that I made. I do not believe that I got the detail I sought.

Lord Bourne of Aberystwyth: I will certainly write to the noble Baroness on those points.

Baroness Worthington: I thank the Minister. On the basis that we will continue this discussion and I will be in touch on the impact assessment and the absence of detail within it, I am happy to withdraw the amendment at this stage.

Amendment 35B withdrawn.

Amendment 35C

Moved by ***Baroness Worthington***

35C: After Clause 60, insert the following new Clause—

"Contracts for Difference

After section 13(3) of the Energy Act 2013 insert—

"(3A) An allocation round must be held no less than annually in each year in which the UK is not on target to meet the 2020 EU renewable energy target.""

Baroness Worthington: My Lords, Amendment 35C would insert a new clause after Clause 60 to require that an allocation round should be held for the CFD—contracts for difference—process at least annually for each year that the UK is not on target to meet the 2020 EU renewable energy target. As is evident from the previous debate, there is some debate about how we measure that, but we still have to make quite a bit of investment to get to our targets, and we must ensure that we have a policy framework that is fit for purpose to enable that investment to be made.

In the Energy Act 2013, we undertook to transition from the renewables obligation to contracts for difference. There was cross-party support for the idea that contracts for difference would be a material improvement: they would give greater certainty for investors and enable us to move to a technology-neutral auctioning system, which would allow costs to come down. On that basis, the Energy Act received cross-party support and Royal Assent. However, things have changed; as has been pointed out, the Government have changed. Maybe we should not be surprised about what the Government are now doing but that certainly does not mean that we should agree with it. I feel that there is quite a degree of concern across the different parts of the House about the Government's current trajectory.

We have been told that there will be a statement on whether there will be a contracts for difference round this year. My understanding is that if we were to be ready for an auction in the autumn, we should have already made announcements, so I would specifically

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like to hear from the Minister when we will have a statement on contracts for difference allocation rounds this year and what the likely date for the next round is. Here, we get to the nub of the interpretation of the word "new" and, indeed, of the word "subsidy". If the Government are going to stick to interpreting their manifesto commitment to mean that no new subsidies for onshore wind includes contracts for difference, we need to know that now, or sooner rather than later, because it will have huge implications. State aid clearance was gained for the contracts for difference system, but that was worded in such a way as to encourage the Government to move to technology-neutral auctions as soon as possible. It would be highly problematic if the Government ruled out one of the least costly forms of renewable energy from the CFD system; the European agreement to give it state aid clearance would need to be looked at again if there were to be such a substantial change. That would cause delay across the piece. Nobody wants to see yet more uncertainty introduced into this picture, and it worries me greatly that we are going to hear in the autumn that there will be no contracts for difference for onshore wind from now on. If that is so, we need to hear about it sooner rather than later. Onshore wind should continue to be considered, alongside all the other technologies, in those hopefully technology-neutral auctions and we should move towards that as soon as possible.

We need to see onshore wind continue within the CFD process, not least because there is possibly a misunderstanding that onshore wind will continue to keep producing for ever more once it is put into the ground. In fact, that is not the case. The commercial reality is that, once you have a wind farm, you are quite able to upgrade it: you can use the existing footfall and the existing site but then upgrade either the nacelle or the entire turbine to get more power out from the same land area. These sorts of recommissioning projects could be completely ruled out if onshore wind renewables do not survive into a contract for difference regime. That risks around 1.5 gigawatts that is currently being generated from onshore wind coming offline by 2025, with no ability to repower. For that reason alone, we need to see some clarity about the role of onshore wind in the CFD regime going forward. However, it is not just the repowering; there are definitely options for continuing cost-effective deployment of onshore wind in those communities that are happy to accept it.

7.45 pm

I will end by taking a step back and looking at this part of the Bill in the context of the Bill as a whole. In previous discussions about the Oil and Gas Authority, we talked about costs and the fact that we are now moving into a phase where decommissioning costs will be rising in the North Sea. I just wanted to draw the Committee's attention to the fact that, perhaps with very few people realising it, we have introduced a system of contracts for difference for decommissioning costs in the North Sea. We have done that by moving from Finance Bill tax breaks as the way in which decommissioning costs were being paid back to the industry, to contract law. It is all set out in the HMRC tax code. Knowing that the Government can be at times capricious and that Finance Bills do change things quickly and with little consultation, the oil and gas sector has cleverly asked for contracts for difference for its decommissioning costs, so that it is insulated against government suddenly changing its mind. Isn't that good?

Here we have a fossil fuel-based industry that has successfully engineered itself to have contracts for difference for decommissioning costs—which does not give you very much in the way of future capacity but simply takes capacity away that was once there. Here we have a complete lack of clarity and certainty over whether there will be any contracts for difference for low-carbon power. A couple of months before Paris, and that is the Government's Energy Bill. I could say more, but I do not think I will. This Bill needs some serious revision. I look forward to coming back after Recess, and to the comments now from the Minister, but I am hoping that the Bill will be significantly improved by the time it leaves this House at least.

Lord Bourne of Aberystwyth: My Lords, I thank the noble Baroness, Lady Worthington, for moving this amendment. She will know that, as I indicated by my letter of 6 September, we are looking at decommissioning on Report, so there may be an opportunity to look at some of the specific points that she raises then. I am certainly happy to do that.

In relation to Amendment 35C, I acknowledge that it is important that developers and investors have some foresight as to the frequency of contracts for difference allocation rounds. However, this must be balanced with the levy control framework budget available, which, as noble Lords know, is funded by a levy on consumer bills. The United Kingdom continues to make progress towards the renewables target, but the interaction of those two is important.

Committing to annual contracts for difference allocations rounds, even only in certain circumstances, would inhibit the Government's ability to respond to evidence on levels of deployment in renewable electricity generation, costs to consumers and opportunities in other sectors. That said, as the noble Baroness rightly said, we are committed to a statement in the autumn, so that decisions on any future allocations of contracts for difference will be taken in due course. On the specific point on state aid approval, we remain consistent with the contracts for difference state aid approval. If our future plans should have an impact on our state aid clearance, we would seek an early discussion with the European Commission. However, as I understand it, that is not the case at the moment.

The noble Baroness's amendment would unnecessarily commit the Government to a course of action which would neither benefit the consumer nor provide any certainty to renewable energy generators or investors. I have indicated that I am happy for us to look at the specific point about decommissioning on Report. We are committed to our energy targets and continue to make strong progress towards meeting them. I do not know the specific date of the statement we will be making in the autumn—indeed, I do not think it has been fixed at this stage—but I hope that gives reassurance that we will be making a statement about the contracts for difference regime. Our intention is to set out plans

in the autumn in respect of the next contracts for difference allocation round, but we do not believe that an annual round is necessarily appropriate.

For those reasons, I am unable to accept the amendment and respectfully ask the noble Baroness, Lady Worthington, to withdraw it.

Baroness Worthington: I thank the Minister. I find it quite curious that an amendment asking for greater certainty in CFD allocations is described as creating more uncertainty yet the Minister's statement, which contains no information at all about when we might expect another round of allocation, supposedly increases certainty. I just do not understand how that works. The autumn is arguably already upon us. I hope that the Government's interpretation of "autumn" does not mean 31 December and that we will see the information come to us while we are still considering the Bill, in the autumn. That statement needs to be made in respect of and is highly relevant to the Bill.

I am grateful to the Minister for picking up on the point about decommissioning. However, given that we now have an extra day in which we will recommit to Grand Committee in the Moses Room, I wonder whether we could have those amendments in time for then. It will be only a matter of days before Report. If those decommissioning amendments could at least be made available for that day, it would certainly help to alleviate some of the pressure on Report. I feel that we are stacking up quite a lot of issues for Report.

Lord Bourne of Aberystwyth: On that point, I am happy to endeavour to make the amendments available. What I cannot do, and I had given due notice to Peers who participated in the debate, is undertake that they are debated on that day. That was not in the agreement we have in relation to the recommittal day. I will of course endeavour to table the amendments as soon as possible.

Baroness Worthington: Given that the Minister has been so excellent in communicating with us in Committee, I am happy to take it in good faith that he will do his very best. I am sure that will produce results and on that basis, and on the basis that we will revisit this after Recess, I am happy to withdraw my amendment.

Amendment 35C withdrawn.

Amendment 35D not moved.

Clause 61: Regulations

Amendment 36

Moved by ***Lord Bourne of Aberystwyth***

36: Clause 61, page 33, line 14, leave out "or" and insert—

"(aa) regulations under section 27(8), or"

Amendment 36 agreed.

Clause 61, as amended, agreed.

Clauses 62 and 63 agreed.

Amendment 37 to 42 were renumbered and considered as Amendments 1A to 1F.

In the Title

Amendment 43

Moved by ***Lord Bourne of Aberystwyth***

In the Title, line 1, after "functions;" insert "to make provision about rights to use upstream petroleum infrastructure;"

Amendment 43 agreed.

Title, as amended, agreed.

Bill reported with amendments.

House resumed.

Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Motion to Approve

7.53 pm

Moved by ***Baroness Williams of Trafford***

That the draft regulations laid before the House on 16 March be approved.

Relevant documents: 1st Report from the Secondary Legislation Scrutiny Committee, 2nd Report from the Joint Committee on Statutory Instruments (Special attention drawn to the instrument)

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, the draft regulations will require private sector landlords, from 1 October 2015, to have at least one smoke alarm installed on every storey of their rental property which is used as living accommodation, and a carbon monoxide alarm in any room used as living accommodation where solid fuel is used. After that, the landlord must make sure that the alarms are in working order at the start of each new tenancy. The regulations have been brought before this House because the Government want to increase the safety of private sector tenants. Setting a minimum standard for the testing and installation of smoke and carbon monoxide alarms will reduce the risks that tenants face from fire and carbon monoxide poisoning in the home. We estimate that the new regulations will save 26 lives and nearly 700 injuries per year.

Local authorities will be responsible for enforcing the regulations. An authority will be required to issue a remedial notice to a landlord if they have reasonable grounds to believe that they are in breach. If the landlord fails to comply with the notice the local housing authority must, if the occupier consents, arrange the necessary action to ensure that the property is compliant. The local authority can also levy a civil penalty charge of up to £5,000 on the landlord. The levying of a penalty by a local authority is a last resort in the enforcement process. The landlord will have 28 days to achieve compliance where a remedial notice is served. If they comply within that period, no fine can be levied. The regulations aim to save lives and not catch landlords out.

[Baroness Williams of Trafford]

I want to respond to concerns about a lack of publicity to make landlords aware of the regulations coming into force. The report by the Secondary Legislation Scrutiny Committee asked the department to raise awareness of the new draft regulations in good time for the planned commencement date of 1 October 2015. We have done this. The regulations were announced in two departmental press releases in March, giving more than six months' notice before the planned commencement date. A comprehensive awareness campaign about the regulations, co-ordinated by the Chief Fire Officers Association, also ran from May to July and is estimated to have reached more than 8 million people. All 46 fire and rescue authorities raised awareness of free alarms available for distribution to landlords through various methods such as press releases, information on their websites and social media.

The department also published two explanatory booklets, one for landlords and one for local authorities, on the GOV.UK website on 4 September to provide helpful information to landlords in understanding and complying with the regulations. Nothing new is introduced; the requirements of the draft regulations are simply explained. I acknowledge that the timing of the parliamentary debates means that there is a short period between scrutiny and the regulations coming into force but the debates as scheduled are the earliest allowed by the parliamentary timetable.

Successive Governments and local fire and rescue authorities have made extensive use of non-regulatory approaches to increase the uptake of smoke alarms, including a series of highly effective public campaigns, such as "Fire Kills", and home fire safety checks. I would add here that the "Alarms4Life" campaign stated the date as being in October. However, private rented sector tenants remain less likely to be protected by a working smoke alarm than any other tenants. The department has also piloted alternatives to regulative approaches to increase the installation of carbon monoxide alarms. However, there are still high-risk properties without these alarms installed.

The majority of landlords act responsibly and protect their tenants with working alarms. However, a minority of private sector landlords have proved resistant to safety advice and recommended best practice. That is why the Government decided that it was necessary to introduce the draft regulations to protect the tenants of these landlords. A regulatory approach to the installation of smoke and carbon monoxide alarms was discussed as part of the Government's discussion paper, *Review of Property Conditions in the Private Rented Sector*, and the majority of responses were in favour. The regulations aim to increase the safety of tenants by ensuring that they are not subject to death, poisoning or injury by a lack of smoke or carbon monoxide warning alarms. The Government have funded local fire and rescue authorities to purchase a number of alarms for free distribution to landlords, encouraging all landlords to act responsibly towards their tenants as well as helping them comply with the regulations.

At this point, perhaps I might correct a comment that I made in the previous debate on a question about Airbnb from the noble Lord, Lord Beecham. I said that the Regulatory Reform (Fire Safety) Order 2005 did not apply to Airbnb accommodation. The order applies to houses or flats where the premises are not occupied as a private dwelling; therefore, in the case of Airbnb, we consider that the order would apply during the period when paying guests are staying. I therefore apologise that that comment was misleading. I spoke to the noble Lord, Lord Beecham, earlier and I will be writing to him to clarify this in more detail. I will make arrangements to place a copy of the letter in the Library of the House, which will ensure that this correction is recorded.

The Government are committed to creating a bigger and better private rented sector. The regulations will set a new benchmark for alarm installation in private sector properties, making tenants safer and increasing property standards while still supporting good landlords by not overregulating and stifling the sector with unnecessary red tape. The regulations prove the Government's commitment to continue improvement and create a private rented sector that works for everyone, and I commend them to the House.

8 pm

Lord Marlesford (Con): My Lords, in speaking to this statutory instrument, I first declare an interest in that I have residential properties which are let in the village that I live in in Suffolk, and the regulations will apply to them. That is in the *Register of Lords' Interests*.

I got involved in this last Monday, when I suddenly realised, because I was told, that this statutory instrument was to be brought into full force on 1 October this year. I heard about it because the Government had issued a guidance note on how it would all work on 4 September, the Friday before, which was three weeks before the regulations were due to come into force. In a question and answer section, the guidance note states:

"Is there a 'grace' period for landlords?"

The reply is:

"If the regulations are approved, landlords are expected to be compliant from 1 October 2015 when the regulations will come into force. There will be no grace period after this date to install the required alarms".

That is a pretty extraordinary statement considering that it was made such a short time before the regulations come into force.

My noble friend has made a lot of how everybody knew about the regulations, saying that there has been a great deal of publicity. My humble queries last Monday have produced a huge response. The British Property Federation points out that the regulations cover 4.4 million properties, but landlords are being asked to implement them in three weeks. Quite out of the blue, I received an email dated 9 September from British Gas in response to the Minister's point about the effectiveness of the Government's consultation. It states that,

"these Regulations are intended to come into force on the 1st October, without a grace period and with immediate effect. At British Gas, we are concerned that levels of awareness of the new regulations are currently very low, and that landlords may continue to unwittingly put their tenants' lives at risk by not being aware of the new legislation … We recently conducted research with nearly 1,000 landlords in England through our long-term partnership with the housing charity Shelter, and found that 59% of landlords are not aware that these Regulations are due to come into force on the 1st October".

That is pretty good evidence. As a result, there have been many applications to delay not necessarily bringing the order into force, but when it has to be complied with.

I say straight away—probably no one in the House would disagree—that we all think that the regulations are very sensible. They are needed. They should apply to all let properties—and probably, eventually, all owner-occupied properties as well. The intention is perfectly sound. I am complaining about the astonishing level of bad government in the way in which this has been put forward. It is very bad administration: Whitehall at its worst.

After I had made my comments on Monday, my noble friend very kindly invited me to see her in her department. I went with interest and expectation, but it was very unclear what the invitation was for, because she had nothing to tell me except that the Government intended to bring the regulations into force. What she said, interestingly—this was on Wednesday last week—was that she was going to lay the order that night in the Chamber. Actually, when I got back here, I found that that was not true and that the usual channels had attempted to inform her of that, but the message had not got through. That is another example which raises pretty good questions about the administration of her department—no fault of hers; I acquit her completely of that.

Then the decision was made to lay the order today. Interestingly, there was suddenly an ad hoc committee in the House of Commons, which met at 4.30 this afternoon to consider the regulations—an ad hoc committee, not a standing committee. I went along. It was very interesting. It did not take very long; the whole thing was dealt with in seven minutes, four minutes of which was taken by my honourable friend Mr Brandon Lewis, the housing Minister. I should say that Mr Lewis was kind enough to ring me over the weekend to say that he understood that I had a problem with the regulations, so I explained in some detail what it was. He undertook to consider it, which I thought was rather encouraging. Perhaps one should never be encouraged by undertakings. Anyway, he put the order forward. The opposition spokesperson got up and said how important the regulations are, as I have just done, and how sad it was that so many people die from carbon monoxide poisoning. There was not a squeak from anyone else. Immediately, the question was put, up everybody jumped up and off they went. That was the procedure in the House of Commons.

One of our functions in this House is to see that government is properly carried out and that legislation is sound, properly thought through and brought through in such a way that it can be properly implemented. A number of questions have been raised about the regulations which I will not mention now, because it would take too long. All I say is that there is far from being happiness and agreement that the Government have run the thing properly.

I shall cite three different bodies. The British Property Federation states that the compliance date should be postponed until April 2016. The Association of Residential Letting Agents, responsible for 1.42 million properties, states:

"It is not possible to undertake this amount of work before the regulations come into force",

and that,

"all existing tenancies should be allowed to have until 1st January 2016 to comply".

It also raises the point, which seems to me sound, that to have to inspect on the day a new tenancy is formed is rather impractical. An organisation called Your Move said that the matter was so unclear that,

"We had mistakenly thought the legislation applied to new tenancies only".

I may say that the CLA—of which I am a member, incidentally—thought the same, and has asked for it to apply to new tenancies from 1 October, but from 1 April 2016 for existing tenancies.

The way in which this has been handled is thoroughly unsatisfactory. It is not good government. This Government have a responsibility not just for working out the right policies but for doing so in a proper way. It is not being done in a proper way, and that is lamentable.

Lord Crickhowell (Con): My Lords, I hate having to rise to criticise my Ministers on the Front Bench, particularly the noble Baroness who is to reply to this debate. She has a well-deserved reputation for being extremely knowledgeable, not least about local government, and for dealing very well with matters. However, she has not been at her best in handling this business.

My noble friend the Minister started very eloquently this time on the way that information had been given to the fire authorities and how apparently they have rushed round the country telling tenants what they should and should not do. In the last debate in Grand Committee, I took my brief from the Secondary Legislation Scrutiny Committee and asked a number of very specific questions about the points that that committee made. The Minister did not answer one of those questions. Indeed, she did not even refer to the fact that I had made a speech at all. I had become a sort of non-person. I would gently say to her that it is usually a mistake when one of your colleagues makes a speech not to at least acknowledge he has done so, even if you are unable to give convincing answers to the questions. I was reminded earlier this evening that Lord Whitelaw always used to brief new Ministers and say, "Even if you haven't a clue what the answer is, refer to the speech they made and then most Members will be reasonably satisfied".

Slightly by chance later in the proceedings, partly as the result of questions from the noble Lord, Lord Beecham, on the other Benches and someone else, we were told:

"We have decided to issue new guidance in the form of explanatory booklets, one for local authorities and one for landlords. We also want to update *How to Rent*".—[*Official Report*, 7/9/15; col. GC 177.]

How to Rent was the first of four documents referred to by the Secondary Legislation Committee, all of which it said needed revision. The situation when we met last Monday on these regulations, which launched in March and which the department had the whole summer to deal with, was that the department was going to revise and issue guidance and all these things. We are now told that it has been informing the fire

[Lord Crickhowell]
brigade, which has been rushing round telling everyone, although my noble friend Lord Marlesford suggested that that was less than entirely accurate. It does not seem that we are getting on quite as we should or that this is the way to proceed. In the course of my speech, when I was told that key stakeholders had been informed, my noble friend the Minister said:

"A key stakeholder is someone who has a stake or interest in the regulation or legislation at hand".—[*Official Report*, 7/9/15; col. GC 176.]

I am not sure that that took us much further forward.

I came into the House earlier today and picked up a document I had not read before. I am not sure whether it was on the table in the Grand Committee when I came in last Monday. It is the second report of the 2015-16 Session of the Joint Committee on Statutory Instruments. In her very brief introductory speech last time, my noble friend made a reference to one of the reports of that important committee. She said that the Government would follow the recommendation that a review clause should be added to the policy. A commitment was given that a review clause would be introduced in due course. However, that was only one of five committee reports outlined in paragraphs 6.1 to 6.11 of the Joint Committee document, covering nearly three pages, which identified,

"doubtful vires, defective drafting and unexpectedly limited use of powers".

None of those points has been dealt with at all by the Government. We come here this evening and that very important Joint Committee has not even been mentioned by the Government, except on one point. That does not seem an acceptable way to do business.

8.15 pm

My noble friend in her previous speech talked several times in terms of rogue and unscrupulous landlords, implying that anyone who did not have the right equipment in their flats and properties fitted that category. In the many years before I became a Cabinet Minister, I was a managing director of Lloyd's insurance-broking firm, so I take a certain amount of interest in risk management. I have taken a good deal of care in the placing in three homes of the fire and other alarms in places that I think appropriate in the circumstances of those buildings. I know from having created smoke situations accidentally on at least two occasions that they work rather well. However, I have a feeling that none of them would meet the requirements of these regulations, which are very specific. Because you have not got things exactly right, that does not mean you are a rogue landlord. Rather, we are talking about someone who had not been necessarily informed of the regulations being introduced at very short notice.

My noble friend said today that the timetable was the earliest Parliament could have dealt with the matter. I cannot help observing that when the regulations were first tabled in March, no one knew that the House of Lords would be sitting in September. It is an unusual circumstance—I am glad to say, seeing the Chief Whip in his place. We do not normally sit in September; it is only because this is the beginning of a new Session and the Government want to get on with their urgent new business that we are.

Presumably what the Government would have done if we had not sat in September is to have brought forward these regulations when the House came back—probably about 11 October—and amended them to come into effect towards the end of the year. That is what they should do now in the face of a quite indefensible failure of administration by the department. It is not any good simply to say that the fire brigade has been telling everyone, when we now know that the promises given by the Government to Select Committees—important committees—have not been met or dealt with at all.

This is not the way to govern properly. I was eight years in Margaret Thatcher's Cabinet and I can just imagine what she would have said had I been responsible in such a situation. She would have summoned me, and I can imagine the words that would have been uttered. It is no good saying that the Minister may have been badly briefed or that officials should have done this. Ministers are responsible for what goes on in their departments. It is the Government who are responsible if inadequate or inappropriate action is taken in bringing forward legislation.

I am well aware that—at this hour of the night and with a small House—if we divide, the very efficient and competent Chief Whip will summon from their offices and desks an army of Ministers and supporters of the Government. There are not many outside supporters of the Government left in the House, but they will be summoned to see the Government's business through and therefore we will be defeated. If that is the way they get their business, they should not be satisfied in getting it that way. They should take this away and do what they would have had to do if we had not had a September sitting—bring the whole thing back and handle it properly in the autumn.

Lord Best (CB): My Lords, I declare my housing and property interests as on the register. Like everyone else, I think this is an excellent measure. We need it, it is a good thing and we need to get on with it as fast as possible. It is an awful shame that the DCLG, the front-line department here, has messed up the public relations around this—something that is well worth while and well worth having—quite badly. I have had the various missives from the British Property Federation, the CLA and others, and people are extremely angry and upset. How you can make people angry and upset about a respectable, sensible thing rather escapes me.

The timing is not as catastrophic as it may appear. I have also heard from the Chief Fire Officers Association, which has been engaged in these things for some time, that it has given out 447,000 free smoke alarms and 53,000 carbon monoxide alarms to private landlords. The association has obviously been busy—each of those is worth about £20, so there have been some goodies out there. But, more importantly, on timing, the association says in its note to me that it knows there is concern about the late introduction of these regulations, which are due to commence on 1 October. But under the process described in the draft statutory instrument, if the enforcing authority, the fire officer, becomes aware that a landlord is in breach of their duties—they will not often become aware very rapidly, I suspect—the first step is to issue a remedial notice

and allow 28 days for remedial action. However, in reality, when a tenant raises the issue with a landlord, usually the landlord will do something straightaway. If you can fix the problem for £20, not many landlords will wait around.

But if the landlord has done nothing and the 28-day period has followed the visit from a fire officer, if the fire officer finds the landlord is still in breach of the duty they can take action to ensure the alarms are fitted. Ultimately, they can impose a penalty charge, which is quite a long-winded process, I do not think it will be an emergency situation. I feel we can probably live with that one, even though it has clearly been incredibly badly handled.

I was more impressed by the British Property Federation raising the question of fire alarms in mansion blocks—blocks of flats where the regulations state that the landlord must test the alarm on the first day of a new tenancy. When someone moves in, in theory, the landlord—or more likely the agent—would test whether the alarm was working on that day. These alarms in the mansion blocks are communal alarms that ring throughout the building. If you have a block with tenants turning over quite regularly and the darn thing going off every time there is a new tenancy, bureaucracy is getting a little out of hand. Quite a lot of these alarms also ring at the fire station or the police station or both. This can all be overdone. I would like some reassurance that these regulations will not be imposed willy-nilly, across the piece, in exactly the same way for the lonely one-off house or the mansion block.

I chair the Property Ombudsman, which receives complaints from landlords as well as tenants about agents. I have talked to a couple of agents about their current experiences. Your Lordships may be interested to hear how people who are running these places feel about these matters. The agents I spoke to said that in most cases landlords are already fitting fire alarms, so this is not a big deal. They think that there will be cases where an alarm will have to be fitted on every floor in a three-bedroomed house, which the landlord might not have done. They will do it. They will take the screwdriver and put in the new alarm. An agent explained to me that you want to visit your properties every six months, not every year. Some landlords and agents will go on an annual basis, but every six months is better because batteries are always running out. If a battery starts bleeping because it is getting low, tenants tend to take the battery out because it is so irritating, but that disables the system, which is not clever. The agents I spoke to believe that they can cope. This is a good measure. If only the DCLG had got its act together and put it out in a sensible way, we would all have been very happy tonight.

Earl Cathcart (Con): My Lords, I fully support what these regulations are trying to achieve. These alarms save lives. From my point of view as a landlord, I am confident that I already comply with smoke alarms and carbon monoxide alarms where properties have gas. However, I am less confident with having carbon monoxide alarms in properties in Norfolk which have no gas, although they have open fireplaces and wood burners. I always thought that alarms were not necessary for fireplaces because when a fire is lit the air and smoke are drawn up the chimney and away. Obviously, following these regulations, I will need to fit carbon monoxide alarms there, too.

I am only too well aware of the dangers of carbon monoxide. A good friend of mine is now bringing up his nephews and nieces following the death of their parents because of carbon monoxide poisoning. They had no alarm. Also, last winter I was woken in the middle of the night in London by our carbon monoxide alarm. I jumped out of bed, turned off the gas and opened all the windows. Happily I am here to tell the tale, but it was quite scary at the time.

I support these measures, but I have three concerns about the practicalities of putting these measures in place. First, how will the Government make landlords aware of these regulations? I understand the Government have already informed local authorities, fire stations, letting agencies and various landlord associations but, disappointingly, as my noble friend Lord Marlesford said, 60% of landlords do not know of the existence of the regulations and yet they have to comply by 1 October this year.

It is a great pity that local authorities do not have a register of all landlords in their area as this would make this exercise so much easier. Last June, the noble Lord, Lord Dubs, asked an Oral Question on the private rented sector. I suggested that as all new occupants are legally obliged to complete the council tax registration form, there should be a single change to that form requiring that they give the name, address and contact details of their landlord, if appropriate. In a few years a complete list of landlords would be compiled. I raise this point again as I fully expect that when I suggested it in June it fell on stony ground. I hope this time the Minister and her department will give this suggestion serious consideration.

I go back to the question of how the Government intend to inform landlords of these regulations. For my part, nobody, not the local authority, the fire station or anybody else, has contacted me about this. I know about it only as a Member of this House.

Secondly, even if a landlord knows about these regulations, I seriously doubt that logistically it is possible for him to fit them before 1 October. I can imagine a landlord going to a supplier saying he would like 100 smoke alarms and 200 carbon monoxide alarms only to be told that there are only half a dozen of each in stock and that other suppliers up and down the country are in the same boat. When eventually he gets the right number of alarms, he will then need to find a professional to fit them only to be told to join the queue, which may be weeks or months long.

Thirdly, the landlord may have problems with access to his properties. Although I have keys to all my properties, I certainly would not enter without contacting the tenant first. It could take larger landlords weeks before they have access to all their properties, just to see whether those properties have the requisite number of alarms. The landlord then has to acquire the alarms and arrange for them to be fitted before he is compliant with these regulations, all before 1 October, but that could take weeks if not months.

[Earl Cathcart]

So I fully support what the Government are trying to achieve with these regulations but I have concerns about informing landlords and the unnecessarily hasty deadline of 1 October. Why not 1 January or 1 April, for example? Regulation with excellent intentions has been spoilt by not thinking through the detail.

8.30 pm

Lord Beecham (Lab): My Lords, unlike the noble Lord, Lord Crickhowell, the Minister managed to refer to me at some length, although not too long a length, in the Grand Committee debate. Perhaps smoke got in her eyes, or maybe her ears, when the noble Lord was speaking.

While I welcome the Minister's affirmation that Airbnb properties will be covered, I was a little puzzled by her reference to fire regulations some time before the legislation—some years before; I think she said 2005. Perhaps she could clarify that, because I do not understand how or why there should be a difference in approach under different forms of legislation for those kinds of properties. It seems sensible to have a single regime for all properties at risk that are rented out wholly or in part, but that does not seem to be the case. Airbnb properties are not within the definition of properties affected by these regulations; they may be covered, but I invite the Government to consider whether a single regime would make more sense.

The noble Lord, Lord Crickhowell, anticipated the points that I was going to make about the report of the joint delegated legislation committee. Both of us, and perhaps other noble Lords, will be interested in the Minister's reply in that regard. She did not mention the first report of your Lordships' Secondary Legislation Scrutiny Committee, which noted in paragraph 7:

"The Department has said that it is working with lettings agents, landlord representative bodies",

and so on,

"to publicise the requirements over the six months from March 2015. It will be important that the Department secures effective publicity for the new requirements in good time for the date".

In replying to the debate in Grand Committee, the Minister said that *How to Rent*, the document giving advice to tenants,

"may well be updated in terms of giving tenants more advice … We also want to update *How to Rent*, as I have just said … in time for 1 October 2015".—[*Official Report*, 7/9/15; col. GC177.]

I take it that that has happened, but perhaps she would confirm that it has been updated. Could she also confirm that it has been distributed and, if so, to whom and by what means? It is unlikely that the department actually knows which properties are rented and where these matters are to be delivered, so what form has that publicity taken? What efforts are the Government making to test whether the methods of delivery have been efficacious? After all, we are only a couple of weeks away from the implementation date. There are clear issues there.

Issues have been raised by outside organisations, some of which we have already heard about. I had a letter—I do not know whether other noble Lords have had it—from the vice-president of the Association of Residential Letting Agents. She also serves as a board director on the National Federation of Property Professionals and has worked for a long time in this sector. She made a number of points. One concerned the timeframe for implementing the legislation, which others of your Lordships have mentioned. The second concerned a deadline for recording that detectors are in working order. At the moment the guidance from the department says that that check has to be made on the first day of the tenancy, irrespective of whether the tenant moves in on that date or later. That, she says, is very impractical, and I can understand why. She recommends that recording that the detectors are in working order should be carried out at a time leading up to the start date and preferably prior to that date so that any repairs or improvements can be made in good time.

She raises a third point about the need to check the detector to confirm that it is in working order. I confess to having no expertise at all in these matters—I am clearly guided by her. However, it appears that some of the units that have already been installed—sealed lithium units, I gather—are recommended to be used for 10 years. To comply with the new legislation, the agent or owner can record the time and date of the installation. That is certainly true, but who is to know whether the units have been installed before, what state they are in and whether they should be checked. Therefore, there seem to be practical difficulties.

She also makes the recommendation that further advice be provided by the fire service regarding methods of checking the working order of any smoke detector. That is another aspect of publicity that needs to be given to landlords, and, again, I invite the Minister to indicate whether such advice will be made available.

We are all anxious that the regulations are implemented and that safety for tenants or other occupiers should be enhanced. Given the admittedly restricted reach of these regulations, to which I referred in Grand Committee and which the noble Baroness acknowledged with the communication that there could be further regulation, can she say when such regulations might be prepared? She has undoubtedly been put in a difficult position by the department. In our former capacity as leaders of councils, frankly, she and I would have been outraged by the inadequacy of the service provided in this case by those responsible for drafting the regulations.

I refer again to the need for publicity not just for landlords but for tenants to ensure that they contact their landlords to carry out the check. Given that it is impossible for the department to contact tenants individually, what steps are the Government taking to ensure that such publicity is given through the media—the print media, the broadcast media and social media for that matter—urging tenants to ensure that their landlords are called upon to check, first, that there is actual provision and, secondly, that the provision is effective? I am sure that local authorities—I declare my interest as honorary vice-president of the LGA—would be very willing to promote publicity in that respect. However, we are now only a couple of weeks away from the proposed start date and a degree of urgency is required. Obviously it will take time for all the necessary work to be carried out but surely it is imperative that tenants are aware of the requirement and of the need for

them, in turn, to chase up their landlords to provide the appropriate safety measures if they have not begun to take action.

Lord McKenzie of Luton (Lab): My Lords, I start by declaring my interest as president of RoSPA. I caught up with these regulations only this afternoon but was moved to make a few comments on them because in times past I had some ministerial responsibility in this area. I do not propose to dwell on the process and timing or on some of the practicalities that have been raised. It seems to me that these have already been extensively covered by noble Lords.

I want to pick up on one or two points. Certainly, the substance of these regulations should be welcomed, as far as they go, although they do not go all that far. I hope that we all have common cause in supporting all measures that can reduce the possibility of carbon monoxide poisoning, and the fatalities and illness that run from that. I am also sure that the Minister will have met, on more than one occasion, the campaigning groups that are very much focused on this area. The origin of their focus is almost inevitably that there has been some tragedy in their family or someone they know, which has motivated those groups to campaign. It is therefore important when we debate these issues that we are mindful of their position, too.

I have one or two points of detail. The regulations make reference to smoke alarms or carbon monoxide alarms being "equipped". Perhaps the noble Baroness will say precisely what is meant by that. The building regulations for smoke alarms, as I understand them, require them to be hardwired. I am not sure that that flows in respect of these regulations. Clearly, if carbon monoxide detectors are not hardwired, they can readily go walkabout.

The capacity of local authorities to enforce is also an issue. The paperwork we have makes reference to discussion as to whether and how this fits with the doctrine of new burdens, and whether local authorities are going to be compensated, and to what extent, in respect of what is required of authorities in all this.

The regulations have a range of exclusions; I am thinking of paragraphs 2 to 7, which make exclusions for one reason or another because the provisions are covered in other ways. Perhaps the Minister can confirm that those exclusions are provided for in other regulations, such as the building regulations.

I wish to raise one point in particular. I refer to the impact assessment at the end of page 5, where it is stated:

> "Therefore, any future homes built, or retrofitted with solid fuel installations, would be captured by existing building regulations … with regard to a Carbon monoxide alarm being installed. These regulations will not cover domestic gas appliances as the risk of Carbon monoxide poisoning is very low as a result of the safety features required to be incorporated into the appliance by Gas Appliances (Safety) Regulations … which first took effect on 6th April 1992. Additionally landlords are already required to carry out an annual gas safety check which should identify any unsafe gas appliances".

I wonder how safe those assertions are. The substance of a lot of the campaigning is that carbon monoxide arising from gas appliances is very much at the heart of the issue that we are dealing with. Although there are mandatory annual checks, the problem is that those premises that are likely to have rogue landlords or landlords who do not care about compliance are more likely not to be subject to annual inspections. That is not a sufficient safeguard.

Finally, a number of points on the range of publicity and awareness-raising have been made, including by my noble friend Lord Beecham, and we have heard from the Chief Fire Officers Association about some of the work that has gone on. Can the Minister tell us about the efforts that the energy companies are making in all this? It was always a bone of contention as to whether they would help to fund campaigns and provide carbon monoxide detectors in particular. Can we have an update on the Gas Safe charities, which campaigned and raised awareness in all this? There used to be two; one arose from the old CORGI organisation, which was replaced by the Gas Safe Register. Way back, there was the intention that these organisations should be merged to create a better process. I am not sure whether that ever happened or what the current position is. It would be helpful to have an update on that in writing, if not this evening.

Lord Beecham: The noble Lord referred to energy companies. I wonder whether he agrees that they should be very much part of the publicity campaign. They are sending bills out after all, online or on paper, and it may well be useful to ask them—to demand of them, in fact—to incorporate some publicity in this respect.

Lord McKenzie of Luton: My Lords, I very much agree with what my noble friend has said. He has prompted me on one other point. The paperwork we have refers to campaigns that have taken place in various areas. A very effective campaign was undertaken in Liverpool among students. It is often students who are subject to renting the grottiest property around because that is all that they can afford. Working through the students' union and the university was an effective way of raising awareness.

8.45 pm

Lord Hunt of Kings Heath (Lab): My Lords, we come back to a very interesting debate about these regulations and the process used by the Minister's department. I declare an interest as an adviser to Consumer Safety International and a patron of CO-Gas Safety.

I very much endorse the remarks of my noble friend Lord McKenzie, who speaks with great experience due to his presidency of RoSPA and as a distinguished Minister with responsibility for health and safety in the previous Labour Government.

Let me say at once that we on the opposition Benches support the regulations. Some practical, technical details have been raised tonight, to which I hope the Minister will be able to respond. However, as a matter of principle, we support the regulations. But they are, of course, confined to the private rented sector. I repeat again the point that I made last week: when it comes to carbon monoxide poisoning, we know that the work of CO-Gas Safety shows that far more deaths occur in owner-occupied homes than in the private rented sector.

[Lord Hunt of Kings Heath]

We also know that there are issues about British tourists going to other parts of Europe, where the provisions are even worse than in this country. We need to recognise that these regulations deal only with a very small part of the sector.

The second issue is clearly the way in which the Minister's department publicised the existence of the regulations for those who need to know. It is very hard to argue with noble Lords who feel that the department's work has not been up to the standard that we should expect. I suspect some of that is due to the swingeing cuts that the Government have made in the number of civil servants. Indeed, the disparaging remarks that some Ministers made about civil servants clearly did not help morale in government departments. I am sure the Minister would agree that, if civil servants and the resources spent in relation to government departments are continually undermined, it will have an impact. I suggest that we see that impact here. It is quite clear that there was no budget for getting the message across to the sector and it instead relied on press releases. Face it: no one reads press releases anymore. It is such an old-fashioned approach to communication —certainly journalists never read them. Relying on press releases and fire officers is simply not good enough.

Clearly, the regulations will go through, and so this will come into law on 1 October. I suggest that the Minister could give noble Lords a great deal of reassurance if she were to say that, on reflection, her department will now engage in a widespread publicity campaign. I think she owes it to your Lordships' House for her department to make amends. The only way I think it can make amends is to do the job that it should have done in the first place.

I also take the point raised by my noble friend Lord Beecham that it is not just about publicity among landlords but about publicity among tenants. Surely there are ways in which tenants can be informed. His suggestion of using bills and the work of the energy companies is an excellent example. I think that we could leave your Lordships' House tonight feeling that we have done the proper job of scrutiny—which does not seem to have taken place in the other place to judge by the noble Lord's report of that this afternoon—if the Minister were to say that she recognised that the department did not do the right job but is now going to do it.

Baroness Williams of Trafford: My Lords, I thank all noble Lords who have taken part in the debate this evening. Perhaps I may first thank my noble friend Lord Crickhowell, because if I do not thank him now I may well forget, but I will refer to his comments in due course. I apologise to him for what happened the other day. I never knowingly omit noble Lords; I try to answer everybody's questions, but on that occasion I failed.

My noble friend Lord Marlesford talked about the date of 4 September—in fact, many noble Lords referred to it. In his area in the eastern region, I understand a newsletter went out at the end of August. I am not saying that he has seen it, but I know that landlords associations up and down the country were making their members aware. Of course, if you are not a member of the landlords association you may well not have seen it, but it was making landlords aware from the end of August.

My noble friend talked also about the lack of a grace period. There is no statutory requirement to include a grace period. It is government policy that regulatory measures affecting businesses are brought into force on a common commencement date, which is usually either 6 April or 1 October, to help businesses plan for new regulations. The Government believe that it is important to enforce the regulations as soon as possible to help to protect the lives of private sector tenants. A considerable period has been allowed for landlords to prepare for the new duties—as I said, the regulations were laid in draft back in March.

There is also in effect a grace period, because where a landlord is in breach—the noble Lord, Lord Best, referred to this—they will have 28 days to comply with a remedial notice. If they do so, the local housing authority may not impose a penalty charge.

Earl Cathcart: My Lords, to get this straight, is my noble friend the Minister saying, in effect, that landlords may ignore this regulation until such time as the health and safety officer or the housing officer gets round to feeling their collar because they have been reported by, let us say, their tenant and that, even then, they still have 28 days to comply? The noble Lords, Lord Beecham and Lord Hunt, talked about publicity for tenants because, without it, the possibility of a tenant knowing about this regulation is remote. Therefore, a landlord would be quite unlucky to have a tenant who knew about it, let alone reported non-compliance. It is just not going to happen in sufficient numbers to achieve what the regulation is seeking.

Baroness O'Cathain (Con): My Lords, the Minister said in respect of the 28 days that a local housing authority "may not" fine. Could that be changed to "will not"? Would a landlord have a period of grace of 28 days after receiving a notification that they were not complying?

Baroness Williams of Trafford: My Lords, I hope that I can clarify that, in effect, the grace period means that the landlord has 28 days to comply after the local authority has been notified that the landlord is not compliant. The landlord has 28 days from the issuing of a remedial notice to comply. I hope that that clarifies things.

My noble friend Lord Marlesford asked about consultation, as did my noble friend Lord Crickhowell the other day. I do not think I answered him very well so I hope that I can give a fuller response now. The Government carried out a major consultation on this and 96% of the respondents agreed that the regulations were needed. Officials from the Department for Communities and Local Government, the Chief Fire Officers Association and local fire and rescue services have been in regular contact with industry bodies such as the British Property Federation, the National Landlords Association, the Residential Landlords Association and other stakeholder groups.

The Chief Fire Officers Association, as I explained in my opening speech, ran a national and regional advertising campaign. It included newspaper adverts in regional newspapers that stated that the timing would be October. It also ran ads in the trade press highlighting the forthcoming requirements for landlords to install both smoke and carbon monoxide alarms in the private rented sector. It estimates that the campaign reached more than 8 million people.

My noble friend Lord Crickhowell talked about the JCS I adverse report on the regulations. The department considered each of the committee's concerns in great depth and acknowledged the error of not including a review clause. It committed to adding one at the earliest possible opportunity. We are grateful for the committee's comments but believe that, with the addition of a review clause, the regulations should remain as drafted.

Lord Hunt of Kings Heath: I am trying to reflect on what the Minister said. Is she seriously saying that the fire officers reckon that 8 million people somehow or other got notice that these regulations were going to come into force? I have great respect for the fire and rescue services, but that is frankly not believable.

Baroness Williams of Trafford: My Lords, that is the information we have. I can ask them to clarify how they thought that 8 million people had received this information and write to the noble Lord, Lord Hunt, and other noble Lords who are taking part in the debate. I would not want information to be incorrect, but it is the information that I have.

Lord Marlesford: If my noble friend believes that the British Property Federation is so happy, why on 11 September did it say that it is necessary to put back the compliance date—not necessarily the date of bringing this into force, but the compliance date—until April 2016? It is a big outfit and it is pointing out that 4.4 million properties are involved.

Baroness Williams of Trafford: My Lords, I take my noble friend's point. There have been other concerns about the timing, but as I laid out in my opening speech and as I will explain in my responses to noble Lords this evening, this is the right thing to do at this time.

My noble friend Lord Crickhowell talked about rogue landlords and my description of rogue landlords. These regulations are intended to target those very few landlords who do not have a concern for tenants' safety or security.

9 pm

Lord Crickhowell: I am sorry. I understand that, but I happen to have open in front of me a letter I received from one of the major letting organisations representing a vast range of people, which shows how widely misunderstood the regulations are by the professionals. Some advice may have got through, but clearly some has not. I cannot delay the House setting out all the detail, but there is a long account of all the difficulties that landlords will have, some of which were referred to in practical terms by my noble friend. It is not just the rogue landlords who are going to get this wrong. I did my best when I renewed my own tenancy last week. I took the trouble to inform my landlord and my son at the same time, so that he could let out my former principal home correctly. But this is not understood by a whole range of people. That is the difficulty here: there may be a great blanket declaration that something is being done, but it is the detail that counts.

Baroness Williams of Trafford: I thank my noble friend and I will see what further publicity can be generated in the next few weeks.

On the timetable for the guidance, the booklet that we published on 4 September aims to aid landlords in understanding and complying with the regulations, and nothing new has been introduced. The requirements of the draft regulations are simply explained in that guidance and, as stated in the Explanatory Memorandum to the regulations, the Government did not intend to publish new guidance on this policy. Noble Lords referred to that last Monday. Instead we plan to use a variety of methods to publicise the instrument and the new duties to both local housing authorities and landlords. However, it was following a large volume of queries that we did decide to publish the explanatory booklet in order to help landlords.

The noble Lord, Lord Best, explained clearly the timeline of landlords being in breach and then issuing remedial notices. He also talked about testing on the first day of new tenancies for blocks of flats. In most cases a smoke alarm requires just a test button, but I appreciate that if new tenancies come in every day, it might be rather tiresome for the other tenants living in the block. If he does not mind, I will write to him in more detail about that.

My noble friend Lord Cathcart talked about the danger of carbon monoxide poisoning. He relayed that story to me the other day, and it is absolutely tragic. He also mentioned the point about fireplaces. They are covered under the regulations for carbon monoxide alarms. If fireplaces are clearly not being used as working fireplaces and are blocked up, they are exempt from the requirement to have a carbon monoxide alarm. He also talked about awareness among landlords, and has discussed with me the idea of a register of landlords from the council tax forms that people receive. He has now pressed me on this three times, so I will go back to the department and discuss his suggestion. He also raised access issues. He is right to say that a request must be made to the tenant to access the property. The testing could be done on the first day of the tenancy when the inventory is being taken. Landlords or their agents tend to be busy on the first day.

The noble Lord, Lord Beecham, mentioned the *How to Rent* guide and asked whether it would be updated. It most certainly will be, and I referred to it last Monday. He talked about the practical difficulties around testing. Again, it can be done as part of the inventory on the first day of the tenancy, through either the landlord or the letting agents. He also asked

[Baroness Williams of Trafford]
whether we could expect further regulations. They will be brought forward in 2017. He then talked about publicity for tenants. I will write to him with any further information I have other than the *How to Rent* guide because I do not have that answer to hand. The date of 1 October is very significant because a lot of students will be moving into the private rented sector.

The noble Lord, Lord McKenzie, asked whether the alarms would have to be hardwired. The answer is no. It is up to the landlord how he or she puts them in. He talked about new burdens on local authorities. We try to make them as light as possible. We spent the previous Parliament trying to undo new burdens. I referred to the nearly £4 million that fire authorities were given both for publicity and the purchase of new fire alarms and carbon monoxide alarms.

Lord McKenzie of Luton: Will the Minister just confirm that there will be no additional resources for local authorities undertaking compliance?

Baroness Williams of Trafford: The point I was making is that we are trying to make the burden as light as possible. I will respond to the noble Lord on that.

The noble Lord asked about the exclusions and whether they would be covered in other legislation. Care homes, hospitals and hospices will be covered under the Regulatory Reform (Fire Safety) Order 2005. Hostels, refuges and student halls will be treated exactly the same. The only sector that is not covered is social housing, but it is so good at its obligations to tenants that it was not an area that needed to be included in the regulations. He also asked what energy companies were doing. We could write to them and ask exactly how they are playing their part.

The noble Lord, Lord Hunt, mentioned that the regulations apply only to small parts of the sector. That is absolutely correct. They apply to parts of the sector that have shown the least duty of care historically to their tenants in terms of the installation of smoke and carbon monoxide alarms. He talked about no budget. Of course, a £4 million budget was given to the fire authorities, but I do not know whether he was referring to other budgets such as that referred to by the noble Lord, Lord McKenzie. The noble Lord, Lord Hunt, talked about a widespread publicity campaign that still needs to happen. I will certainly go back to the department to see what further work can be done, given some of the concerns expressed in the House.

Lord Beecham: Before the Minister sits down, she referred to Airbnb and indicated that those properties were covered not by these regulations but by others. Can she—if not tonight, then in correspondence—provide the details of that? I was left somewhat puzzled by that response.

Baroness Williams of Trafford: I forgot to respond on that. The fire safety order of 2005 is largely aimed at non-domestic premises whereas these regulations are aimed at residential premises. I will explain this point further in my letter to the noble Lord which we will send shortly. I will clarify the Airbnb point in the letter. I hope that that satisfies the noble Lord.

Motion agreed.

House adjourned at 9.09 pm.

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