Vol. 767
No. 73

Wednesday
25 November 2015

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

£4·00

Lords wishing to be supplied with these Daily Reports should give notice to this effect to the Printed Paper Office.

No proofs of Daily Reports are provided. Corrections for the bound volume which Lords wish to suggest to the report of their speeches should be clearly indicated in a copy of the Daily Report, which, with the column numbers concerned shown on the front cover, should be sent to the Editor of Debates, House of Lords, within 14 days of the date of the Daily Report.

This issue of the Official Report is also available on the Internet at
www.publications.parliament.uk/pa/ld201516/ldhansrd/index/151125.html

PRICES AND SUBSCRIPTION RATES

DAILY PARTS

Single copies:
Commons, £5; Lords £4

Annual subscriptions:
Commons, £865; Lords £600

LORDS VOLUME INDEX obtainable on standing order only.
Details available on request.

BOUND VOLUMES OF DEBATES are issued periodically during the session.

Single copies:
Commons, £65 (£105 for a two-volume edition); Lords, £60 (£100 for a two-volume edition).
Standing orders will be accepted.

THE INDEX to each Bound Volume of House of Commons Debates is published separately at £9·00 and can be supplied to standing order.

All prices are inclusive of postage.

The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

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
UKIP	UK Independence Party
UUP	Ulster Unionist Party

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

House of Lords

Wednesday, 25 November 2015.

3 pm

Prayers—read by the Lord Bishop of Rochester.

Royal Assent

3.06 pm

The following Act was given Royal Assent:
Northern Ireland (Welfare Reform) Act.

Domestic Abuse
Question

3.06 pm

Asked by ***Baroness Prosser***

To ask Her Majesty's Government what action they will take to reduce the number of women killed by partners, ex-partners or family members and the incidence of domestic abuse.

The Minister of State, Home Office (Lord Bates) (Con): My Lords, the Government are committed to tackling domestic abuse and have placed domestic homicide reviews on a statutory footing to ensure that local areas learn lessons from each and every one of them.

Baroness Prosser (Lab): I thank the Minister for that reply, brief though it was—it took me slightly by surprise. For those in the Chamber who are not aware, today is the international day against violence towards women, hence the importance of the Questions on the Order Paper today. Since 28 October, when I put this Question down, eight more women will have lost their lives at the hands of a violent partner or ex-partner. Can the Minister tell the House, with some clarity and precision, just what the Government are doing to prevent this carnage and what specific training programmes police forces are required to undertake to recognise cries for help and spot dangerous situations? What measures are in place to ensure co-ordination across government departments?

Lord Bates: The noble Baroness is absolutely right that, on this International Day for the Elimination of Violence against Women and girls, we should focus on this issue because every one of those deaths was in some way preventable. We have often found in these cases that incidents will have been happening over a consistent period of time, until the point of the fatal action, and that if there had been earlier interventions something could have been done. That is the reason for changing the police training on this. The Crown Prosecution Service has also changed its procedures. As a result, we are seeing domestic violence convictions at a record level. Referrals from police and prosecutions are also at a record level. Those results are all heading in the right direction but there is an awful lot more still to be done.

Baroness Gardner of Parkes (Con): Is the Minister aware that Britain was the first country to bring this into public notice, at the United Nations conference for women, and that because of this, other, smaller countries which had had terrible violence against women for many years were no longer ashamed for it to be known about? There is still a lot to be done but we have made considerable progress over those 20 or more years.

Lord Bates: That is a very important point because this is a UN international day, which is in its 17th year. We also remember the work done through DfID and the Girl Summit, which was hosted in this country last year, to get to grips with this issue in other countries as well. But we also have a great deal more to do in our own country to ensure that we have the response absolutely right.

Baroness Hussein-Ece (LD): My Lords, what is being done to pick up on early warning signs, given that the women who are losing their lives or suffering domestic violence are often harassed and stalked by partners and ex-partners over a period of time? Evidence has emerged that in some of these cases, when women have rung up the call centres, these signs have not always been picked up on or followed through appropriately. What is being done to ensure consistency and that call centre staff are trained appropriately to take these calls very seriously?

Lord Bates: The National Domestic Violence Helpline is run by two organisations, Women's Aid and Refuge. As the noble Baroness will be aware, both those organisations have been given additional funds as a result of the Chancellor's Statement today—£1 million each. A principal focus of the work will be looking at early intervention. We want to learn the lessons from that so that we can refresh the Government's strategy for violence against women and girls, which is due to take place in the next few months.

Baroness Armstrong of Hill Top (Lab): My Lords, first, I remind your Lordships of my declaration of interests, because I work with two charities that are involved, among other things, with victims of domestic violence. I have worked for over 40 years on this issue and even I am shocked at the number of women I meet now who are homeless, whose lives have been riven with addiction and who are on the edge of the criminal justice system, nearly all of whom have been victims of sexual, physical or other abuse. Will the Government have another look and make sure that right across the board—not just in the Home Office but in the Department of Health, the Ministry of Justice and other departments—they recognise the importance of this? Many of these women have never talked to anyone but their lives have been ruined.

Lord Bates: The noble Baroness is absolutely right, and I pay tribute to her work over many years in this area. She will recognise that the number of places in refuges, which is the subject of ring-fenced funding of £40 million—there through this Government—has increased so that there are now 3,472 places available. The number of rape advice centres—also funded by

[LORD BATES]
the Ministry of Justice—has also increased by 15. But again, it is a collective effort to make sure that we all tackle this most abhorrent of crimes.

Baroness Howarth of Breckland (CB): My Lords, the Minister will be aware, as I have said this to him before, that where there is domestic abuse of women it is often also children who suffer. At this time when we are looking at the spending review and are aware of the pressure on local authorities, would he not acknowledge that much of the work in these families was carried out by social workers in local authorities? Will he not only commend the work that they do on behalf of society but hope to protect their budgets and the numbers in post?

Lord Bates: I will certainly do that. The noble Baroness will be as encouraged as I am to hear from the Chancellor that there will be new facilities in the social care budget to provide additional funding to that important area. The Government have also announced that we will give additional funding to an organisation called Behind Closed Doors, which works particularly with children to help and support them in those difficult times.

Lord Rosser (Lab): My Lords, the Government have not ratified a pan-European convention on women's and girls' rights—the Istanbul convention—after signing up to it in 2011. That convention seeks to protect women from sexual violence and gives them the formal right to counselling after suffering domestic violence or abuse. Why have the Government not ratified the Istanbul convention and when do they intend to do so?

Lord Bates: We are implementing most aspects of the Istanbul convention. One area—Article 44, I think, which deals with extraterritorial jurisdiction when dealing with forced marriage—requires primary legislation and is the only part that we have not introduced. Apart from that, this Government have been working on this through things such as the Girl Summit. I am not quite sure where my right honourable friend William Hague is in the metamorphosis from that place to this place.

Noble Lords: Tomorrow.

Lord Bates: Ah, my noble friend Lord Hague is due here tomorrow. He has done a tremendous amount of work in this area and that is being continued by my right honourable and noble friend Lady Anelay as well.

Violence Against Women

Question

3.14 pm

Asked by ***Baroness Gale***

To ask Her Majesty's Government whether they are considering appointing a National Adviser for Violence against Women, Domestic Abuse and Sexual Violence, similar to the appointment made by the National Assembly for Wales in 2015.

The Minister of State, Home Office (Lord Bates) (Con): My Lords, protecting women and girls from violence and supporting victims remain key priorities for this Government. We welcome all initiatives to tackle violence against women and girls.

Baroness Gale (Lab): I thank the Minister very much for his response, although I am a little disappointed in what he said. Does he agree that anything that can be done to reduce the high number of women suffering from domestic abuse—1.4 million in 2014—must be done? Will he agree to meet the Minister in Wales to discuss the ground-breaking law in Wales so that women in England can benefit in the same way as women in Wales do now from that new law, which would add to all our existing law?

Lord Bates: Yes. In fact, I probably recommended the meeting and I am very happy to sit in on it. We have appointed, for the first time, a Minister for Preventing Abuse and Exploitation, Karen Bradley, in the Home Office. She takes a lead in this area, and I am sure that discussions between those Ministers will be very important. It is very important that we all work together. The key element of the Act passed by the Welsh Assembly was to provide for a strategy. We have that in England and Wales in the cross-government strategy, but we can all learn from each other. It is a very important area and we need to do more.

Lord Wasserman (Con): Experience in Spain, Portugal and elsewhere has shown clearly that electronic monitoring or tagging in the context of domestic violence is an effective way of keeping victims of domestic violence alive and safe. As my noble friend will know, several police forces in this country—Hertfordshire, Northumbria and Cheshire—have purchased electronic monitoring equipment but they cannot use it unless the offender agrees. When will the Government amend the present law relating to the use of that technology so that tags can be fitted to domestic violence offenders with the authority of the courts, even if offenders are not minded to wear them?

Lord Bates: My noble friend makes a very good point. We have introduced domestic violence protection orders—2,500 have been issued—which have had a positive effect in enabling people to have protection. Often, the victim of domestic violence is the one who is forced to flee their home, whereas it should be the perpetrator who is excluded from the home. That use of technology would seem very worth while. I am certainly happy to follow that up with my noble friend afterwards.

Baroness Randerson (LD): My Lords, the Welsh commissioner referred to in the noble Baroness's Question is a part-time appointment for what is very much a full-time problem. FGM is one aspect of that. The coalition Government undertook some commendable work, led by my noble friend Lady Featherstone, to raise public awareness of FGM. At that time, we understood the importance of NHS staff recognising and reporting cases of FGM. NHS staff in England

have a duty to do so, but there was no such duty in Wales at that time. Is it still the case that NHS staff in Wales do not have to report cases of FGM?

Lord Bates: I am not sure about the answer, because it is a devolved matter for the Welsh Assembly to determine. It was certainly introduced here. Another very positive development which we introduced was FGM protection orders to give children at risk court protection to prevent them being moved out of the country to where those barbaric practices can be carried out.

Baroness Whitaker (Lab): My Lords—

Baroness Fookes (Con): My Lords—

Baroness Whitaker: My Lords, will the Minister join me in congratulating the Government of Gambia on banning female genital mutilation, as announced in a newspaper today?

Lord Bates: I am very happy to do that.

Baroness Coussins (CB): My Lords, what resources are being put into educating boys and men to make them understand that sexual violence and domestic abuse are neither normal nor acceptable?

Lord Bates: The noble Baroness is right, and that is why we have a ground-breaking, leading campaign called This is Abuse. The campaign plays a key part in that, as well as ensuring that there is appropriate sex and relationships education in schools. People need to understand the word "consent" and the meaning of the word "abuse", and to live by those terms.

Baroness Fookes: Does the Minister agree that, where different authorities and persons hold evidence, they should actually talk to one another?

Lord Bates: That is absolutely right. It is very important that the cross-ministerial group, chaired by the Home Secretary, ensures that there is a joined-up response on these issues. That is also one of the purposes of the domestic violence disclosure scheme—the so-called Clare's law—which allows people to find out whether a potential partner, whom they might be bringing into their home, has a violent or abusive past.

Baroness Afshar (CB): My Lords, is the Minister aware that, in order to deal with domestic violence within Islamic Muslim communities, it is absolutely necessary to have an adviser who understands the Koran, can understand the interpretation and can deal with the misguided view held by particular members of that community that they are entitled to be violent towards their women? It is essential to have someone who knows what they are talking about.

Lord Bates: That is very true. In answer to a question yesterday on stalking, I spoke about the charity which is working with us on that. Furthermore, I had the occasion to visit a team working in the Foreign Office—the Forced Marriage Unit—which is offering advice to those in fear of forced marriage. It is doing excellent work in this area and is very sensitive to the communities to which it is speaking.

Baroness Massey of Darwen (Lab): The End Violence Against Women Coalition suggests that children could be encouraged to protest and cope with abuse from peers, adults or the media. Does the Minister agree that schools could play a part in this by developing and delivering programmes that encourage children to develop resilience, self-confidence and knowledge about this issue? Why do the Government not make such programmes statutory in schools?

Lord Bates: We have been very clear that we expect sex and relationships education to be taught in all schools. In fact, it is inspected by Ofsted as such. We help the PHSE Association to develop materials for use in the classroom in this area. Of course, there is more that can be done, but it is particularly important that people in schools, who might be the first to hear of instances of domestic violence, have the confidence to know what it is and to report it.

Gender-based Violence: Women with HIV

Question

3.23 pm

Asked by ***Baroness Gould of Potternewton***

To ask Her Majesty's Government what action they have taken to assist women with HIV who are experiencing gender-based violence.

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, sexual health and HIV services are already sensitive to the risk of domestic abuse and sexual violence, including gender-based violence, in their routine consultations. In recent years, the Government have put nearly £40 million into specialist domestic and sexual violence support services and national helplines. We have also set up 15 new female rape support centres to raise the total to 86. We have taken strong action in the fight to eradicate female genital mutilation.

Baroness Gould of Potternewton (Lab): I thank the Minister for that reply but, with respect, it is not sufficient to answer the Question that I asked, which was about the relationship between HIV and sexual and gender abuse. Does the Minister not accept that the Government have a responsibility to work across the relevant departments, as others have said, to ascertain the number of women who are in this dire situation, to encourage them to seek support and help, which they so desperately need but which many are prevented from doing because of the stigma of their situation; and crucially to provide the resources, both staffing and financial, to help these women in such terrible situations?

Lord Prior of Brampton: The noble Baroness raises the very profound point about stigma. Where people suffer from both HIV and domestic abuse, they are extremely vulnerable and feel it very difficult to raise these issues. The Government have done a lot to try and remove the stigma and make it easier for these very vulnerable women to come forward. I am sure that the noble Baroness is aware of the sexual assault referral centres. There are now 43 of those, funded by NHS England, the police and local authorities. They are a good example of cross-government support.

Baroness Walmsley (LD): My Lords, in 2012 the coalition Government set up a new research and innovation fund to collect information about violence against women in 10 African and Asian countries with the view to setting a new prevention strategy. Could the Minister tell us anything about how that strategy is progressing? Given the risk of HIV to many of these women, will that issue be covered in the strategy?

Lord Prior of Brampton: I think I am right that there are some 16 million women worldwide who suffer from HIV/AIDS so it is a huge problem, particularly in sub-Saharan Africa. I am not familiar with the innovation fund to which the noble Baroness referred, but I will investigate that and write to her.

Baroness Masham of Ilton (CB): My Lords, is the Minister aware that there are many African men living in the UK who deny that they may be HIV positive, refuse to have a test and therefore put women at risk? What will the Government do about that?

Lord Prior of Brampton: I believe that some 103,000 people are HIV positive in England, of whom two-thirds are men. The majority of people who are HIV positive come from sub-Saharan Africa. The noble Baroness made the point that some who know they are HIV positive are not taking appropriate action and asked what we can do about them. It is also worth pointing out that some 18% of people who are HIV positive are ignorant of the fact. We have a very big communication programme ongoing to try and educate and inform these men, and we will continue putting the necessary resources into those programmes.

Baroness Hayter of Kentish Town (Lab): My Lords, given that today is the UN International Day for the Elimination of Violence against Women, has the Minister taken a moment to see the associated ActionAid exhibition in the Upper Waiting Hall? In respect of women with HIV, the only survey we seem able to find about the prevalence of domestic violence is a 2013 one from Homerton, which showed that probably half of women with HIV reported experience of partner violence. Could the Minister undertake that there should be more research on this and that, if such a figure is found to be confirmed, everyone dealing with HIV women should be taught to be aware of their vulnerability to domestic violence?

Lord Prior of Brampton: I have not been to the Upper Waiting Hall to see the exhibition but will endeavour to do so if I have time after Questions this afternoon. The noble Baroness referred to the research done at the Homerton in 2013. I think the figure that study came up with was 52%. There has been a subsequent study but I cannot remember the name of it. It may not have been as extensive as the one done at the Homerton and put a figure slightly less than 52%—but it was still very significant. I will ask officials the status of that subsequent research to see whether we need more.

Baroness Gould of Potternewton: To help the Minister, it was Positively UK that did the other piece of work.

Religion: Advertisements

Question

3.28 pm

Asked by ***The Lord Bishop of Chelmsford***

To ask Her Majesty's Government what assessment they have made of the freedom of religious and non-religious organisations to express their beliefs in the public sphere, in the light of the decision by Digital Cinema Media not to accept advertisements from the Church of England.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, freedom of expression, including freedom of the media, is fundamental to democratic society. Open discussion of faith issues has the benefit of bringing communities together, thereby giving rise to greater understand among faith groups. In this case, the decision not to accept the advertisement was by an independent media organisation. The Government made clear that they do not agree with that decision and urged the cinema to look again.

The Lord Bishop of Chelmsford: On these Benches, we very much welcome the support from the Minister and, indeed, from No. 10 and other Ministers—and, indeed, from Richard Dawkins and Stephen Fry, who are not usually people who support the Church of England. But perhaps I might press the Minister to go further. Does she agree that advertisements are about beliefs and lifestyles, and then they sell the product? Therefore, others should also be free to speak about ideas in the marketplace of ideas. Digital Cinema Media, by banning this advertisement, has narrowed the opportunities for beliefs and values to be spoken about in the public square, which risks undermining some of the values and freedoms that most of us spend the rest of our time seeking to promote—not least the freedom to be offended.

Baroness Williams of Trafford: I totally agree with the right reverend Prelate on that point, and the Government wholeheartedly support the freedom of expression and support faith and faith institutions in this country. The Government greatly value the vital role that religious individuals and organisations have in our society, and the part that they play in national life and public service. We also value the vital role that

the Church of England and many Christian organisations and individual Christians have in our society, and the part that they play in national life, inspiring a great number of people to get involved in public service and providing help to those in need.

Lord Hunt of Kings Heath (Lab): My Lords, I very much take the Minister's point, but is her Answer specifically directed at the special position of the Church of England, as the established church, or is she saying that she thinks that any religion—say, the Church of Scientology—or any political party should be permitted to advertise in the way that the Church of England wants to do? It is very important that we understand about whether a precedent is being set here.

Baroness Williams of Trafford: My Lords, I, and the Government, believe in the freedom of expression, and the freedom actually to not believe at all, as well as to believe in a variety of different religions.

Lord Pearson of Rannoch (UKIP): My Lords, does the Minister think that Digital Cinema Media, or any other media outlet in this country, would have dared to ban footage advancing the religion of Islam?

Baroness Williams of Trafford: I think that is a very good question. As I have said before, the freedom of religious expression should be apparent throughout society, and we should not be offended by religion.

Lord Farmer (Con): My Lords, I would just like to follow the right reverend Prelate's Question. Perhaps like others in your Lordships' House, I am often struck when I go to the cinema by the prevalence of advertisements, particularly at Christmas time, if you have been to see "Spectre" or anything like that, selling the idea that having stuff and giving each other stuff makes people happy. Does the Minister agree that secular materialism is now the dominant cultural influence in our society and is, more or less, a religion in its own right—and that young people should be made aware of this as part of the British values agenda in schools?

Baroness Williams of Trafford: My Lords, we have made clear our expectation that all schools should actively promote the fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance for those of different faiths and beliefs. Ofsted is embedding this with an inspection framework for all schools; it is right that all schools, including schools of a religious character, promote the fundamental British values of democracy, the rule of law, individual liberty and mutual respect. These are the bedrock of British values and, without them, we cannot expect any young person to play a full part in civic society in this country.

Lord Singh of Wimbledon (CB): Is the Minister aware that Christianity and other religions carry the potential to seriously destabilise society by talking about putting others before self, whereas the prevailing marketing culture says, "Me and mine"? It also does things like talking about forgiveness and reconciliation, which could seriously jeopardise jobs in the prison industry.

Baroness Williams of Trafford: My Lords, if there is a choice, I think I would go with the former. It is often shown that giving to others makes you far happier than thinking about me, me, me.

Baroness Harris of Richmond (LD): My Lords, will the Minister tell the House whether there were any representations from the Church of England to other faiths before it made the decision to launch this campaign?

Baroness Williams of Trafford: I have absolutely no idea. I will find out from my colleagues on the Bishops' Benches and let the noble Baroness know.

Lord King of Bridgwater (Con): My Lords, at the risk of excommunication, perhaps I may say that I hope my noble friend has read the article in the *Times* today by Alice Thomson, which sets out very clearly indeed why there is some wisdom in the prohibition on religious or political advertising, particularly in the cinema. It is a rather better case than may have been made in your Lordships' House. In spite of some of the voices that we have heard, every single Member of your Lordships' House who I have talked to about it agrees with that article.

Baroness Williams of Trafford: My Lords, I have not seen the article. Perhaps we should put the advert in the context of where we are at the moment: the atrocious events that happened in Paris last week and the run-up to Christmas. If anyone looks at the advert, the context is very much thinking about the world and how we can make it a better place.

Baroness O'Neill of Bengarve (CB): My Lords, does the Minister accept that there is not and cannot be a right not to be offended? Offence is in the eye of the beholder, and the right to freedom of expression and the right to manifest religion or belief cannot be curtailed by a supposed right not to be offended.

Baroness Williams of Trafford: The noble Baroness is absolutely right.

Draft Investigatory Powers Bill Committee

Membership Motion

3.36 pm

Tabled by ***Baroness Stowell of Beeston***

That this House concurs with the Commons message of 9 November that it is expedient that a Joint Committee of Lords and Commons be appointed to consider and report on the draft Investigatory Powers Bill presented to both Houses on 4 November 2015 (Cm 9152);

That a Committee of seven Lords be appointed to join with the Committee appointed by the Commons and that the Committee should report on the draft Bill by 11 February 2016;

[Baroness Stowell of Beeston]

That, as proposed by the Committee of Selection, the following members be appointed to the Committee:

B Browning, L Butler of Brockwell, Bp Chester, L Hart of Chilton, L Henley, L Murphy of Torfaen, L Strasburger;

That the Committee have power to agree with the Committee appointed by the Commons in the appointment of a Chairman;

That the Committee have power to send for persons, papers and records;

That the Committee have power to appoint specialist advisers;

That the Committee have leave to report from time to time;

That the Committee have power to adjourn from place to place within the United Kingdom;

That the reports of the Committee from time to time be printed, regardless of any adjournment of the House;

That the evidence taken by the Committee be published, if the Committee so wishes; and

That the quorum of the Committee shall be two.

Lord Taylor of Holbeach (Con): My Lords, in the absence of my noble friend the Leader of the House and on her behalf, I beg to move the Motion standing in her name on the Order Paper.

Motion agreed.

Small and Medium Sized Business (Credit Information) Regulations 2015

Small and Medium Sized Business (Finance Platforms) Regulations 2015

Motions to Approve

3.37 pm

Moved by ***Lord Ashton of Hyde***

That the draft regulations laid before the House on 7 September be approved.

Relevant document: 4th Report from the Joint Committee on Statutory Instruments. Considered in Grand Committee on 23 November.

Motions agreed.

Civil Legal Aid (Merits Criteria) (Amendment) (No. 2) Regulations 2015

Civil Legal Aid (Merits Criteria and Information about Financial Resources) (Amendment) Regulations 2015

Motions to Approve

3.38 pm

Moved by ***Lord Faulks***

That the Regulations laid before the House on 7 September and 22 October be approved.

Relevant document: 5th and 8th Reports from the Joint Committee on Statutory Instruments (Special attention drawn to the instrument). Considered in Grand Committee on 23 November.

Motions agreed.

Renewables Obligation Order 2015

Motion to Approve

3.39 pm

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

That the draft order laid before the House on 21 July be approved.

Relevant document: 3rd Report from the Joint Committee on Statutory Instruments. Considered in Grand Committee on 24 November.

Motion agreed.

Spending Review and Autumn Statement

Statement

3.39 pm

The Commercial Secretary to the Treasury (Lord O'Neill of Gatley) (Con): My Lords, I refer the House to the Autumn Statement made by my right honourable friend the Chancellor of the Exchequer in the House of Commons, copies of which have been made available in the Printed Paper Office, and the text of which will be printed in full in the *Official Report*.

The following Statement was made earlier in the House of Commons.

"This spending review delivers on the commitment we made to the British people that we would put security first—to protect our economic security by taking the difficult decisions to live within our means and bring down our debt, and to protect our national security by defending our country's interests abroad and keeping our citizens safe at home. Economic and national security provide the foundations for everything we want to support: opportunity for all, the aspirations of families and the strong country we want to build.

Five years ago, when I presented our first spending review, our economy was in crisis and, as the letter said, there was no money left. We were borrowing one pound in every four we spent, and our job then was to rescue Britain. Today, as we present this spending review, our job is to rebuild Britain—build our finances, build our defences, build our society—so that Britain becomes the most prosperous and secure of all the major nations of the world, and so that we leave to the next generation a stronger country than the one we inherited. That is what this Government were elected to do, and today we set out the plan to deliver on that commitment.

We have committed to running a surplus. Today, I can confirm that the four-year public spending plans that I set out are forecast to deliver that surplus so that we do not borrow forever and are ready for whatever

storms lie ahead. We promised to bring our debts down. Today, the forecast I present shows that, after the longest period of rising debt in our modern history, this year our debt will fall and keep falling in every year that follows.

We promised to move Britain from being a high-welfare, low-wage economy to a lower-welfare, higher-wage economy. Today, I can tell the House that the £12 billion of welfare savings we committed to at the election will be delivered in full, and delivered in a way that helps families as we make the transition to our national living wage.

We promised that we would strengthen our national defences, take the fight to our nation's enemies and project our country's influence abroad. Today, this spending review delivers the resources to ensure that Britain, unique in the world, will meet its twin obligations to spend 0.7% of its income on development and 2% on the defence of the realm.

But this spending review not only ensures the economic and national security of our country, it builds on it. It sets out far-reaching changes to what the state does and how it does it. It reforms our public services so that we truly extend opportunity to all, whether it is the way we educate our children, train our workforce, rehabilitate our prisoners, provide homes for our families, deliver care for our elderly and sick, or hand back power to local communities. This is a big spending review by a Government that do big things. It is a long-term economic plan for our country's future.

Nothing is possible without the foundations of a strong economy, so let me turn to the new forecasts provided by the independent Office for Budget Responsibility, and let me thank Robert Chote and his team for their work. Since the summer Budget, new economic data have been published which confirm this: since 2010, no economy in the G7 has grown faster than Britain. We have grown almost three times faster than Japan, twice as fast as France, faster than Germany and at the same rate as the United States. That growth has not been fuelled by an irresponsible banking boom, like in the last decade. Business investment has grown more than twice as fast as consumption, exports have grown faster than imports, and the north has grown faster than the south. For we are determined that this will be an economic recovery for all, felt in all parts of our nation, and that is already happening.

In which areas of the country are we seeing the strongest jobs growth? Not just in our capital city—the midlands is creating jobs three times faster than London and the south-east. In the past year, we have seen more people in work in the northern powerhouse than ever before. Where do we have the highest employment rate of any part of our country? In the south-west of England. Our long-term economic plan is working.

But the OBR reminds us today of the huge challenges we still face at home and abroad. Our debts are too high; and our deficit remains. Productivity is growing, but we still lag behind most of our competitors. I can tell the House that, in today's forecast, the expectations for world growth and world trade have been revised down again. The weakness of the eurozone remains a persistent problem, and there are rising concerns about debt in emerging economies. These are yet more reasons why we are determined to take the necessary steps to protect our economic security.

That brings me to the forecasts for our own GDP. Even with the weaker global picture, our economy this year is predicted to grow by 2.4%. Growth is then revised up from the Budget forecast in the next two years to 2.4% in 2016 and 2.5% in 2017. It then starts to return to its long-term trend, with growth of 2.4% in 2018 and 2.3% in 2019 and 2020. That growth is more balanced than in the past. Whole economy investment is set to grow faster in Britain than in any other major advanced economy in the world this year, next year, and the year after that.

When I presented my first spending review in 2010 and set this country on the path of living within its means, our opponents claimed that growth would be choked off, a million jobs would be lost and inequality would rise. Every single one of those predictions has proved to be completely wrong. So, too, did the claim that Britain had to choose between sound public finances and great public services. It is a false choice; if we are bold with our reforms we can have both. That is why, while we have been reducing Government spending, crime has fallen, a million more children are being educated in good and outstanding schools, and public satisfaction with our local government services has risen. That is the exact opposite of what our critics predicted. Yet now, the same people are making similar claims about this spending review, as we seek to move Britain out of deficit and into surplus, and they are completely wrong again.

The OBR has seen our public expenditure plans and analysed their effect on our economy. Its forecast today is that the economy will grow robustly every year, living standards will rise every year, and more than a million extra jobs will be created over the next five years. That is because sound public finances are not the enemy of sustained growth; they are its precondition. Our economic plan puts the security of working people first, so that we are prepared for the inevitable storms that lie ahead. That is why our charter for budget responsibility commits us to reducing the debt to GDP ratio in each and every year of this Parliament, reaching a surplus in the year 2019-20 and keeping that surplus in normal times. I can confirm that the OBR has today certified that the economic plan we present delivers on our commitment.

That brings me to the forecasts for debt and deficit. As usual, the OBR has had access to both published and unpublished data, and has made its own assessment of our public finances. Since the summer Budget, housing associations in England have been reclassified by our independent Office for National Statistics and their borrowing and debts been brought on to the public balance sheet, and that change will be backdated to 2008. This is a statistical change and therefore the OBR has re-calculated its previous Budget forecast to include housing associations, so that we can compare like with like.

On that new measure, debt was forecast in July to be 83.6% of national income this year. Now, today, in this autumn statement, the OBR forecasts debt this year to be lower at 82.5%. It then falls every year,

[Lord O'Neill of Gatley]
down to 81.7% next year, down to 79.9% in 2017-18, then down again to 77.3%, then 74.3%, reaching 71.3% in 2020-21. In every single year, the national debt as a share of national income is lower than when I presented the Budget four months ago.

This improvement in the nation's finances is due to two things. First, the OBR expects tax receipts to be stronger—a sign that our economy is healthier than thought. Secondly, debt interest payments are expected to be lower, reflecting the further fall in the rates we pay to our creditors. Combine the effects of better tax receipts and lower debt interest, and overall the OBR calculates that it means a £27 billion improvement in our public finances over the forecast period, compared with where we were at the Budget.

This improvement in the nation's finances allows me to do the following. First, we will borrow £8 billion less than we forecast, making faster progress towards eliminating the deficit and paying down our debt—fixing the roof when the sun is shining. Secondly, we will spend £12 billion more on capital investments, making faster progress to building the infrastructure our country needs. Thirdly, the improved public finances allow us to reach the same goal of a surplus while cutting less in the early years. We can smooth the path to the same destination.

That means that we can help on tax credits. I have been asked to help in the transition as Britain moves to the higher-wage, lower-welfare, lower-tax society the country wants to see. I have had representations that the changes to tax credits should be phased in. I have listened to the concerns. I hear and understand them. Because I have been able to announce today an improvement in the public finances, the simplest thing to do is not to phase these changes in, but to avoid them altogether. Tax credits are being phased out anyway as we introduce universal credit.

What that means is that the tax credit taper rate and thresholds remain unchanged. The disregard will be £2,500. I propose no further changes to the universal credit taper or to the work allowances beyond those that passed through Parliament last week. The minimum income floor in universal credit will rise with the national living wage.

I set a lower welfare cap at the Budget. The House should know that helping with the transition obviously means that we will not be within that lower welfare cap in the first years, but the House should also know that, thanks to our welfare reforms, we will meet the cap in the later part of this Parliament. Indeed, on the figures published today, we will still achieve the £12 billion per year of welfare savings we promised. That is because of the permanent savings we have already made and further long-term reforms that we announce today.

The rate of housing benefit in the social sector will be capped at the relevant local housing allowance—in other words, the same rate that is paid to those in the private rented sector who receive the same benefit. That will apply to new tenancies only. We will also stop paying housing benefit and pension credit payments to people who have left the country for more than a month. The welfare system should be fair to those who need it and fair to those who pay for it.

Improved public finances and our continued commitment to reform mean that we continue to be on target for a surplus. The House will want to know the level of that surplus, so let me give the OBR forecasts for deficit and borrowing. In 2010, the deficit we inherited was estimated to be 11.1% of national income. This year, it is set to be almost a third of that, 3.9%. Next year, it falls to less than a quarter of what we inherited, 2.5%. The deficit is down again to 1.2% in 2017-18 and down to just 0.2% the year after that, before moving into a surplus of 0.5% of national income in 2019-20, rising to 0.6% the following year.

Let me turn to the cash borrowing figures. With housing associations included, the OBR predicted at the time of the Budget that Britain would borrow £74.1 billion this year. Instead, it now forecasts that we will borrow less than that at £73.5 billion. Borrowing falls to £49.9 billion next year and then continues to fall. It falls to lower than was forecast at the Budget in every single year after that: to £24.8 billion in 2017-18 and down to just £4.6 billion in 2018-19. In 2019-20, we will reach a surplus—a surplus of £10.1 billion. That is higher than was forecast at the Budget—Britain out of the red and into the black. In 2020-21, the year after that, the surplus rises to £14.7 billion.

So the deficit falls every year; the debt share is lower in every year than previously forecast; we are borrowing £8 billion less than we expected overall; and we reach a bigger surplus. We have achieved this while at the same time helping working families as we move to the lower-welfare, higher-wage economy, and we have the economic security of knowing our country is paying its way in the world.

That brings me to our plans for public expenditure and taxation. I want to thank my right honourable friend the Chief Secretary, our other ministerial colleagues at the Treasury and the brilliant officials who have assisted us for the long hours and hard work that they have put into developing these plans.

We said £5 billion would come from the measures on tax avoidance, evasion and imbalances. Those measures were announced at the Budget. Together we go further today, with new penalties for the general anti-abuse rule, which this Government introduced, and action on disguised remuneration schemes and stamp duty avoidance, and we will stop abuse of the intangible fixed assets regime and capital allowances. We will also exclude energy generation from the venture capital schemes, to ensure that they remain well targeted at higher-risk companies.

Her Majesty's Revenue and Customs is making efficiencies of 18% of its own budget. In the digital age, we do not need taxpayers to pay for paper processing or 170 separate tax offices around the country. Instead, we are reinvesting some of those savings, with an extra £800 million in the fight against tax evasion—an investment with a return of almost 10 times in additional tax collected.

We are going to build one of the most digitally advanced tax administrations in the world in this Parliament, so that every individual and every small business will have their own digital tax account by the end of the decade in order to manage their tax online. From 2019, once these accounts are up and running,

we will require capital gains tax to be paid within 30 days of completion of any disposal of residential property. Together, these things form part of the digital revolution we are bringing to Whitehall with this spending review. The Government Digital Service will receive an additional £450 million, but the core Cabinet Office budget will be cut by 26%, matching a 24% cut in the budget of the Treasury, and the cost of all Whitehall administration will be cut by £1.9 billion. These form part of the £12 billion of savings to Government Departments that I am announcing today.

In 2010, Government spending took up 45% of national income. This was a figure we could not sustain, because it was neither practical nor sensible to raise taxes high enough to pay for that, and we ended up with a massive structural deficit. Today the state accounts for just under 40% of national income, and it is forecast to reach 36.5% by the end of the spending review period. The structural spending that this represents is at a level that a competitive, modern, developed economy can sustain, and it is a level that the British people are prepared to pay their taxes for.

It is precisely because this Government believe in decent public services and a properly funded welfare state that we are insistent that they are sustainable and affordable. To simply argue all the time that public spending must always go up and never be cut is irresponsible and lets down the people who rely on public services most.

Equally, to fund the things we want the Government to provide in the modern world, we have to be prepared to provide the resources. So I am setting the limits for total managed expenditure as follows. This year, public spending will be £756 billion. Then it will be £773 billion next year, then £787 billion the year after, then £801 billion, before reaching £821 billion in 2019-20, the year we are forecast to eliminate the deficit and achieve the surplus. After that, the forecast public spending rises broadly in line with the growth of the economy and will be at £857 billion in 2020-21.

The figures from the OBR show that over the next five years, welfare spending falls as a percentage of national income while departmental capital investment is maintained and is higher at the end of the period. That is precisely the right switch for a country that is serious about investing in its long-term economic success.

People will want to know what the levels of public spending mean in practice and the scale of the cuts we are asking Government Departments to undertake. Over this spending review period, the day-to-day spending of Government Departments is set to fall by an average of 0.8% a year in real terms. That compares with an average fall of 2% over the last five years, so the savings we need are considerably smaller. This reflects the improvement in the public finances and the progress we have already made. Indeed, the overall rate of annual cuts that I set out in today's spending review is less than half of those delivered over the last five years. So Britain is spending a lower proportion of its money on welfare and a higher proportion on infrastructure; seeing the budget balanced, with cuts half what they were in the last Parliament; making the savings we need, no less and no more; and providing economic security to the working people of a country with a surplus that lives within its means.

This does not, of course, mean that the decisions required to deliver these savings are easy. But nor should we lose sight of the fact that this spending review commits £4 trillion over the next five years. It is a huge commitment of the hard-earned cash of British taxpayers, and all those who dedicate their lives to public service will want to make sure it is well spent. Our approach is not simply retrenchment, it is to reform and rebuild.

These reforms will support our objectives for our country: first, to develop a modern, integrated health and social care system that supports people at every stage of their lives. Secondly, to spread economic power and wealth through a devolution revolution and invest in our long-term infrastructure. Thirdly, to extend opportunity by tackling the big social failures that for too long have held people back in our country. Fourthly, to reinforce our national security with the resources to protect us at home and project our values abroad. The resources allocated by this spending review are driven by these four goals.

The first priority of this Government is the first priority of the British people—our national health service. Health spending was cut by the Labour Administration in Wales, but we Conservatives have been increasing spending on the NHS in England, and in this spending review we do so again. We will work with our health professionals to deliver the very best value for that money. That means £22 billion of efficiency savings across the service; it means a 25% cut in the Whitehall budget of the Department of Health; and it means modernising the way we fund students of healthcare. Today there is a cap on student nurses—over half of all applicants are turned away, and it leaves hospitals relying on agencies and overseas staff. So we will replace direct funding with loans for new students, so that we can abolish this self-defeating cap and create up to 10,000 new training places in this Parliament.

Alongside these reforms, we will give the NHS the money it needs. We made a commitment to a £10 billion real increase in the health service budget, and we fully deliver that today, with the first £6 billion delivered up front next year. This fully funds the five-year forward view that the NHS itself put forward as the plan for its future. As the chief executive of NHS England, Simon Stevens, said,

"the NHS has been heard and actively supported".

Let me explain what that means in cash. The NHS budget will rise from £101 billion today to £120 billion by 2020-21. This is a half a trillion pound commitment to the NHS over this Parliament—the largest investment in the health service since its creation.

So we have a clear plan for improving the NHS. We have fully funded it, and in return patients will see more than £5 billion of health research in everything from genomes to antimicrobial resistance, a new dementia institute and a new, world-class public health facility in Harlow. And more—800,000 more elective hospital admissions; 5 million more out-patient appointments; 2 million more diagnostic tests; new hospitals funded in Cambridge, in Sandwell and in Brighton; cancer testing within four weeks; and a brilliant NHS available seven days a week.

[Lord O'Neill of Gatley]

There is one part of our NHS that has been neglected for too long, and that is mental health. I want to thank the all-party group led by my right honourable friend the Member for Sutton Coldfield (Mr Mitchell), the right honourable Member for North Norfolk (Norman Lamb) and Alastair Campbell for its work in this vital area. In the last Parliament we made a start by laying the foundations for equality of treatment, with the first ever waiting time standards for mental health. Today, we build on that with £600 million of additional funding, meaning that by 2020 significantly more people will have access to talking therapies, perinatal mental health services and crisis care—all possible because we made a promise to the British people to give our NHS the funding it needed, and in this spending review we have delivered.

The health service cannot function effectively without good social care. The truth we need to confront is that many local authorities will not be able to meet growing social care needs unless they have new sources of funding. That, in the end, comes from the taxpayer, so in future those local authorities that are responsible for social care will be able to levy a new social care precept of up to 2% on council tax.

The money raised will have to be spent exclusively on adult social care, and if all authorities make full use of it, it will bring almost £2 billion more into the care system. It is part of the major reform we are undertaking to integrate health and social care by the end of the decade. To help to achieve that I am today increasing the better care fund to support that integration, with local authorities able to access an extra £1.5 billion by 2019-20. The steps taken in this spending review mean that by the end of the Parliament, social care spending will have risen in real terms.

A civilised and prosperous society such as ours should support its most vulnerable and elderly citizens. That includes a decent income in retirement. More than 5 million people have already been auto-enrolled into a pension thanks to our reforms in the last Parliament. To help businesses with the administration of that important boost to our nation's savings, we will align the next two phases of contribution rate increases with the tax years. The best way to afford generous pensioner benefits is to raise the pension age in line with life expectancy, as we are already set to do in this Parliament. That allows us to maintain a triple lock on the value of the state pension, so never again will Britain's pensioners receive a derisory increase of 75p.

As a result of our commitment to those who have worked hard all their lives and contributed to our society, I can confirm that next year the basic state pension will rise by £3.35 to £119.30 a week. That is the biggest real-terms increase to the basic state pension in 15 years. Taking all our increases together over the past five years, pensioners will be £1,125 better off a year than they were when we came to office. We are also undertaking the biggest change in the state pension for 40 years to make it simpler and fairer by introducing the new single-tier pension for new pensioners from April of next year.

I am today setting the full rate for our new state pension at £155.65. That is higher than the current means-tested benefit for the lowest income pensioners in our society and another example of progressive government in action. Instead of cutting the savings credit, as in previous fiscal events, it will instead be frozen at its current level where income is unchanged.

So the first objective of this spending review is to give unprecedented support to health, social care and our pensioners. The second is to spread economic power and wealth across our nation. In recent weeks, great metropolitan areas such as Sheffield, Liverpool, the Tees Valley, the north east and the west midlands have joined Greater Manchester in agreeing to create elected mayors in return for far-reaching new powers over transport, skills and the local economy. It is the most determined effort to change the geographical imbalance that has bedevilled the British economy for half a century.

We are also today setting aside the £12 billion we promised for our local growth fund and I am announcing the creation of 26 new or extended enterprise zones, including 15 zones in towns and rural areas from Carlisle to Dorset to Ipswich. But if we really want to shift power in our country, we have to give all local councils the tools to drive the growth of business in their area and the rewards that come when they do so, so I can confirm today that, as we set out last month, we will abolish the uniform business rate. By the end of the Parliament, local government will keep all of the revenue from business rates. We will give councils the power to cut rates and make their area more attractive to business and elected mayors will be able to raise rates, provided they are used to fund specific infrastructure projects supported by the local business community.

As the amount we raise in business rates is in total much greater than the amount we give to local councils through the local government grant, we will phase that grant out entirely over this Parliament and we will also devolve additional responsibilities. The temporary accommodation management fee will no longer be paid through the benefits system. Instead, councils will receive £10 million a year more, up front, so they can provide more help to homeless people. Alongside savings in the public health grant, we will consult on transferring new powers and the responsibility for its funding, as well as elements of the administration of housing benefit.

Local government is sitting on property worth a quarter of a trillion pounds, so we will let councils spend 100% of the receipts from the assets they sell to improve their local services. Councils increased their reserves by nearly £10 billion over the last Parliament. We will encourage them to draw on those reserves as they undertake reforms.

That amounts to a big package of not only new powers but new responsibilities for local councils. It is a revolution in the way we govern this country and if we take into account both the fall in grant and the rise in council incomes, it means that by the end of the Parliament local government will be spending the same in cash terms as it does today.

The devolved Administrations of the United Kingdom will also have available to them unprecedented new powers to drive their economies. The conclusion last week of the political talks in Northern Ireland means

additional spending power for the Executive to support the full implementation of the Stormont House agreement. That opens the door to the devolution of corporation tax, which the parties have now confirmed they wish to set at a rate of 12.5%. That is a huge prize for business in Northern Ireland and the onus is now on the Northern Ireland Executive to play their part and deliver sustainable budgets so that we can move forward. Northern Ireland's block grant will be more than £11 billion by 2019-20 and funding for capital investment in new infrastructure will rise by more than £600 million over five years, ensuring that Northern Ireland can invest in its long-term future.

For years, Wales has asked for a funding floor to protect public spending and now, within months of coming to office, this Conservative Government are answering that call and providing that historic funding guarantee for Wales. I can announce today that we will introduce the new funding floor and set it for this Parliament at 115%. My right honourable friend the Secretary of State for Wales and I also confirm that we will legislate so that the devolution of income tax can take place without a referendum. We will also help to fund a new Cardiff city deal. So the Welsh block grant will reach almost £15 billion by 2019-20, while the capital spending will rise by more than £900 million over five years.

As Lord Smith confirmed earlier this month, the Scotland Bill meets the vow made by the parties of the Union when the people of Scotland voted to remain in the United Kingdom. It must be underpinned by a fiscal framework that is fair to all taxpayers and we are ready now to reach an agreement. The ball is in the Scottish Government's court. Let us have a deal that is fair to Scotland, fair to the UK and built to last. We are implementing the city deal with Glasgow, and negotiating deals for Aberdeen and Inverness too. Of course, if Scotland had voted for independence, it would have had its own spending review this autumn. With world oil prices falling, and revenues from the North Sea forecast by the OBR to be down 94%, we would have seen catastrophic cuts to Scottish public services.

Thankfully, Scotland remains a strong part of a stronger United Kingdom, so the Scottish block grant will be more than £30 billion in 2019-20, while the capital spending available will rise by £1.9 billion through to 2021—the UK Government giving Scotland the resources to invest in its long-term future. For the UK Government, the funding of the Scotland, Wales and Northern Ireland Offices will all be protected in real terms.

We are devolving power across our country, and we are also spending on the economic infrastructure that connects our nation. That is something that Britain has not done enough of for a generation. Now, by making the difficult decisions to save on day-to-day costs in departments, we can invest in the new roads, railways, science, flood defences and energy that Britain needs. We made a start in the last Parliament, and in the last week, Britain topped the league table of the best places in the world to invest in infrastructure. In this spending review, we go much further. The Department for Transport's operational budget will fall by 37%, but transport capital spending will increase by 50%, to a total of £61 billion—the biggest increase in a generation. That will fund the largest road investment programme since the 1970s—for we are the builders.

That means that the construction of High Speed 2 to link the northern powerhouse to the south can begin and that the electrification of lines such as the trans-Pennine, the midland main line and the Great Western can go ahead. We will fund our new Transport for the North to get it up and running, London will get an £11 billion investment in its transport infrastructure, and having met my honourable friend the Member for Folkestone and Hythe (Damian Collins) and other Kent MPs, I will relieve the pressure on roads in Kent from Operation Stack with a new quarter of a billion pound investment in facilities there. We are making the £300 million commitment to cycling that we promised, we will spend more than £5 billion on roads maintenance this Parliament, and thanks to the incessant lobbying of my honourable friend the Member for Northampton North (Michael Ellis), Britain now has a permanent pothole fund.

We are investing in the transport we need, and in the flood defences too. The day-to-day budget of the Department for Environment, Food and Rural Affairs falls by 15% in this spending review, but we are committing more than £2 billion to protect 300,000 homes from flooding. Our commitment to farming and the countryside is reflected in the protection of funding for our national parks and for our forests—we are not going to make that mistake again. In recognition of the higher costs they face, we will continue to provide £50 off the water bills of South West Water customers for the rest of this Parliament—a Conservative promise made to the south-west, and a promise kept.

Investing in the long-term economic infrastructure of our country is a goal of this spending review, and there is no more important infrastructure than energy. So we are doubling our spending on energy research with a major commitment to small modular nuclear reactors. We are also supporting the creation of the shale gas industry by ensuring that communities benefit from a shale wealth fund that could be worth up to £l billion. Support for low-carbon electricity and renewables will more than double. The development and sale of ultra-low emission vehicles will continue to be supported, but in light of the slower than expected introduction of more rigorous EU emissions testing, we will delay the removal of the diesel supplement from company cars until 2021.

We support the international efforts to tackle climate change, and to show our commitment to the Paris talks next week, as the Prime Minister just explained, we are increasing our support for climate finance by 50% over the next five years. The day-to-day resource budget of the Department of Energy and Climate Change will fall by 22%, we will reform the renewable heat incentive to save £700 million, and we will permanently exempt our energy intensive industries, such as steel and chemicals, from the cost of environmental tariffs, so we keep their bills down, keep them competitive and keep them here.

We are introducing a cheaper domestic energy efficiency scheme that replaces the energy company obligation. Britain's new energy scheme will save an average of

[Lord O'Neill of Gatley]
£30 a year from the energy bills of 24 million households, because the Government believe that going green should not cost the earth. And we are cutting other bills too. We will bring forward reforms to the compensation culture around minor motor accident injuries, which will remove over £l billion from the cost of providing motor insurance. We expect the industry to pass on this saving, so that motorists see an average saving of £40 to £50 per year off their insurance bills.

We are a Government who back all our businesses, large and small, and Conservative Members understand that there is no growth or jobs without a vibrant private sector and successful entrepreneurs. So this spending review delivers what business needs. Business needs competitive taxes. I have already announced in the Budget a reduction in our corporation tax rate to 18%. Our overall review of business rates will report at the Budget, but I am today helping 600,000 of our smallest businesses by extending our small business rate relief scheme for another year.

Businesses also need an active and sustained industrial strategy. That strategy, launched in the last Parliament, continues in this one. We commit to the same level of support for our aerospace and automotive industries, not just for the next five years but for the next decade. Spending on our new catapult centres will increase. We will protect the cash support we give through Innovate UK—something we can afford to do by offering £165 million of new loans to companies instead of grants, as France has successfully done for many years. That is one of the savings that helps us reduce the budget of the Department for Business, Innovation and Skills by 17%.

In the modern world, one of the best ways to back business is to back science, and that is why, in the last Parliament, I protected the resource budget for science in cash terms. In this Parliament, I am protecting it in real terms, so that it rises to £4.7 billion. That is £500 million more by the end of the decade, alongside the £6.9 billion capital budget. We are funding the new Royce Institute in Manchester, and new agri-tech centres in Shropshire, York, Bedfordshire and Edinburgh. And we will commit £75 million to a transformation of the famous Cavendish laboratories in Cambridge, where Crick and Rutherford expanded our knowledge of the universe. To make sure we get the most from our investment in science, I have asked another of our Nobel laureates, Paul Nurse, to conduct a review of the research councils. I want to thank him for the excellent report he has just published. We will implement its recommendations.

Britain is not just brilliant at science; it is brilliant at culture too. One of the best investments we can make as a nation is in our extraordinary arts, museums, heritage, media and sport. Now, £1 billion a year in grants adds a quarter of a trillion pounds to our economy—not a bad return. So deep cuts in the small budget of the Department for Communities and Local Government are a false economy. Its core administration budget will fall by 20%, but I am increasing the cash that will go to the Arts Council, our national museums and galleries. We will keep free museum entry and look at a new tax credit to support their exhibitions. I will help UK Sport, which has been living on diminishing reserves, with a 29% increase in its budget, so we go for gold in Rio and Tokyo. The right honourable Member for Kingston upon Hull West and Hessle (Alan Johnson), a former Home Secretary, has personally asked me to support his city's year of culture, and I am happy to do so with a grant. His campaign has contributed to the arts, while his Front-Bench team contributes to comedy.

The money for Hull is all part of a package for the northern powerhouse that includes funding the iconic new Factory Manchester and the Great Exhibition of the North. In Scotland, we will support the world famous Burrell collection, while here in London we will help the British Museum, the Science Museum and the V&A move their collections out of storage and on display, and we will fund the exciting plans for a major new home for the Royal College of Arts in Battersea. We are also increasing the funding for the BBC World Service, so that British values of freedom and free expression are heard around the world.

All this can be achieved, as my right honourable friend the Prime Minister said, without raiding the Big Lottery Fund, as some feared. It will continue to support the work of hundreds of small charities across Britain. So too will our £20 million a year of new support for social impact bonds. There are many great charities that work to support vulnerable women, as was mentioned in Prime Minister's Questions. My honourable friend the Member for Colchester (Will Quince) has proposed to me a brilliant way to give them more help. Some 300,000 people have signed a petition arguing that no VAT should be charged on sanitary products. We already charge the lowest rate—5%—allowable under European law and we are committed to getting the EU to change its rules. Until that happens, I will use the £15 million a year raised from the tampon tax to fund women's health and support charities. The first £5 million will be distributed between the Eve Appeal, SafeLives, Women's Aid, and The Haven, and I invite bids from other such good causes.

It is similar to the way we use LIBOR fines—and today I make further awards from them, too. We will support a host of military charities, from the organisation for guide dogs for military veterans to Care after Combat. We renovate our military museums, from the Royal Marines and D-Day museums in Portsmouth to the National Army museum, the Hooton Park aerodrome, and the former HQ of RAF Fighter Command at Bentley Priory. In the Budget, I funded one campaign bunker, but more have emerged since then.

At the suggestion of my right honourable friend the Member for Mid Sussex (Sir Nicholas Soames), we will support the fellowships awarded in the name of his grandfather by funding the Winston Churchill memorial trust. We will fund the brilliant Commonwealth War Graves commission, so it can tend to over 6,000 graves of those who died fighting for our country since the second world war; and we will contribute to a memorial to those victims of terrorism who died on the bus in Tavistock square 10 years ago. That is a reminder that we have always faced threats to our way of life, and have never allowed them to defeat us.

We deliver security so we can spread opportunity. That is the third objective that drives this spending review. We showed in the last five years that sound

public finances and bold public service reform can help the most disadvantaged in our society. That is why inequality is down, child poverty is down, the gender pay gap is at a record low and the richest fifth now pay more in taxes than the rest of the country put together. The other side talks of social justice; this side delivers it because we are all in this together.

In the next five years, we will be even bolder in our social reform. It starts with education, because that is the door to opportunity in our society. This spending review commits us to a comprehensive reform of the way it is provided from childcare to college.

We start with the largest ever investment in free childcare, so working families get the help they need. From 2017, we will fund 30 hours of free childcare for working families with three and four-year-olds. We will support £10,000 of childcare costs tax free. To make this affordable, this extra support will now be available only to parents working more than 16 hours a week and with incomes of less than £100,000. We will maintain the free childcare we offer to the most disadvantaged two-year-olds. To support nurseries delivering more free places for parents, we will increase the funding for the sector by £300 million. Taken together, that is a £6 billion childcare commitment to the working families of Britain.

Next, schools. We build on our far-reaching reforms of the last Parliament that have seen school standards rise even as exams become more rigorous. We will maintain funding for free infant school meals, protect rates for the pupil premium and increase the cash in the dedicated schools grant. We will maintain the current national base rate of funding for our 16 to 19 year-old students for the whole Parliament. We are going to open 500 new free schools and university technical colleges, and invest £23 billion in school buildings and 600,000 new school places. To help all our children make the transition to adulthood—and learn about not just their rights, but their responsibilities—we will expand the National Citizen Service. Today, 80,000 students go on National Citizen Service. By the end of the decade we will fund places for 300,000 students on this life-changing programme pioneered by my right honourable friend the Prime Minister.

Five years ago, 200 schools were academies: today, 5,000 schools are. Our goal is to complete this school revolution and help every secondary school become an academy. I can announce that we will let sixth-form colleges become academies, too, so that they no longer have to pay VAT. We will make local authorities running schools a thing of the past, which will help us save around £600 million on the education services grant.

I can tell the House that as a result of this spending review, not only is the schools budget protected in real terms but the total financial support for education, including childcare and our extended further and higher education loans, will increase by £10 billion. That is a real-terms increase for education, too.

There is something else I can tell the House. We will phase out the arbitrary and unfair school funding system that has systematically underfunded schools in whole swathes of the country. Under the current arrangements, a child from a disadvantaged background in one school can receive half as much funding as a child in identical circumstances in another school. In its place, we will introduce a new national funding formula. I commend the many MPs from all parties who have campaigned for many years to see this day come. The formula will start to be introduced from 2017, and my right honourable friend the Education Secretary will consult in the new year.

Education continues in our further education colleges and universities—and so do our reforms. We will not, as many predicted, cut core adult skills funding for FE colleges; we will instead protect it in cash terms. I announced in the Budget that we would replace unaffordable student maintenance grants with larger student loans. That saves us over £2 billion a year in this spending review, and it means we can extend support to students who have never before had Government help.

Today I can announce that part-time students will be able to receive maintenance loans, helping some of our poorer students. We will also, for the first time, provide tuition fee loans for those studying higher skills in FE, and extend loans to all postgraduates, too. Almost 250,000 extra students will benefit from all this new support that I am announcing today.

Then there is our apprenticeship programme—the flagship of our commitment to skills. In the last Parliament, we more than doubled the number of apprentices to 2 million. By 2020, we want to see 3 million apprentices. To make sure they are high-quality apprenticeships, we will increase the funding per place, and my right honourable friend the Business Secretary will create a new business-led body to set the standards. As a result, we will be spending twice as much on apprenticeships by 2020 as compared to when we came to office.

To ensure that large businesses share the cost of training the workforce, I announced at the Budget that we will introduce a new apprenticeship levy from April 2017. Today I am setting the rate at 0.5% of an employer's pay bill. Every employer will receive a £15,000 allowance to offset against the levy, which means over 98% of all employers and all businesses with pay bills of less than £3 million, will pay no levy at all. Britain's apprenticeship levy will raise £3 billion a year and will fund 3 million apprenticeships, with those paying it able to get out more than they put in. It is a huge reform to raise the skills of the nation and address one of the enduring weaknesses of the British economy.

Education and skills are the foundation of opportunity in our country. Next we need to help people into work. The number claiming unemployment benefits has fallen to just 2.3%—the lowest rate since 1975. But we are not satisfied that the job is done; we want to see full employment. So today we confirm we will extend the same support and conditionality we currently expect of those on jobseeker's allowance to over 1 million more benefit claimants. Those signing on will have to attend the jobcentre every week for the first three months. We will increase in real terms the help we provide to people with disabilities to get them into work. This can all be delivered within the 14% savings we make to the resource budget of the Department for Work and Pensions, including by reducing the size of its estate and co-locating jobcentres with local authority buildings. It is the way to save money while improving

[Lord O'Neill of Gatley]
the front-line service we offer people and providing more support for those who are most vulnerable and most in need of our help.

We cannot say we are fearlessly tackling the most difficult social problems if we turn a blind eye to what goes on in our prisons and criminal justice system. My right honourable friend the Lord Chancellor has worked with the Lord Chief Justice and others to put forward a typically bold and radical plan to transform our courts so they are fit for the modern age. Under-used courts will be closed, and I can announce today that the money saved will be used to fund a £700 million investment in new technology that will bring further and permanent long-term savings and speed up the process of justice.

Old Victorian prisons in our cities that are not suitable for rehabilitating prisoners will be sold. This will also bring long-term savings and means we can spend over £1 billion in this Parliament building nine new modern prisons. Today, the transformation gets under way with the announcement that the Justice Secretary has just made. I can tell the House that Holloway prison—the biggest women's jail in western Europe—will close. In the future, women prisoners will serve their sentences in more humane conditions, better designed to keep them away from crime.

By selling these old prisons, we will create more space for housing in our inner cities, for another of the great social failures of our age has been the failure to build enough houses. In the end, spending reviews like this come down to choices about what your priorities are. I am clear: in this spending review, we choose to build. Above all, we choose to build the homes that people can buy, for there is a growing crisis of home ownership in our country. Fifteen years ago, around 60% of people under 35 owned their own home. Next year, the figure is said to be just half that. We made a start on tackling this in the last Parliament, and, with schemes such as our Help to Buy, the number of first-time buyers rose by nearly 60%, but we have not done nearly enough yet, so it is time to do much more.

Today we set out our bold plan to back families who aspire to buy their own home. First, I am doubling the housing budget to £2 billion a year. We will deliver, with Government help, 400,000 affordable new homes by the end of the decade. Affordable means not just affordable to rent, but affordable to buy. That is the biggest house-building programme by any Government since the 1970s. Almost half of them will be our starter homes, sold at 20% off market value to young first-time buyers, and 135,000 will be our brand new Help to Buy: Shared Ownership, which we announce today. We will remove many of the restrictions on shared ownership—who can buy them, who can build them and who they can be sold on to.

The second part of our housing plan delivers on our manifesto commitment to extend the right to buy to housing association tenants. I can tell the House that this starts with a new pilot. From midnight tonight, tenants of five housing associations will be able to start the process of buying their own home.

The third element of the plan involves accelerating housing supply. We are announcing further reforms to our planning system so that it delivers more homes more quickly. We are releasing public land suitable for 160,000 homes and re-designating unused commercial land for starter homes. We will extend loans for small builders, regenerate more run-down estates and invest over £300 million in delivering at Ebbsfleet the first garden city in nearly a century.

Fourthly, the Government will help address the housing crisis in our capital city with a new scheme—London Help to Buy. Londoners with a 5% deposit will be able to get an interest-free loan worth up to 40% of the value of a newly-built home. My honourable friend the Member for Richmond Park (Zac Goldsmith) has been campaigning on affordable home ownership in London. Today we back him all the way.

The fifth part of our housing plan addresses the fact that more and more homes are being bought as buy-to-lets or second homes. Many of them are cash purchases that are not affected by the restrictions I introduced in the Budget on mortgage interest relief, and many of them are bought by those who are not resident in this country. Frankly, people buying a home to let should not squeeze out families who cannot afford a home to buy.

So I am introducing new rates of stamp duty that will be 3% higher on the purchase of additional properties, such as buy-to-lets and second homes. It will be introduced from April next year and we will consult on the details so that corporate property development is not affected. This extra stamp duty raises almost £1 billion by 2021, and we will reinvest some of that money in local communities in London and places like Cornwall, which are being priced out of home ownership. The funds we raise will help build the new homes.

This spending review delivers: a doubling of the housing budget; 400,000 new homes, with extra support for London; estates regenerated; right to buy rolled-out, paid for by a tax on buy-to-lets and second homes, and delivered by a Conservative Government committed to helping working people who want to buy their own home. For we are the builders.

The fourth and final objective of this spending review is national security. On Monday, the Prime Minister set out to the House the strategic defence and security review. It commits Britain to spending 2% of our income on defence, and it details how these resources will be used to provide new equipment for our war-fighting military, new capabilities for our special forces, new defences for our cyberspace, and new investments in our remarkable intelligence agencies.

By 2020-21, the single intelligence account will rise from £2.1 billion to reach £2.8 billion, and the defence budget will rise from £34 billion today to £40 billion. Britain also commits to spend 0.7% of our national income on overseas development, and we will reorientate that budget so that we both meet our moral obligation to the world's poorest and help those in the fragile and failing states on Europe's borders. It is overwhelmingly in our national interest that we do so, so our total overseas aid budget will increase to £16.3 billion by 2020.

Britain is unique in the world in making these twin commitments to funding both the hard power of military might and the soft power of international development. It enables us to protect ourselves, project our influence

and promote our prosperity. We do so ably supported by my right honourable friend the Foreign Secretary and our outstanding diplomatic service. To support them in their vital work, I am today protecting in real terms the budget of the Foreign and Commonwealth Office.

But security starts at home. Our police are on the frontline of the fight to keep us safe. In the last Parliament, we made savings in police budgets, but thanks to the reforms of my right honourable friend the Home Secretary and the hard work of police officers, crime fell and the number of neighbourhood officers increased. That reform must continue in this Parliament. We need to invest in new state-of-the-art mobile communications for our emergency services, introduce new technology at our borders and increase the counterterrorism budget by 30%. We should allow elected police and crime commissioners greater flexibility in raising local precepts in areas where they have been historically low. Further savings can be made in the police as different forces merge their back offices and share expertise. We will provide a new fund to help with this reform.

I have had representations from the shadow Home Secretary that police budgets should be cut by 10%, but now is not the time for further police cuts. Now is the time to back our police and give them the tools to do the job. I am today announcing that there will be no cuts in the police budget at all. There will be real-terms protection for police funding. The police protect us, and we are going to protect the police.

Five years ago, when I presented my first spending review, the country was on the brink of bankruptcy and our economy was in crisis. We took the difficult decisions then. Five years later, I report on an economy growing faster than its competitors and public finances set to reach a surplus of £10 billion. Today we have set out the further decisions necessary to build this country's future. Those decisions are sometimes difficult, yes, but they build the great public services families rely on; build the infrastructure and the homes people need; build stronger defences against those who threaten our way of life, and build the strong public finances on which all these things depend.

We were elected as a one nation Government. Today we deliver the spending review of a one nation Government: the guardians of economic security, the protectors of national security, the builders of our better future—this Government, the mainstream representatives of the working people of Britain."

3.39 pm

Lord Davies of Oldham (Lab): My Lords, I am delighted to see the Minister in his place making one of his more constructive speeches in the House. I will give him a chance to answer a few questions, but before I get on to that I shall put the Statement into some kind of context.

The Chancellor was obviously buoyed by, as he saw it, some successes in recent months. However, I shall ask the first obvious question: whatever happened to the long-term plan? For years we heard nothing but Conservative Members of Parliament talking about the long-term economic plan. We all know what the conclusion of that plan was meant to be: the elimination of the deficit during this year. The deficit has not been eliminated this year; in fact we are £69 billion in debt. It is quite clear that the Government have jettisoned the long-term economic plan in favour of a second version, which is that we will have a surplus of £10 billion in 2020. Even the Institute for Fiscal Studies gives the Government only a 50:50 chance of hitting that target, so we wonder what credence we should give the Chancellor following his speech in the Commons today.

There were two significant climbdowns: one was no further cuts to the police force—here, some credit is due to the Opposition, who made it clear to the Government that further cuts were quite unthinkable in the present context—and the other was a credit to this House and a direct reflection of its holding the Government to account and asking them to think again. Having thought again, they jettisoned that original totally unfair and improper policy. We very much welcome both climbdowns in the Chancellor's Statement.

We still need to consider a range of fundamental economic failures, though, and I shall be addressing those in specific questions to the Minister. Is not the productivity gap between the UK's performance and the rest of the G7 countries' at its widest since 1991? That shows this country in a very poor light, and of course the Government must take responsibility for a great deal of that against a background of what is recognised as an absolutely chronic balance of payments position under this Government. That can be remedied only if we invest in the development of skills and begin to export more successfully.

Every hour worked in Germany, France or the United States is worth one-third more in terms of achievement than an hour worked in Britain. This must be because the Government have been so content over the past five years to see wages fall—we all know how dramatic and persistent that fall has been over this period—and have neglected skills development and run, essentially, a low-wage, low-skill economy, which cannot be the future of the United Kingdom.

The Government are always negative about public sector investment. In the railways, for example, even a successful public sector-run franchise, the east coast main line, was jettisoned in favour of a free and open competition—as long as no British public institution could compete. However, state railways from France and Germany were welcome to take over part of our railway system. Of course, the same is happening with our nuclear power stations—we are making ourselves dependent upon investment from the People's Republic of China. It is interesting to see that the Conservative Party now finds itself in cahoots with a very significant state-run society.

Public sector net investment in 2009-10 was at 3.2% but is now down to 1.5%. It is therefore not surprising that certain aspects of public work and investment are at a very low level. That is shown, for instance, in the quality of our roads. Are the Government comfortable with the fact that our roads are rated below the standards of Spain, Portugal and—wait for it—little Croatia? The only areas in which the Government have shown a commitment to investment are projects they inherited: Crossrail and HS2. It will be noted that

[LORD DAVIES OF OLDHAM]
although they sustain these projects, the Department for Transport is to take its 30% cut, which will be effected by cuts in "administration". If one believes that, one can believe most things.

Overall, investment in skills has been woeful. It is clear that the business department is being cut to the bone. The number of jobs lost there is very significant, and it is clear that training and development is to be vested solely in the enterprise of private industry, to which the state has very little to contribute. Yet industry is crying out for the skills of young people. That is particularly true in the construction industry, which of course enjoys the reputation of translating investment into jobs quickly, and can meet a need in circumstances where our housebuilding programme is at its worst peacetime level since 1920. What a record the Government have on housing our people!

Then of course there is the whole question of the National Health Service. We are delighted that the Government have indicated that they know they need to increase investment in the National Health Service. We are also pleased that they recognise that alleviating pressure on hospitals can be achieved through increasing social care places. However, 3,000 beds have been lost in recent years and there is no indication that they will be replaced quickly. Of course, the promise that local authorities can increase council tax provided that they spend the money on care homes is to be welcomed.

As for the police, I can find no reference to what the Government will in fact do about the police, except that that there are 17,000 fewer officers since they came to power. They have indicated that they will not put any further pressure on police by cuts, but there is no indication of what money will be devoted to the police force and where it will come from.

I therefore want the Minister to answer three questions. First, if the Government wish to promote infrastructure, does he accept that public sector net investment has halved as a percentage of the GDP under the Government? Can he accept such a deplorable state of affairs? Secondly, we know that we need to boost productivity. Is the Minister concerned that the gap between productivity per hour worked in this country and in the rest of the G7 is so very wide? Thirdly, the Chancellor said that he has balanced the books, yet the deficit is set to be very substantial this year.

Finally, the Government are ending their onslaught on tax credits, for which we are duly grateful, and this House takes a great deal of credit for that achievement. The House acted constitutionally and properly and caused the Government to think again. However, this spending review and Autumn Statement indicates that only a £3.385 billion saving will be rendered in respect of tax credits. In fact the Government have always maintained that £4.4 billion would be saved. Are the public to find that other billion in this next year?

Baroness Kramer (LD): My Lords, it is always a pleasure to follow the noble Lord, Lord Davies of Oldham, but I confess that he disappointed me today. He did not throw anything, so we have missed out on the drama of the other place. I was also somewhat disappointed in the Budget. It is less generous than it appears on first viewing: we still have a £12 billion cut in welfare. If I understand it correctly, that will now happen as people transfer into universal credit. I am sure that the Minister will advise noble Lords about that—it would be good to understand how it will work. Of course, I am absolutely delighted that the Chancellor reversed his plans to cut tax credits for poor working people. I think, with some interest, that had the Chancellor been a Member of this House a couple of weeks ago, when the relevant statutory instrument was debated, he would have supported neither the Conservative nor the Labour Motion, but the Liberal Democrat fatal Motion.

We are also pleased with the upfronting of money for the NHS in this Budget, especially the investment in mental health. That is welcome, but can the Minister confirm whether that £600 million is new money for mental health and does not contain any former promise within it? We are supportive of stamp duty on buy to let and very supportive of the increased spending on infrastructure. We note that the Chancellor partially explained that that was because borrowing is now cheap. That is what we have been saying for weeks, so we are very glad that he has listened to that argument.

However, if I lived in a deprived community, I would be exceedingly concerned today. Perhaps the Minister can help us. Although the Government have said there will be no cuts in the policing bill, I am somewhat confused. Does that mean that the grant levels for policing will continue to be the same from central government, or is part of the money to be replaced by a precept raised locally, by police and crime commissioners? I did not follow that and therefore do not understand what might be happening. If I am in a deprived community and find that I have an additional bill on my council tax for policing, I am almost certainly going to have an additional bill on my council tax for social care, because, as Members of this House will know, the most vulnerable elderly tend to live in the most deprived communities, with the narrowest council tax base. Therefore, paying for social care through an additional precept on council tax will be very tough for those communities. I would indeed be worried.

I would also be worried in another sense. The Chancellor significantly slashed the revenue side—that is, the operations budget—of the Department for Transport. Immediately in my head went up the warning sign that much of that is spent on bus grant. Again, with local authorities under great financial pressure, are we looking at either losing a lot of our bus services outside the big urban centres, where the systems can wash their face themselves, or are we looking at additional council tax being raised to pick up bus services?

The repatriation of business rates is something that we have always supported in principle, but I did not quite follow that; again, perhaps the Minister can help us. If I understood the Chancellor correctly, the equalisation will disappear. As this House will know, business rates have been centrally collected and then redistributed on the basis of need. As that is eliminated, will we again find that our most deprived communities, with the least capacity to generate new business and new business rates, will be the ones that suffer, while somewhere such as Kensington and Chelsea or

Westminster will be in heaven? I hope very much that the Minister can support us, because one knows that, with Budgets, the devil is very much in the detail.

Perhaps the Minister can help us also on further education. What I heard was a real-terms cut in the further education budget, which will be protected only in cash terms. In this House, we have all discussed—indeed, the Minister himself has discussed—the significant problem of the lack of skills that is holding back economic growth. Especially now, as we are constraining migration, it is really important that British people have lifelong learning. Apprenticeships and universities have a huge role to play, but the underpinning in our ever-changing world, where people constantly need to update their skills, means that further education is absolutely critical. Have we just heard a cut in that sector?

Perhaps the Minister can help us with this policy of equalising per pupil spending in schools. It sounds on the surface not to be an issue, but does this mean that schools, for example, in London, in some of our most difficult communities and which have delivered outstanding success, are about to have a cut in their per pupil spend based on this equalisation? We really need to know and understand the detail of that.

I will make just two more comments. Although there were many measures to support new ownership, the private rental sector was ignored. We have 1.6 million people on the waiting list for social housing who will obviously not be helped, and so many in generation rent, who spend half their income on rent, have not been helped either.

My last point is that this Budget relies on a £27 billion find by the OBR in increased tax receipts and low interest rates. I point out that both could change or disappear. Given the constraints of the fiscal charter, what are the consequences for this Budget if that should happen?

Lord O'Neill of Gatley: My Lords, I thank the noble Lord, Lord Davies, and the noble Baroness, Lady Kramer, for their interesting and detailed responses to the Autumn Statement and the spending review. One of the unfortunate consequences of their detailed response is that I have only three minutes or so to respond.

Let me start by trying to make some overall comments. An important backdrop to today's Autumn Statement and spending review is that the independent Office for Budget Responsibility has become more optimistic about our economic growth than it was previously, consistent with other respected domestic institutions. Importantly, in line with that, it has become more optimistic about our modelling of the path and profile of tax receipts.

As highlighted by the Chancellor, the OBR now calculates that this means a £27 billion improvement in our overall public finances over the forecast period. This allows the Government to borrow £8 billion less than forecast and, importantly, and in contrast to what the noble Lord, Lord Davies, suggested, spend £12 billion more on capital investment and cut less in the early years, while still achieving a budget surplus consistent with what was previously projected. In fact, that surplus will be slightly higher, by £100 million, by 2019-20.

In practical terms, this means: a £10 billion real-terms increase in the NHS budget; investment in our national security; real-terms protection of the police budget—I will have to write to the noble Baroness, Lady Kramer, on the technicalities of her question; doubling the housing budget; the largest ever investment in free childcare; a 50% increase in transport capital spending; extra support in science and innovation, in contrast to what was widely expected by the media; the biggest real-term increase to the basic state pension in 15 years; and, of course, avoiding the need to lower the tax credit thresholds.

Through the spending review, the Autumn Statement also sets out the details of the Government's commitment to deliver £12 billion of savings to the cost of governance. It delivers the economic security on which our future growth is based and protects national security, which it is, of course, the first duty of any Government to provide.

I shall quickly try to respond to some of the key specifics. The noble Lord, Lord Davies, as he has done in previous debates in this House, referred to a number of aspects of the economy. I have probably had more access and time to look at some of the things presented in the Autumn Statement and, crucially in this regard, by the independent OBR. With respect to, for example, the never-ending references to our balance of payments deficit, as significant as that has been, one of the sources of the upward revision by the OBR is the improvement in the balance of payments position that has recently occurred. As I pointed out in the Chamber a week or so ago, the trade part of the current account balance of payments has been improving for some time.

With respect to other specific asks, I am particularly pleased with some aspects of this in the context of what the noble Lord, Lord Davies, said, both from the northern powerhouse perspective and in terms of our broader energy dependency. In that regard, I should like to highlight the announcement of £250 million towards research for small nuclear reactors, which will benefit a considerable number of parts of the north of England. In addition, there is £250 million for a devoted potholes fund.

With respect to the ongoing and crucial issue of skills, the Autumn Statement spells out specifically how the apprenticeship levy will be funded. While some are making reference to that being some form of tax, as we have discussed here before—and as I have been among those most prominently pointing out—it is important that our corporate sector, which is at the forefront of pointing out our skills shortage, takes ownership in providing the necessary skills. It will apply only to the largest employers, and anyone who achieves their target will get their funds returned in any case.

I have already touched on answers to some of the interesting comments made by the noble Baroness, Lady Kramer, but I want to start by bringing us back to universal credit. I will refer to what the Chancellor himself said this morning and then make additional comments. He said with respect to tax credits:

> "Because I have been able to announce today an improvement in the public finances, the simplest thing to do is not to phase these changes in, but to avoid them altogether. Tax credits are being phased out anyway as we introduce universal credit".

[LORD O'NEILL OF GATLEY]
He concludes the section of his wonderful presentation by saying that the House—that is, the other place,

"should know that helping with the transition obviously means that we will not be within that lower welfare cap in the first years, but the House should also know that, thanks to our welfare reforms, we will meet the cap in the later part of this Parliament".

With respect to the observations about the role played by this House, it is important to remember that the Chancellor said the day before our debate that he was prepared to listen and there was on offer an alternative Motion that could have been respected.

Lord Taylor of Holbeach (Con): My Lords, before the clerk starts the clock for Back-Bench questions, we have 30 minutes. I know a lot of noble Lords want to contribute. Can they please be as brief as possible? That gives as many noble Lords as possible a chance to express their views and ask questions of the Minister. Thank you.

4.04 pm

Baroness Hollis of Heigham (Lab): My Lords, picking up the last comment made by the noble Lord, Lord O'Neill, but for this House, those tax credit cuts would have become law that night. The possibility that they would subsequently have been abated seems to me improbable if they had already been banked. I am delighted, as I am sure everyone is, that the Government listened to this House and to widespread concern in the country about tax credits, which was shared by all. I am sure that we are all relieved that some 3 million low-income families will now not receive letters at Christmas telling them that they would experience cuts of between £1,000 and £3,000 a year. Noble Lords should be much praised for their willingness to require the other place to think again, as they have done—and how glad I am that they have.

However, I am puzzled by some of the comments in the Statement. The noble Lord, Lord O'Neill, correctly quoted—I would expect nothing less—from page 10 of the Statement, where the Chancellor says that because of,

"an improvement in the public finances",

the tax credit cuts will not now happen, so these cuts are not now apparently necessary. However, on page 3, the Chancellor says that the £12 billion of welfare cuts,

"will be delivered in full".

Lord Tebbit (Con): Question!

Baroness Hollis of Heigham: My question, if the noble Lord, Lord Tebbit, will give me the courtesy of allowing me to speak, is: why do we need these cuts if public finances show that the tax credit cuts are not necessary, and where precisely will they fall? I have to say that the answers are not there.

Lord O'Neill of Gatley: My Lords, if I understand the noble Baroness's questions correctly and specifically—I am not entirely sure that I do—it has been made clear in the Chancellor's speech that there will be a series of measures over the term of the Parliament and the period covered by the spending review and Autumn Statement. By the end of the Parliament we will have achieved the £12 billion of savings that was set out, and the migration to universal credit will play the role that it was intended to play.

Lord Shipley (LD): My Lords, the Chancellor announced a big package of new powers and also new responsibilities for local councils. He also said that by the end of this Parliament local government would be spending the same in cash terms as it does today, so it will not be spending the same in real terms. First, will the Minister confirm that there will be no cost shunting from central to local government without the necessary funding following it? Secondly, can he confirm that over the next few years of this Parliament any new demands made of local government by central government will be properly funded?

Lord O'Neill of Gatley: Again, I had a slight problem hearing the specific words of the question. However, if I understand the broad gist of it, I point out that, given the new revenue-raising powers that all our local authorities will have available to them, their ability to have control over their plans will, of course, be considerably greater than is implied by the numbers that I think the noble Lord was referring to. That is particularly true of the big urban areas that have undertaken devolved responsibilities. In terms of where that destiny will be, as will be seen more clearly in the detailed documents to be released later, if not already, Greater Manchester, the first place that had devolved responsibility, has now had its third negotiated settlement. There will be more for others, as I have personally been very eager to discuss as part of our initial agreements with many of them.

Lord Grocott (Lab): Can the Minister confirm that when this House made its decision on tax credits, and the Prime Minister and the Chancellor went into meltdown about the outrageous nature of the House's behaviour and its affront to the constitution, as well as making several other extreme statements, they had a very simple solution to hand to reassert—if that was needed—the authority of the Commons, which was to introduce a small, timetabled, money Bill, which the House of Commons could have passed in no time? The Chancellor could have achieved his original objective. The fact that he chose not to—and we are very delighted to see that he will not go ahead with these cuts—means that he thought again at the request of the House of Lords, and the House of Lords was fulfilling its historic and important constitutional function of telling Governments to think again.

Lord O'Neill of Gatley: My Lords, at the risk of repeating aspects of what I said, I think I made it clear that the arguments advanced had legitimacy and were, as with any other arguments, capable of influencing the Chancellor—which, I might add, has been observable on a number of other economic policies. What was not legitimate was the fatal Motion carried in this House.

Lord Stoddart of Swindon (Ind Lab): My Lords, I will ask a quick question on transport, which I understand is to take a cut of 30%. Which services will that

adversely affect? Will there be cuts in assistance to the railways and to London transport, in which case fares will increase, or are there other means of finding that 30% cut?

Lord O'Neill of Gatley: My Lords, as I think was touched on in part of the question asked by the noble Baroness, Lady Kramer, the cuts are in the Department for Transport's operational budget. There is a significant increase in capital spending. With respect to a number of our investment challenges, I would also highlight that some of the additional £12 billion capital investment is specifically for transport. Tangential to that, I also highlight the more specific commitment to HS2, as well as—very importantly for the northern powerhouse project—a significant allocation of money for the rollout of Transport for the North, particularly the state-of-the-art ticketing proposals that we hope will come to the fore.

Lord Higgins (Con): My Lords, the Chancellor is determined to eliminate the deficit, but the results so far show very clearly that this is entirely consistent with having a rate of economic growth that compares very favourably with those of other countries around the world. To add one particular point, the Chancellor was clearly frustrated at being unable to zero-rate VAT on certain items because of the European regulations. When negotiating with the European Community, would it not be a good idea to include negotiations on this particular point, which inhibits us from taking the tax decisions that we wish to take?

Lord O'Neill of Gatley: My Lords, on the second question, which I assume specifically refers to the so-called tampon tax, the Chancellor took great delight in announcing to the other place that a number of women's charities would be direct beneficiaries of the money we accrued from the imposed tax from the EU. In the mean time, the Government will continue to debate the merits of that tax with the EU.

On the first question, as I touched on, the basis for the OBR's improved forecast is of course the circular connection between the improvement in the economy—which I repeat that the OBR has become slightly more optimistic about—and the improved nominal GDP outlook for the rest of this Parliament, as well as tax revenues. That has given the flexibility for the Chancellor to commit—or recommit—to the mandate that the Government successfully achieved from the electorate to reduce the level of debt and to move towards a fiscal surplus, while choosing various priorities in domestic spending. Indeed, it is that economic success that has been so helpful in giving the flexibility highlighted in today's policies.

Lord Campbell-Savours (Lab): My Lords, I take the noble Lord back to the £12 billion figure, tax credits and his explanation that the relevant sum would be covered by migration—I think that was the term he used—to universal credit. Is he saying that the whole of the £12 billion will be covered by that migration or will there be additional benefit cuts in other areas? If there are to be additional benefit cuts, when will they be announced?

Lord O'Neill of Gatley: My Lords, as is highlighted in the documents, the removal of the two particularly contentious parts of the tax credits cuts will result in a figure somewhere in the vicinity of just over £3.5 billion. A number of other policies have been adopted, which were there in any case, and have been announced today. Together with the planned phasing-in of universal tax credits, these will achieve over the course of this Parliament the £12 billion of planned savings that were scheduled at the start of it. I highlight the fact that the OBR documents suggest that that is likely to be achieved.

Baroness Williams of Crosby (LD): My Lords, I congratulate the Government on front-loading the money for the National Health Service, which should enable it just about to get through the coming year. However, will the Minister confirm that the original Nicholson savings still exist, and that therefore the NHS will have to find over this Parliament something of the order of £22 billion?

Lord O'Neill of Gatley: My Lords, the noble Baroness has slightly caught me off guard with that point. Certainly, the additional money announced today for the NHS does not mean that it is not expected to deliver the efficiencies that had previously been announced. It is still expected to deliver those efficiencies.

Lord Cormack (Con): My Lords, I declare an interest as president of the All-Party Arts and Heritage Group, which many noble Lords in all parts of the House support on a regular basis. I express my appreciation for the fact that the Chancellor has recognised that a cut in the very small budget of the DCMS would be a false economy. Will my noble friend assure me that English Heritage and Historic England will be similarly treated?

Lord O'Neill of Gatley: My Lords, the Chancellor's Statement was very clear on this issue. He will welcome the noble Lord's appreciative comments.

Lord McFall of Alcluith (Lab): My Lords, if it is the case that in a short three-month period from July to November the transformation in the Government's figures was due solely to the generosity of the OBR, will the Minister confirm that spending by the Government will be £83 billion more in this Parliament, funded by £47 billion of tax increases and £35 billion of welfare cuts? Given the answer that was given earlier, the Autumn Statement is silent on the welfare cuts. Will the Minister indicate where that £35 billion will come from over this Parliament?

Lord O'Neill of Gatley: My Lords, as I have already said, it is indeed the case that the new baseline that the OBR presented allowed for considerably more flexibility in today's announcements. However, it does not change the overall thrust of economic policy. What it has done, as I emphasised, is given more flexibility across the board in respect of three areas. As has been debated considerably in this House recently, there is a £12 billion increase in public sector investment spending

[Lord O'Neill of Gatley]
over what was previously planned, which covers particularly housing but also transport, including both road and rail. Relative to the Budget in March in particular—the coalition's final Budget—but also to the summer Budget, there is also a lesser pace of spending reductions across the board. The Chancellor highlighted that, going forward, the aggregate real cuts would be something like 0.8%, compared with 2% previously, and that is a slower pace than was previously the case. If one looks at the mix—and there are some very interesting tables presented in the Treasury document and particularly by the OBR about the shifting balance—previously spending reductions made up significantly more than 50% of the planned savings but are now a bit less than 50%, and the balance is made up in other areas, including lower debt payments, which I think the noble Baroness, Lady Kramer, indirectly referred to.

Lord Spicer (Con): My Lords, one potential massive investment that could take place, which would not require taxpayers' money or affect the public borrowing requirement, would be investment in Heathrow and the London airports system. Why is more not being made of that?

Lord O'Neill of Gatley: My Lords, I am pleased to say that the matter of Heathrow Airport is a bit above my pay grade, but I think that a decision on that subject will be made and announced before the end of the year.

Lord Scriven (LD): My Lords, it says in the spending review that an extra £1.5 billion for local government by 2019-20 is to be included in the better care fund. Is that new money or, as has happened previously, will some of that money be shunted from the NHS into social funds to be given to the better care fund?

Lord O'Neill of Gatley: My Lords, I will follow up with a written answer to that. I am pretty sure that this involves additional money for the better care fund but I will reply to the noble Lord in writing.

Lord Tebbit: My Lords, did my noble friend share my surprise at the allegation made by the noble Lord, Lord Davies, that our economy was performing very poorly compared with our overseas competitors? If that is indeed the case, why on earth are all those people at Calais fighting to get here instead of fighting to stay in President Hollande's paradise of a socialist France? They must be mad.

Lord O'Neill of Gatley: My Lords, my noble friend Lord Tebbit goads me to spend a lot of time talking about the economy, which—looking at the clock and avoiding my own tendency—I will desist from rising to. But I implied in my answer to the noble Lord, Lord Davies, that I was somewhat baffled by his tone about the economy. I suspect that many noble Lords have not yet had the chance to read everything that has been said, particularly by the OBR, but in a number of areas of frequently highlighted vulnerability, particularly the balance of payments, the OBR is somewhat cheerier than is typically the case. As the Chancellor pointed out very clearly at the start of his speech, our economy continues to perform at the highest levels of the G7 economies and somewhat better than generally expected by the consensus over the medium term, including the OBR's own forecast beyond this year and next year.

Baroness Royall of Blaisdon (Lab): My Lords, there is much in the Statement about housebuilding and it is very welcome that the Government want to enable more people to buy homes, although I see that few of them will be in London and the south-east. But the only mention of social housing is the enabling power to allow housing associations to sell off their own homes, which will detrimentally affect housing, especially in rural areas. What is the Chancellor saying about building more social housing all over the country?

Lord O'Neill of Gatley: My Lords, I beg to differ with the substance of the question. While the new policies announced today go more broadly than social housing, the Government continue to focus on the needs in this area. What is particularly exciting about housing policy today is a stronger commitment, and specific policies to go with it, to encourage more housebuilding in general, including specific targeted measures to help those in London.

Lord Livingston of Parkhead (Con): My Lords, my noble friend the Minister is absolutely right to point out that the UK has an improving balance of trade. It is one of the best performing economies in the G7 and the strongest place in the whole of Europe for foreign direct investment. How does he think that may change when we have a shadow Chancellor who—God forbid he should ever get into power—likes to quote Chairman Mao?

Lord O'Neill of Gatley: My Lords, again, I am very tempted to rise to the bait of my noble friend's question, but I have to be careful in this regard, given my own interest in China. All I would say is that as we creep through time, a number of the more sceptical voices about the performance of our own British economy in a sea of great turbulence and unpredictability around the world continue to improve, as does the most up-to-date, ongoing evidence of the economy's performance.

Lord Haskel (Lab): My Lords, the Statement promised a lot on infrastructure; so did the Budget two years ago, when a £40 billion fund was established to guarantee it. But since then only about 10% of this fund has been used—largely, I suspect, because employment in the construction industry has gone down by perhaps 120,000 people. So what confidence can we have that the infrastructure promise in this Statement will be more successful than what was promised two years ago?

Lord O'Neill of Gatley: My Lords, I am slightly surprised at the tone of this question with respect to infrastructure, along with a couple of earlier questions. Let me repeat that within the £12 billion additional commitment to capital spending, much of it, in its broadest sense, is indeed on infrastructure. I also point out that since the summer Budget, an independent

commission has been looking at the nation's infrastructure needs. It will give advice and report back ahead of the next Budget.

I will add that, based on the involvement that I personally have with many other countries around the world, the guarantee scheme that the noble Lord refers to in terms of its low take-up is generally regarded as one of the most sophisticated and credible in the world. It will continue to be used, as we have highlighted in today's Statement, and we will welcome many more proposals for infrastructure spending from the private sector, which may be interested in using that guarantee.

Lord Lansley (Con): My Lords, the announcement that a national funding formula for schools will be introduced from 2017 will be immensely welcome after years of campaigning. Clearly, this formula will not be simply a flat rate. It will mean that pupils in similar circumstances should receive similar funding, coming directly from the Government as it does. Can my noble friend say at all when we might see the consultation on the structure of that funding formula?

Lord O'Neill of Gatley: My Lords, given my own previous specific involvement in education as a non-exec at the Department for Education and a long-time educational philanthropist, I also welcome this measure. I suspect that it will be particularly helpful for young children and adults in the most disadvantaged parts of urban Britain, particularly outside London. I do not have the information to provide the details here on how it will be worked out but I am sure that, in the fullness of time, it will be made available to everybody, especially Members of this House.

Baroness Janke (LD): My Lords, it is very welcome that local authorities will be able to keep the business rate, particularly where there is concentration of business. However, in many local authorities there is not the same concentration of business. What plans are there for those local authorities and is it envisaged, as in the work of the City Growth Commission, that moving to more revenue-raising measures might be a further aspect or result of the Chancellor's announcement?

Lord O'Neill of Gatley: My Lords, the announcement about the retention of business rates was made a number of weeks ago now. I may have misunderstood the question, but they are now available for all local authorities to retain. The latter part of the question was about the recommendation of the City Growth Commission, which I think most noble Lords will be aware that I used to chair. As we have agreed in principle with the deals we have already done, those areas that are prepared to take on mayoral responsibilities and have greater accountability will be given the powers to change and raise the rates suited to their own local desires and competitiveness.

Baroness Farrington of Ribbleton (Lab): My Lords, I want to speak about the Minister's apparent optimism about the northern powerhouse and regions in the light of the fact, following the previous speaker, that there is a disparity of funding for young people taking A-levels in sixth form colleges, schools and FE colleges. All the predictions are that many FE colleges will close. As for the north of England, I speak with detailed knowledge of Lancashire, where we have a fine tradition of tertiary colleges. For the Chancellor to be offering the chance for new school sixth forms or academies is pathetic, given the needs. If the Chancellor is serious about, for example, the construction industry, or the Government are serious about the care sector, how do they put that alongside the fact that closing FE colleges will restrict the number of people who are qualified to work in those fields and many others? I am afraid that too many members of this Government went from school to sixth form to university. The Leader of the House is saying that this is not the case, but far too much of their modelling is based on that sort of history, and they do not know enough about further education.

Lord O'Neill of Gatley: My Lords, I would love to give a very long answer to this question, not least because I had the pleasure of graduating through the comprehensive system, and of course I am very passionate about the northern powerhouse. I will say one or two very quick things. First, the BBC published an interesting poll last week of the views of people in the north about the northern powerhouse. The BBC, predictably, did not highlight what was possibly the most interesting part of the response, which was that nearly 70% of young people in the north believe that the Government could make a difference to their futures. That was very gratifying to see.

The second thing is about the new national funding formula. My strong suspicion is that this will benefit particularly the most disadvantaged parts of the country, including the north, relative to what would have been there before—although, as I said a few minutes ago, the details of that are yet to be provided even to me, never mind to everybody else.

Lord Woolmer of Leeds (Lab): My Lords, before the last election, in the northern powerhouse we were told that the trans-Pennine rail electrification scheme was going to go ahead. Almost immediately after the election, that was abandoned and put on hold. Today in the Commons, the Chancellor said that the trans-Pennine electrification may go ahead. In the detailed document published in support of the spending review and Statement, on page 64, there is no indication at all of any project start or completion other than that of Manchester to Liverpool. The noble Lord will know that that does not take you over the Pennines. Can he tell the House whether the trans-Pennine electrification is going to proceed, when it will start and when it will be completed? Lots of dates are set out for other projects.

Lord O'Neill of Gatley: My Lords, I expressed my irritation about the unfortunate pausing of the trans-Pennine project, whenever it was. I am equally pleased that it was unpaused some weeks ago. It is inappropriate for the Chancellor or me to give a specific time when the trans-Pennine link will be completed.

[Lord O'Neill of Gatley]

Let me finish with a point I touched on earlier. One of the many highlights of today's announcements was the further significant commitment to transport for the north. What I would call phase 2 of the northern powerhouse project, beyond giving devolution to areas that want more responsibility, is building a state-of-the-art transport infrastructure between different parts of the northern powerhouse. Today, there has been a substantial announcement to take that further along this very exciting journey.

Enterprise Bill [HL]

Report (1st Day)

4.35 pm

Clause 1: Small Business Commissioner

Amendment 1

Moved by ***Baroness Burt of Solihull***

1: Clause 1, page 1, line 9, leave out from second "to" to end of line 11 and insert "matters in connection with the supply of goods and services to—

and make recommendations."

(i) larger businesses, and

(ii) public authorities;

and make recommendations."

Baroness Burt of Solihull (LD): In Amendment 1 and this group of amendments, we see the Small Business Commissioner as a body that champions small businesses and seeks to protect them against imbalances of size and power.

We appreciate the amendments tabled by the Minister to give this body greater independence and its own staff, which we will deal with in the next group. We see those amendments as a great step forward in response to debate in Committee and thank her for them. We accept what the Minister said in Committee—that the commissioner will initially have to concentrate on late payments as it gets started—but payments are crucially related to other stages of the supply relationship, whether that is commissioning or operational experience, and the commissioner will need to delve, where necessary, into those areas to be effective. The commissioner should have the remit to do that when it is considered necessary.

Amendment 1 returns to the issue of providing for the widening of the remit so that the commissioner can be more effective and address issues which are not simply associated with late payment but are related. Imbalances of power lead to problems of commissioning and operational experience which become directly associated with payment problems.

The amendment seeks to include public sector organisations, whether national or local, as they are bodies that small businesses should be encouraged to deal with, where similar problems of size and power relationships will arise. Wherever there is an imbalance of power, there is an opportunity for exploitation, and that crosses public and private sectors. The Minister gave us reassurances in Committee that there was no need to involve the public sector because it is already being put in the right place by a whole series of measures, which she named: the mandatory period of 30 days for paying bills by public bodies, with interest owed afterwards; the mystery shopper scheme; the Public Contracts Regulations 2015; and the public policy commitment for central government to pay undisputed bills within five days. She accepted that the Small Business Commissioner would act as an important signpost to help small businesses with complaints with public bodies, but it would simply refer cases on. In most cases, this might be fine, but where it encounters delays and repeated bad practice in the public sector, are we saying that it should have no power to help the small business complaining?

If everything is rosy in the public sector, there will not be any problems, but will small businesses not benefit from a one-stop-shop approach? All they are interested in is getting their bills paid on time, and we want to see imbalances of power corrected. Either the Small Business Commissioner is all-embracing, across both the public and private sectors, or the new role will confuse small businesses and its reputation for effectiveness will be damaged. For these reasons, we believe that the remit should be capable of being widened beyond simply late payments, and the public sector should be included.

Amendment 10 returns to the issue of involving the Competition and Markets Authority where this is appropriate. The Minister reassured us in Committee that there is nothing to stop the commissioner referring a report or relevant information to the authority, but we would like this to be formally recognised in the legislation to counter abuse of market power and give the commissioner added authority to do this. I beg to move.

Lord Mendelsohn (Lab): My Lords, these amendments principally deal with the core issues of the office of the Small Business Commissioner: what it does and who it deals with. We accept the argument presented by the Government about making sure that the Small Businesses Commissioner has a focused remit. Our criticism is not about the principle of having a focus; it is about whether we are providing the means for that focus to be delivered and whether the focus is too slight to have an impact.

Little seems to have been learnt from the Australian experience over the last 13 years—gained through the establishment of the state Small Business Commissioners and the federal one—about the importance of providing a very sensible focus on improving the business environment for small businesses. In fact, one thing that could have been learnt from the Australian experience is that the one thing that the commissioner does not do very well, and should not be its focus, is late payments, and that legislation ensuring compulsion is a much better approach.

I will broadly set out the concerns that we had at the time of Second Reading. First, we accepted that, while there is a need to address the late-payment information due to arise from the Small Business, Enterprise and Employment Act 2015, defining the

late-payments role as being for the Small Business Commissioner was probably the incorrect focus and would short-change small businesses, considering the support that they could have had if the brief were wider. Secondly, we said that its scale was far too narrow, as the Government anticipated that it would deal with only 500 cases a year. We thought this was too small to be able to make a big impact on what it was trying to achieve.

We also believed that, at its very core, the definition of the role and purpose of the Small Business Commissioner was far too limited, and that using the experience of others—including Mark Brennan, the very impressive and successful first Small Business Commissioner in the state of Victoria, and subsequently the Australian Small Business Commissioner—could improve the quality of the business environment by reference to the two enduring core responsibilities of government: namely, the provision of information and justice. Access to information is a key component of a competitive marketplace, and the enduring responsibility of government when intervening to regulate business is to provide an appropriate system of justice, manifested through policy to ensure fair competition and fair dealings between commercial entities and between themselves and consumers.

There is probably a consensus that the distinctive characteristics and functions of the Small Business Commissioner would cover: access to information and education; advocacy to government; investigation of small business complaints and business behaviour; facilitating the resolution of disputes, including and especially through mediation; influencing small business-conscious government and other key stakeholders, including regulators, media and the business community; and ensuring that such a commissioner would operate with an attitude of being concerned with substance rather than technicality and a dedication to resolving disputes by encouraging commercially realistic attitudes. It is also the case that an effective Small Business Commissioner improves the environment for all businesses and is not just there to operate solely for the interests of small businesses, to the detriment of others.

4.45 pm

Fourthly, we said that the legislative measures take no account of the importance of evolution in designing the role. Many people running small businesses represent those who have ambition, work hard and are the innovative, entrepreneurial backbone of employment and social responsibility in our country. They dedicate huge amounts of time to their businesses and perform a variety of functions. Small businesses can neither afford nor, in most cases, need professional managers with the skills, training and experience of those in larger organisations, nor should they be expected to have them. When we regulate, legislate, incentivise or disincentivise, we should be very conscious that policy is designed to work for those who manage small businesses. This means that such a role will continually adapt and develop, given the times and circumstances, to achieve its aims.

Fifthly, we suggested that the fact that the commissioner will not have any capacity to develop a mediation role is an omission that, in our view, will inhibit its ability to establish its place in the general business community. Universally, the Australian Small Business Commissioners say that this mediation role has led to the widespread support for the work of the commissioner across the business community, in large businesses as well as small ones, and established their credibility. The fact that this is underpinned by an important power—namely, that any company's refusal to accept mediation with the Small Business Commissioner will have that taken into consideration over the question of who is responsible for costs during court action—acts as a very impressive and important incentive.

We have a variety of alternative dispute resolution mechanisms, and the commissioner should work with those. Providing the Small Business Commissioner with a role in mediation is not about addressing a lack of availability, and there is value in having a signposting role, which we do support. The Government have admitted in private that, inherently, the commissioner will have a mediating role. In a briefing to Conservative Back-Benchers in another place, the Minister said that the Small Business Commissioner would have a mediating function. The briefing said:

> "Our intention is to assist parties in resolving disputes themselves. For the Commissioner to make sound recommendations, both parties must have meaningful input into an inquiry into a complaint".

I am reminded of the argument I frequently had in Committee about "may" and "must". The fact that the Small Business Commissioner "may" take a mediating role does not mean that it "must". As the Government have said, the way to make that role work is to give it some form of mediation.

Fifthly, we said that the commissioner lacks the independence and long-term support to make it effective. That will be addressed in the second group of amendments.

We are very grateful that, throughout the consideration of the Bill in Grand Committee, we had a very useful debate on the issue of what the commissioner will do. We accept that the Government want to provide the commissioner with a particular focus in the first instance, and that is to deal with late payments to see whether it can improve the position there. We support that, but we suggest that the Government do not limit its role. Certainly, a number of the amendments in this group, particularly Amendments 10 and 16, address this question of what the commissioner does. In our view, and that of the noble Baroness, Lady Burt—whom I welcome to her role; with her first comments, she has shown that she will make a very impressive contribution to our deliberations—this is fundamentally important in making sure that the commissioner does something and has an ongoing role to support small businesses.

Secondly, there is the question about who the commissioner deals with and is able to work with to ensure benefit for small businesses. Clause 1, where it defines that the Small Business Commissioner will take complaints from small businesses against large businesses, is quite limiting. It is certainly true that large businesses account for some of the most egregious and problematic considerations. Actually, that gives me a good opportunity to praise someone in this place whom I was able to praise during the course of the small business Bill—the noble Lord, Lord Wolfson. His company is one of the most exemplary in paying

[LORD MENDELSOHN]
suppliers on time and well known for it in industry. We have some excellent and first-class companies who do this. But the commissioner should not be limited to dealing just with large businesses. The noble Baroness, Lady Burt, made a very good case as to why public authorities should be embraced in this.

Our Amendment 8 would add small businesses, and it does that for a couple of reasons. It is not just the fact that small businesses comprise a large number of the companies with late-payment issues. We believe that, if the Small Business Commissioner had a role in this, given that very often the issue is one of access to finance, it would help in finding a way through that problem and be extremely helpful. However, some of the most serious problems lie in the fact that many small businesses are involved in a business-to-business relationship that depends on a larger company somewhere down the line. To exclude the possibility of a company being able to come forward to the Small Business Commissioner because the ultimate logjam in the cash-flow process is from a larger business significantly limits the number of businesses that can be assisted.

In those terms, we hope that the Minister has considered the utterly persuasive case that we hope we made in Grand Committee, has accepted that our shorter summary here is similarly compelling and will bring something forward either today or at Third Reading.

Baroness Wheatcroft (Con): My Lords, I accept that the role of the Small Business Commissioner as drafted here is very limited, but that is not accidental. This is a move towards cultural change, and I agree with the Government that it needs to be taken in small steps. The Small Business Commissioner will have power—and it is the power, in the end, of publicity. Eventually, if large companies behave badly, the power to name and shame is in the legislation. We have seen that naming and shaming has an effect; equally, the power to be able to boast about doing the right thing is very effective. Noble Lords will have noticed how Lidl is making great play of the fact that it was the first business to pay the living wage without coming under any compulsion to do so. This is a first step. Should it fail, it will be open to the Government to extend the powers but, as a first step, it is right to have a complaints commissioner or Small Business Commissioner who will be able to offer advice to small business and, if necessary, mediate on its behalf with the large companies that tend to be the worst offenders.

As we all know, small businesses are the first to complain about bureaucracy. They do not want a massive bureaucracy to have to contend with; they want help and advice, which is available to them already in many different ways. The Small Business Commissioner would just be one more place where they can go for help, and it is right that it should be on a very specific thing, particularly payment. If we try to make this too broad, we will lose the impact and main aim of the Small Business Commissioner, which is to change the culture of those companies that will not play fair. It will take the right person in the role, but that person could be very effective in changing the culture.

Lord Cope of Berkeley (Con): My Lords, I, too, feel that it is right for the Small Business Commissioner to have this focus on late payment from large companies, as I have said before in debates on this Bill. As many of us know from experience, this is a problem that has been with us for many years—in fact, for many decades—and all sorts of attempts have been made from time to time to improve the situation, some of which have had some effect. This is a further attempt, because the problem is still with us. If you broaden the initial remit of the commissioner too far—and I am not talking about the eventual remit, although maybe it will be larger in due course, which I would welcome—you will just give an impossible job to whoever gets the appointment. It will be a difficult job in any case, but it would become an impossible job.

Under the terms of Amendment 16, the commissioner would be required to establish a complete framework and fair operating environment for all businesses over a whole string of different methods and aspects. That is an enormous job to place on this new commissioner and the staff. Let them concentrate on one of the most stubborn problems we have had over many years. If they succeed in that, then we can begin to see the remit widen and used in a much bigger spread, which I think we would all like to see, in due course.

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills and Department for Culture, Media and Sport (Baroness Neville-Rolfe) (Con): My Lords, first, I welcome the noble Baroness, Lady Burt of Solihull, to the Front Bench and commend her for her brevity and clarity. I hope the House will not mind if I take a little time to highlight some of the issues arising in this important group of amendments. I shall begin, as one must, by reiterating the importance of tackling late payment and our commitment to doing so. The measures in this Bill establish a Small Business Commissioner, delivering on and developing our manifesto commitment.

I, too, pay tribute to my noble friend Lord Wolfson for his good payment practice at Next. We should try to encourage good practice as it helps with the cultural change we are seeking. Our aim is to build on the measures taken during the previous Parliament to drive down late payment. Some of these measures are still in the pipeline, notably the new requirement on the UK's largest companies to publish performance data on payment which will bring the sunshine of transparency to the problem.

I am extremely grateful to noble Lords for their diligent scrutiny of the Small Business Commissioner measures in Committee. After careful consideration of the arguments, we have put forward concessionary amendments, as noble Lords opposite were kind enough to acknowledge. I hope they will bear them in mind in considering what to do today.

We all know how vital the UK's small businesses are to our economic growth. This is something we must all reflect on as we approach Small Business Saturday. In Anna Soubry, we have a Small Business Minister who champions the cause. I am a former chairman of a Scottish SME, Dobbies, and as well as understanding the practices of much bigger companies

I really believe in the need for reform. On late payment, with a good strong Small Business Commissioner becoming a vital part of the support system and with the support of this House and the other place, we can make things happen. Our assault on late payment must continue.

We are committed to making Britain the very best place to start and grow a business. The Government will play their part in assisting business where it needs it most by cutting red tape and opening up markets at home and abroad to new and innovative businesses. I should say briefly that today the Chancellor confirmed that we will extend small business rates relief for another year, and 600,000 businesses will benefit. We are funding new or extended enterprise zones, including, I was delighted to see, in Carlisle, Dorset and Ipswich. We will be providing £24 million for local growth hubs to continue to join up business support on the ground in each LEP area.

The Small Business Commissioner will build the confidence and capabilities of small businesses to assert themselves in contractual disputes with larger firms and to avoid them in the first place. He or she will work to encourage a culture change in how businesses deal with each other to promote a fair operating environment. The commissioner will handle complaints by small business suppliers about payment-related issues with larger businesses. He or she will also act as a hub of user-friendly information. He or she will provide general advice and information to assist small businesses with their supply relationships, which will be sensibly integrated with other sources of business advice. My officials will involve small business users in the design phase to ensure that the commissioner's services are easy to use and navigate.

We arrived at this policy architecture following careful consideration of the issues and the evidence, including responses to our summer consultation and further evidence including data on late payment. Our aim has been to put forward a targeted and effective response to the most pertinent issues facing small business and to focus the commissioner on late payment so that rapid progress is made. That is the point that my noble friend Lady Wheatcroft made so well.

5 pm

Amendments 1, 8 and 9 would allow the commissioner to handle a complaint from a small business against another small business, a medium-sized business or public authorities, and would widen the complaints-handing function to cover all matters relating to the supply of goods and services. We have carefully considered these issues and the arguments put forward by noble Lords today and in Committee, but I must hold firm on my position that focus is needed in the complaints-handling function. We have been very clear about our policy intention to help small firms where they suffer because of an imbalance in bargaining power when dealing with larger businesses. I reassure noble Lords that larger businesses are defined in the Bill to include medium-sized businesses. We have intentionally targeted the commissioner's services at those businesses most in need of support. We recognise that individual firms' circumstances will vary, and acknowledge that there is evidence to show that problems exist between firms of all sizes, but we consider that small businesses should be less likely to need external support when dealing with firms of a similar size.

We have designed the commissioner to complement, not duplicate, the work of other bodies. The Bill provides for him or her to address small business issues with public authorities by signposting them, as has been said, precisely because appropriate services exist. The mystery shopper service was mentioned. It is a government service providing small business with an easy route to raise concerns about procurement, including payment issues. We consider that these issues are best addressed by this existing service, and by the commissioner signposting small businesses to it. If the public sector is dragging its feet, then complain to the curiously named mystery shopper—that is what it is there for.

We are trying to drive a parallel revolution in public procurement, with a particular focus on actions that support small business. The Government have a commitment to pay 80% of undisputed and valid invoices in five days, with the remainder paid in 30 days. Departments are required to publish performance against these targets quarterly.

We know that the UK's small businesses have significant and long-standing concerns about payment issues, particularly late payment. These issues cause great concern and difficulty and it is essential for the commissioner's complaints-handling function to be focused on them. The commissioner will be required to report annually on the most significant matters raised, and this may include recommendations to address those matters. So, if substantial evidence of other issues comes to the commissioner's attention, the Bill will enable the commissioner to report on them. We therefore have no evidence of a need for the extension of the remit in the ways proposed today.

Amendment 10 would permit the commissioner to send copies of his or her published reports to the CMA. I am happy to reassure noble Lords that the commissioner does not need a power to send the CMA published reports. We expect the commissioner's reports to be useful to, and accessed by, many regulators. I am sure the CMA will subscribe to them, as I certainly will. The commissioner, who is independent, may also choose to bring his reports to the attention of any regulator.

I thank noble Lords for their careful consideration of the ways in which the commissioner could assist small business, as set out in Amendment 16. My noble friend Lord Cope made some germane comments, as did my noble friend Lady Wheatcroft. I have explained that the commissioner's complaints-handling function has a deliberately targeted focus on payment issues. They are vital to the culture change that we need. That is why our proposals for a commissioner to sit alongside other measures on payments that were started under the coalition Government are important.

I reassure noble Lords that the Bill already allows for the commissioner to play an important role in building an understanding of issues, which of course may change over time. As I have said, the Bill requires the commissioner to produce annual reports, which may include recommendations to government in relation to the key emerging issues.

[Baroness Neville-Rolfe]

We recognise that it will be vital for the commissioner to work with both small and larger businesses and relevant organisations to promote a culture of fair business practice. The Bill enables the commissioner to make recommendations to government and to work with other organisations on their information provision about small businesses' supply relationships. We will review the work of the commissioner's office at least every three years to ensure that its actions benefit small business and that he or she becomes an effective champion.

The noble Lord, Lord Mendelsohn, rightly talked about alternative dispute resolution. Our stakeholders, including the FSB, have told us that the role of government here is not to provide alternative dispute resolution but to assist them in navigating the system. I can assure noble Lords that we will provide a pathway to dispute resolution—I think the noble Lord, Lord Mendelsohn, used the word "mediation".

The noble Lord also referred to the Australian model, where failure to mediate may sometimes have cost consequences. I simply add that, within existing court rules, the courts can consider a refusal to participate in ADR to be unreasonable, which may be taken into account in court costs.

This is an important subject and this has been an important debate. The Bill establishes a framework for the commissioner to address key issues. It gives the commissioner an appropriate role and a range of vital functions. I know from my own experience that focus is key. I hope the noble Baroness will agree to withdraw her amendment.

Baroness Burt of Solihull: My Lords, I am very grateful. I thank the noble Lord, Lord Mendelsohn, for his contribution on dispute resolution, which we support, and for his kind comments. I thank noble colleagues for their contributions throughout the House. I disagree with the noble Lord, Lord Cope, that widening the remit of the commissioner would make the job too hard. Small businesses have a hard time, and we should be supporting them on this.

I thank the noble Baroness, Lady Neville-Rolfe. I have listened very carefully to the points she made. However, the public sector is not innocent in this. If everything worked in a timely way and in accordance with the regulations that have been set out for it to meet, we would not need to extend the remit in this way. Small businesses are not less but possibly more in need of help from the commissioner. Therefore, we on this side feel strongly about involving the public sector and widening the remit of the commissioner, and I would be grateful if we could test the opinion of the House.

5.07 pm

Division on Amendment 1

Contents 201; Not-Contents 204.

Amendment 1 disagreed.

Division No. 1

CONTENTS

Addington, L.
Allen of Kensington, L.
Alton of Liverpool, L.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Ashdown of Norton-sub-Hamdon, L.
Bach, L.
Bakewell, B.
Bakewell of Hardington Mandeville, B.
Barker, B.
Bassam of Brighton, L.
Beecham, L.
Beith, L.
Benjamin, B.
Berkeley, L.
Bhatia, L.
Bhattacharyya, L.
Boateng, L.
Bradshaw, L.
Bragg, L.
Brinton, B.
Brookman, L.
Bruce of Bennachie, L.
Burnett, L.
Burt of Solihull , B.
Campbell of Pittenweem, L.
Campbell-Savours, L.
Carter of Coles, L.
Cashman, L.
Chidgey, L.
Clark of Windermere, L.
Clement-Jones, L.
Clinton-Davis, L.
Collins of Highbury, L.
Cotter, L.
Crawley, B.
Davies of Oldham, L.
Davies of Stamford, L.
Deech, B.
Donaghy, B.
Doocey, B.
Drake, B.
Dubs, L.
Elder, L.
Erroll, E.
Falconer of Thoroton, L.
Falkner of Margravine, B.
Farrington of Ribbleton, B.
Faulkner of Worcester, L.
Foster of Bath , L.
Foster of Bishop Auckland, L.
Foulkes of Cumnock, L.
Freyberg, L.
Gale, B.
Garden of Frognal, B.
Gibson of Market Rasen, B.
Giddens, L.
Glasman, L.
Goddard of Stockport, L.
Gordon of Strathblane, L.
Goudie, B.
Gould of Potternewton, B.
Grantchester, L.
Greaves, L.
Grender, B.
Griffiths of Burry Port, L.
Grocott, L.
Hain, L.
Hamwee, B.
Hanworth, V.
Harris of Haringey, L.
Harris of Richmond, B.
Hart of Chilton, L.
Haskel, L.
Haworth, L.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henig, B.
Hollick, L.
Hollis of Heigham, B.
Howarth of Newport, L.
Howe of Idlicote, B.
Hoyle, L.
Hughes of Woodside, L.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Irvine of Lairg, L.
Janke, B.
Jay of Paddington, B.
Jolly, B.
Jones, L.
Jones of Cheltenham, L.
Judd, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
King of Bow, B.
Kinnock, L.
Kinnock of Holyhead, B.
Kirkhill, L.
Kirkwood of Kirkhope, L.
Kramer, B.
Lawrence of Clarendon, B.
Lea of Crondall, L.
Lee of Trafford, L.
Lennie, L.
Linklater of Butterstone, B.
Lister of Burtersett, B.
Low of Dalston, L.
Ludford, B.
Lytton, E.
McAvoy, L.
McDonagh, B.
McFall of Alcluith, L.
MacKenzie of Culkein, L.
McKenzie of Luton, L.
Maclennan of Rogart, L.
Maddock, B.
Manzoor, B.
Maxton, L.
Mendelsohn, L.
Monks, L.
Moonie, L.
Morris of Handsworth, L.
Morris of Yardley, B.
Murphy of Torfaen, L.
Newby, L. [Teller]
Northover, B.
O'Neill of Clackmannan, L.
Paddick, L.
Patel of Bradford, L.
Pinnock, B.
Pitkeathley, B.
Prescott, L.
Prosser, B.
Ramsay of Cartvale, B.
Randerson, B.
Rea, L.
Rebuck, B.
Redesdale, L.
Reid of Cardowan, L.
Rennard, L.
Richard, L.
Roberts of Llandudno, L.

Robertson of Port Ellen, L.
Rodgers of Quarry Bank, L.
Rosser, L.
Rowlands, L.
Royall of Blaisdon, B.
Sandwich, E.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sharp of Guildford, B.
Sheehan, B.
Sherlock, B.
Shipley, L.
Shutt of Greetland, L.
Simon, V.
Smith of Basildon, B.
Smith of Clifton, L.
Smith of Leigh, L.
Smith of Newnham, B.
Soley, L.
Somerset, D.
Steel of Aikwood, L.
Stevenson of Balmacara, L.
Stoneham of Droxford, L.
Storey, L.
Suttie, B. [Teller]
Symons of Vernham Dean, B.
Taverne, L.
Taylor of Blackburn, L.
Taylor of Goss Moor, L.
Temple-Morris, L.
Tonge, B.
Tope, L.
Touhig, L.
Truscott, L.
Tunnicliffe, L.
Turnberg, L.
Uddin, B.
Verjee, L.
Wallace of Tankerness, L.
Walpole, L.
Watson of Invergowrie, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Williams of Elvel, L.
Wills, L.
Winston, L.
Wood of Anfield, L.
Woolmer of Leeds, L.
Worthington, B.
Wrigglesworth, L.
Young of Hornsey, B.
Young of Norwood Green, L.
Young of Old Scone, B.

NOT CONTENTS

Ahmad of Wimbledon, L.
Arbuthnot of Edrom, L.
Armstrong of Ilminster, L.
Arran, E.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Baker of Dorking, L.
Balfe, L.
Bates, L.
Bell, L.
Black of Brentwood, L.
Blencathra, L.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Bowness, L.
Boyce, L.
Brabazon of Tara, L.
Brady, B.
Bridges of Headley, L.
Brougham and Vaux, L.
Browne of Belmont, L.
Browning, B.
Buscombe, B.
Butler-Sloss, B.
Byford, B.
Callanan, L.
Cameron of Dillington, L.
Campbell of Surbiton, B.
Carrington of Fulham, L.
Cathcart, E.
Cavendish of Furness, L.
Chadlington, L.
Chisholm of Owlpen, B.
Colville of Culross, V.
Colwyn, L.
Cooper of Windrush, L.
Cope of Berkeley, L.
Cormack, L.
Courtown, E.
Coussins, B.
Cox, B.
Craigavon, V.
Crathorne, L.
Crickhowell, L.
Crisp, L.
Curry of Kirkharle, L.
De Mauley, L.
Dear, L.
Dixon-Smith, L.
Dobbs, L.
Eames, L.
Eaton, B.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Empey, L.
Evans of Bowes Park, B.
Farmer, L.
Faulks, L.
Feldman of Elstree, L.
Fellowes, L.
Fink, L.
Finkelstein, L.
Finlay of Llandaff, B.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Fowler, L.
Framlingham, L.
Freeman, L.
Gardiner of Kimble, L. [Teller]
Gardner of Parkes, B.
Geddes, L.
Gilbert of Panteg, L.
Glentoran, L.
Goldie, B.
Goodlad, L.
Hamilton of Epsom, L.
Harris of Peckham, L.
Hay of Ballyore, L.
Hayman, B.
Hayward, L.
Helic, B.
Henley, L.
Higgins, L.
Hodgson of Abinger, B.
Holmes of Richmond, L.
Horam, L.
Howard of Lympne, L.
Howarth of Breckland, B.
Howe, E.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jones of Birmingham, L.
Jopling, L.
King of Bridgwater, L.
Kirkham, L.
Knight of Collingtree, B.
Lamont of Lerwick, L.
Lane-Fox of Soho, B.
Lang of Monkton, L.
Lansley, L.
Lawson of Blaby, L.
Leigh of Hurley, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Listowel, E.
Livingston of Parkhead, L.
Lothian, M.
Luce, L.
Lyell, L.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
Mackay of Clashfern, L.
Magan of Castletown, L.
Maginnis of Drumglass, L.
Mancroft, L.
Marlesford, L.
Mobarik, B.
Mone, B.
Montrose, D.
Moore of Lower Marsh, L.
Morrow, L.
Naseby, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Norton of Louth, L.
O'Cathain, B.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Palmer, L.
Palumbo, L.
Patel, L.
Patten, L.
Perry of Southwark, B.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Powell of Bayswater, L.
Prior of Brampton, L.
Rawlings, B.
Redfern , B.
Ribeiro, L.
Risby, L.
Robathan, L.
Rock, B.
Rogan, L.
Rose of Monewden, L.
Rotherwick, L.
Rowe-Beddoe, L.
St John of Bletso, L.
Sanderson of Bowden, L.
Scott of Bybrook, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Selsdon, L.
Shackleton of Belgravia, B.
Sharples, B.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shinkwin, L.
Skelmersdale, L.
Slim, V.
Smith of Hindhead, L.
Spicer, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stirrup, L.
Stowell of Beeston, B.
Stroud, B.
Sugar, L.
Suri, L.
Taylor of Holbeach, L. [Teller]
Tebbit, L.
Trefgarne, L.
Trimble, L.
True, L.
Tugendhat, L.
Turnbull, L.
Ullswater, V.
Verma, B.
Vinson, L.
Wakeham, L.
Warsi, B.
Wasserman, L.
Wei, L.
Wheatcroft, B.
Whitby, L.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
Wilson of Tillyorn, L.
Wolfson of Aspley Guise, L.
Young of Cookham, L.
Younger of Leckie, V.

5.21 pm

Schedule 1: The Small Business Commissioner

Amendment 2

Moved by ***Baroness Neville-Rolfe***

2: Schedule 1, page 51, line 3, at end insert—

"Status

A1 The Commissioner is a corporation sole."

Baroness Neville-Rolfe: My Lords, I carefully considered the arguments made by noble Lords in Committee on the need for small businesses to have confidence in the commissioner and in particular for the commissioner

[Baroness Neville-Rolfe]
to act independently of government. I am pleased to bring forward these amendments in response to a very constructive debate. These are to further enhance the independence from government of the commissioner and to strengthen the authority and permanence of the office. We agree that it is crucial that the commissioner should inspire confidence among all businesses and business organisations, and that he or she should work constructively with business. I hope that noble Lords will welcome the government amendments.

Amendments 2 to 7 and Amendments 75 and 76 will provide the commissioner with greater independence from government. They give the office a separate legal identity as a corporation sole and provide the commissioner with powers to appoint staff and receive public funding. The commissioner will have greater flexibility to ensure that the office can be responsive to demands but, as the office will be publicly funded, these powers will be subject to ministerial oversight. The Secretary of State can keep the commissioner's resourcing under review and respond accordingly to make sure that the office has the resources that it needs. We wish to ensure that the commissioner's staff have appropriate provision, and I may return to this at Third Reading.

Amendment 12 clarifies and strengthens a safeguard protecting the anonymity of small business complainants from third parties. It removes any uncertainty about whether a small supplier's identity could be revealed by use of freedom of information requests and so avoids the potential deterrence of complaints. I hope that noble Lords will support this amendment, which strikes a balance between protecting complainants and building faith in the commissioner's processes among both small and larger businesses.

Amendments 13 and 14 will implement recommendations of the Delegated Powers and Regulatory Reform Committee in relation to Clause 11. They will also enhance the authority and permanence of the office. We have decided not to follow the proposal that the power to abolish the commissioner should not be exercisable more than five years after the legislation comes into force. I think that noble Lords will agree that we cannot be sure that the commissioner will achieve the necessary culture change on late payment within five years, and do not want to provide for the sunsetting of the power to abolish within this time. As I have explained, the amendments are to engender greater confidence in the commissioner. I beg to move.

Lord Mendelsohn: My Lords, we welcome these government amendments and we on this side of the House are very grateful to the Minister for the very constructive way in which she has dealt with this issue. These are matters about which we had a great deal of concern and we are extremely grateful for the adept way in which she has dealt with the department in navigating these issues in a short space of time.

We believe that these are very important measures to ensure that independence and confidence was available for the small business commissioner and that establishing the commissioner as a corporate sole has been an extremely important way in which independence from government, as an instrument from government, has been established. We are very pleased that the Government have decided to look at giving the Small Business Commissioner the power to appoint its own staff, build its own team and adapt it for the circumstances. We think that this is a very important variable power that such a post would have. I noted that the Minister said that in relation to some of these, other matters will come forward at Third Reading. I would be grateful if she would give some indication of what they are likely to cover.

We are also very pleased that the Government have adopted the recommendation of the Delegated Powers and Regulatory Reform Committee not to allow the Secretary of State by the stroke of a pen to abolish the role of the commissioner, but now to establish it on a firmer footing. We also had great concerns about confidentiality. We were always concerned that if small businesses complained about larger businesses, there would be likely consequences and retribution or otherwise would take place. These are very important matters and the evidence that we had from the Groceries Code Adjudicator of the problems in not providing for confidentiality showed that this would limit significantly the capacity of the Small Business Commissioner. So we are extremely grateful to the Government for their view on this.

In passing, while complimenting the Government, I would suggest that the Small Business Commissioner is not too wide a job; it is not that it can succeed on one thing. It is peculiarly British that we have a view that we have to start so modestly. If the small state of Victoria can establish with a very small staff an effective operation that can deal with a multitude of things with great success, we should consider very carefully whether we can do better and greater things. This series of government amendments is very welcome, and I hope that in reviews over years to come they will consider other areas as well.

Baroness Neville-Rolfe: I thank the noble Lord for his comments, and particularly for the points that he made about confidentiality, which obviously is a very important issue. In relation to possible further amendments, this is to some extent contingent, but we want to make sure that there are appropriate provisions on matters such as pensions. We may have to return to this and we may not—but we will obviously write to the noble Lord and explain what we are doing.

Amendment 2 agreed.

Amendments 3 to 7

Moved by ***Baroness Neville-Rolfe***

3: Schedule 1, page 51, line 26, at end insert—

"Commissioner and Deputy Commissioners not civil servants

Service as the Commissioner or a Deputy Commissioner is not service in the civil service of the state."

4: Schedule 1, page 51, line 28, leave out paragraph 6

5: Schedule 1, page 52, line 9, leave out "staff provided under paragraph 6" and insert "the Commissioner's staff appointed under paragraph 11A, or seconded under paragraph 11B,"

6: Schedule 1, page 52, line 31, leave out paragraphs 10 and 11

7: Schedule 1, page 52, line 33, at end insert—

"Staff

11A (1) The Commissioner may appoint staff.

(2) Staff are to be appointed on terms and conditions determined by the Commissioner.

(3) The terms and conditions on which a member of staff is appointed may provide for the Commissioner to pay to or in respect of the member of staff—

(a) remuneration;

(b) allowances;

(c) sums by way of or in respect of pensions.

(4) Service as a member of the Commissioner's staff appointed under sub-paragraph (1) is not service in the civil service of the state.

11B (1) The Commissioner may make arrangements for persons to be seconded to the Commissioner to serve as members of the Commissioner's staff.

(2) The arrangements may include provision for payments by the Commissioner to the person with whom the arrangements are made or directly to seconded staff (or both).

(3) A period of secondment to the Commissioner does not affect the continuity of a person's employment with the employer from whose service he or she is seconded (and, in particular, nothing in paragraph 11A(4) affects such a person's continuity of service in the civil service of the state).

11C Before appointing staff under paragraph 11A or making arrangements under paragraph 11B(1), the Commissioner must obtain the approval of the Secretary of State as to the Commissioner's policies on—

(a) the number of staff to be appointed or seconded;

(b) payments to be made to or in respect of staff;

(c) the terms and conditions on which staff are to be appointed or seconded.

Financial and other assistance from the Secretary of State

11D (1) The Secretary of State may make payments and provide other financial assistance to the Commissioner.

(2) The Secretary of State may—

(a) provide staff in accordance with arrangements made by the Secretary of State and the Commissioner under paragraph 11B;

(b) provide premises, facilities or other assistance to the Commissioner.

Application of seal and proof of documents

11E (1) The application of the Commissioner's seal must be authenticated by the signature of—

(a) the Commissioner, or

(b) a person who has been authorised by the Commissioner for that purpose (whether generally or specially).

(2) A document purporting to be duly executed under the seal—

(a) is to be received in evidence, and

(b) is to be treated as duly executed unless the contrary is shown."

Amendments 3 to 7 agreed.

Clause 4: The SBC complaints scheme

Amendments 8 and 9 not moved.

Clause 6: Reports on complaints

Amendment 10 not moved.

5.30 pm

Amendment 11

Moved by ***Lord Stoneham of Droxford***

11: After Clause 6, insert the following new Clause—

"Repeated complaints: late payments

(1) Where—

(a) the Commissioner determines that a particular respondent has been the subject of repeated complaints relating to the late payment of invoices,

(b) the respondent concerned is a large business,

(c) the Commissioner has considered the complaints and made a determination which has included recommendations to the respondent, and

(d) the respondent has repeatedly failed to make changes recommended by the Commissioner,

the Commissioner may request that the Secretary of State propose a fine on the respondent.

(2) Where a request is made by the Commissioner under subsection (1), the Secretary of State must issue a fine to the relevant respondent unless the Secretary of State considers such a fine would be damaging to the long-term viability of the respondent's business.

(3) The Secretary of State may by regulation make further provisions to support the effective functioning of this section including, but not limited to—

(a) the definition of "repeated complaints" for the purpose of this section,

(b) the definition of "large business",

(c) the maximum level of fine that may be levied,

(d) whether a different maximum level should be prescribed based on the size of the respondent's business, and

(e) the test by which the Secretary of State should consider the long-term viability of the business.

(4) Regulations under this section must be made by statutory instrument, and may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

Lord Stoneham of Droxford (LD): Amendment 11 would give additional power to the commissioner to recommend to the Secretary of State a fine when a large business has been subjected to repeated complaints and has refused to make changes recommended by the commissioner. We asked in Committee and I ask again: what will happen without some form of sanction for repeat offenders? We believe that this is necessary to give some power to the commissioner and provide a deterrent to those who refuse to co-operate with his work. We think that it could be set up by regulation and that it is important to give some authority to the body. I beg to move.

Lord Cope of Berkeley: My Lords, there are two amendments in this group. As the noble Lord has just explained, the first is about a persistent offender or repeated complaints, and it proposes a fine. The way that the fine is introduced is very unusual in comparison with most times when we introduce a fine into statute. I do not so much complain about that—it is perhaps a drafting matter—but there it is.

Amendment 15 would give very wide powers to the Secretary of State, on the advice of the commissioner, to make an enormous number of very complicated

[Lord Cope of Berkeley]
regulations—also leading, incidentally, to a fine if they are not complied with. That is the wrong thing to do, certainly at this point in the development of the Small Business Commissioner role. As we said earlier, he or she should focus on the issue of late payment, and introducing all this machinery changes the nature of what is happening. I do not support Amendment 15 in particular.

Lord Mendelsohn: My Lords, we support the thrust of the argument presented by the noble Lord, Lord Stoneham, that it is very important to put some significant measures behind the attempt to arrest late payments. We are supportive of the Small Business Commissioner trying to do something, but we are realistic that the evidence and pattern demonstrate that it will insufficient.

I will identify one particular aspect. I am grateful that the Minister wrote to me about late payment data—a matter that we discussed in Committee. Late payments are already defined in law, and that definition has been largely in force since the introduction of the Late Payment of Commercial Debts Regulations 2013, which amended the Late Payment of Commercial Debts (Interest) Act 1998. This establishes that, where a public authority purchases goods or services, statutory interest—the determination that there is a late payment—will start to run on an outstanding payment from 30 days after the supplier's invoice is received. For other organisations and businesses where a payment period has not been agreed, statutory interest will start to run on outstanding payments from 30 days after the supplier's invoice is received. Where a payment period is specified in the contract, statutory interest will start to run from that date. However, if the agreed payment period is more than 60 days after the events listed, the regulations state that statutory interest will begin to run from 60 days.

The important principle is that we have already established in law that, as far as we are concerned, late payment arises, at a maximum, at 60 days in relation to private sector organisations. I say that largely because we have had a variety of data problems regarding the extent of late payments. I am extremely sceptical about the data on which the department is relying—namely, the Bacs data on late payments. The reason I am sceptical is that that body makes it absolutely clear that it considers late payment to be 30 days after the agreed payment date between two parties. Even if you have a payment date of 90 days, Bacs will only consider a period of 30 days after that as being a late payment, so it purposely excludes all those other payments which are technically defined as late payments under the existing law. That is why the Bacs figures always come out as significantly lower than those of any other survey. In fact, over the last three months, the range of late payments is identified as being between £41 billion and £61 billion. Bacs identifies the sum owed to small businesses as £26 billion. I do not think that those figures are reliable. We should deal with the problem that we have defined in law—namely, that a late payment is a late payment after 60 days.

This is an important amendment as it tries to give a sense of the extent of late payments that we have to deal with and the measures that we and noble Lords throughout the House believe are required to arrest that situation. The velocity of the increase in the incidence of this problem continues to rise without any material abatement.

It may be useful to give a real-life example to illustrate whether soft or hard measures are required. In December 2013, Debenhams was roundly condemned when the chief financial officer, Simon Herrick, sent out a so-called "Santa tax" letter to suppliers just eight days before Christmas imposing a unilateral 2.5% cut on their prices. At the time, analysts saw that as a last-minute attempt to boost falling profit margins. In January 2014, the store chain issued a profit warning, following a disastrous Christmas trading period, and the CFO resigned. He had previously come under fire in October, when Debenhams' half-year results revealed that it had spent an astonishing sum moving its headquarters to a very opulent site in Regent's Place, Euston. Analysts and investors said that the scale of these costs had not been flagged and that the £25 million refurbishment of the Oxford Street store was completed just in time for Christmas but had caused considerable disruption to trading.

Over the intervening period there have been complaints about the continued extension of Debenhams' payment terms. It was a real concern to read that the Federation of Small Businesses rightly criticised Debenhams after it emerged that the department store chain was asking for discounts in return for making earlier payments. In fact, Debenhams insists on a reduction of nearly 2% in suppliers' prices in exchange for making payments 30 to 60 days earlier. That gives noble Lords some idea of the extent of its current policy on payment terms. This is the second time in three years that the retailer has unilaterally proposed changes to suppliers' payments in the run-up to Christmas.

I was very interested to hear the noble Baroness, Lady Wheatcroft, say that PR and publicity drive culture change which changes behaviour. I do not think there has been a company more in the headlines for its poor practices on changing suppliers' prices than Debenhams but that has not changed that company's behaviour one bit. It has done exactly the same thing again. I am a student of some great public relations practitioners. Indeed, we have such a practitioner in this House in the person of the noble Lord, Lord Bell. He has always made the great point that good PR is always founded on substance. That has a strong part to play in the issue we are discussing. Clear adherence to regulation will determine whether or not change will happen. It will not be determined by whether or not companies can withstand a bit of poor publicity. The noble Baroness, Lady Wheatcroft, referred to the glare of warm publicity surrounding Lidl's decision to pay its staff the living wage and said that that demonstrates that all is well. I would be interested to hear whether she knows the payment date terms that Lidl applies. They are extremely long. In fact, Lidl has been roundly criticised for them. Clearly, one bit of glaring positive publicity does not obviate or change the culture of the company.

It is important to note that the amendment contains a variety of significant powers. In fact, it is a few amendments pushed together into one, as those who attended any of the Grand Committee sessions will

know. We have done this to make the point in a number of ways that we are failing to address some of the most serious principal issues, the first being that, despite there being a clear law that allows people to charge interest, they do not do it for fear of retribution. Despite having clear rules about payment terms, people still do not adhere to them because they can get away with it by unilaterally determining a payment term. Even when companies extend payment terms to, for example, 120 days, as many do, they will not be able to charge interest for fear of retribution.

We also have a huge concern about the variety of ways in which companies add terms, unilaterally change terms and create the sorts of commercial arrangements that penalise small businesses, because they can get away with it. Be it marketing charges or warehousing costs, a variety of methods are used to reduce the amount outstanding to a smaller business. All those sorts of matters act as a massive impediment to the growth and development of small businesses. Frankly, even if it is not about growth but about justice for someone trying to run a small business and having to make sure that they do not suffer the terrible consequences of trying to borrow on credit cards—as far too many do, and they suffer enormous costs for doing so—when a large supplier fails to live up to its side of the bargain and the small business has limited options with which to address it, these are the matters that we need to address. It is the sheer size of the problem that we have to address, and there are a number of ways in which this can be done.

Our amendment suggests that the Small Business Commissioner can play a useful role, although not the only role. We also support measures in their own right to try to ensure that it is the obligation of the larger company—or indeed anyone who owes money—to pay it and not to have to be chased. In our view, it is not going to be a question of whether, in dealing with 500 cases and having a very active press officer, the Small Business Commissioner will be able to make a dent in £40 billion, £50 billion or £60 billion-worth of late payments. He or she has to be able to make sure that we build a culture whereby if you are meant to pay, you pay.

Baroness Neville-Rolfe: My Lords, I thank the noble Lord, Lord Stoneham, for his explanation, and my noble friend Lord Cope for his helpful comments. Of course, we have already discussed the commissioner's remit and functions, and the reasoning underpinning the policy ethos and architecture in the Bill.

I can see the intention behind Amendment 11 but it is not in the spirit of these measures to fine businesses for failing to implement the commissioner's recommendations. Rather, the Government believe it is vital that the commissioner builds a position of trust and influence with all parts of the business community. We strongly believe that powers to fine would undermine rather than enable this approach. Fines would not help solve the dispute or encourage a change in payment culture. Faced with potential fines, large companies would inevitably start to employ expensive legal teams and feel compelled to withhold information on payment practices on the basis of legal advice. All this would make it more intimidating for small suppliers to complain, especially if they want to maintain their commercial relationships. Our stakeholders, such as the Federation of Small Businesses, agree and are not calling for this approach.

The commissioner will have the discretion to report publicly on individual cases, providing the sunshine of transparency on payment issues, and to do so more often and in a more high-profile way than we have been able to do. I know from my own experience in several sectors that this will provide a strong incentive for businesses to engage constructively with the commissioner's inquiries and seek to satisfy him or her. We have seen this approach work well in Australia and I am sure that it will work here, too.

The commissioner will make non-legally binding determinations, which may include recommendations about how the parties involved in a case could resolve the dispute or how to avoid such issues occurring in future. The commissioner will be considering whether an act or omission was fair and reasonable, in the given circumstances. To allow the commissioner to impose fines would effectively allow him or her to create rules on what is and is not good payment practice—quasi-legislating. This is not the role of the office.

5.45 pm

On Amendment 15, as I have already said, this Government are wholeheartedly committed to tackling poor payment practice. That is why we are establishing a Small Business Commissioner and will use the new powers in the Small Business, Enterprise and Employment Act to introduce a parallel reporting requirement to shine a light on such practices in the private sector from next year. I was delighted to be able to further demonstrate our commitment to creating this fair payment culture by announcing in Committee a review of retention payments in the construction industry. This is not the subject of an amendment but the terms of reference have been sent to interested Peers and placed in the House Library. The review will report within nine months of the Enterprise Act coming into force.

The particular practices that Amendment 15 seeks to ban are, on the whole, examples of poor practice that we are seeking to end through the measures which I have already outlined. Any such legislation could be easy to sidestep and substitute with other examples of bad practice. For example, while we could seek to prohibit payments to be on supplier lists, other recent examples in the retail sector show that this is but one of several different ways in which large companies seek to squeeze unreasonable commercial advantage from smaller suppliers. This means that any ban could be easy for companies to sidestep through adopting a different practice.

Such legislation would also be wide-ranging, as my noble friend Lord Cope said—the noble Lord, Lord Mendelsohn, agreed—and in our view disproportionate. Such rules could also inadvertently prevent mutually beneficial arrangements that would be bad practice in some situations but work well in others. The noble Lord, Lord Mendelsohn, made some interesting comments about how to interpret "late payments". He referred to BACS, which is of course one source of late payment data. However, I think he will agree that

[Baroness Neville-Rolfe]
no one source is comprehensive. The new SBEE Act reporting requirement, which I have just mentioned, will help us to know which are the right figures to look at. I am very happy to discuss data issues further with the noble Lord. The implications are probably for the payment regulations and for guidance.

We are content with the approach that we have taken in the Bill, which is general. None of this is easy but, as we keep saying, we are striking a balance with an aim, agreed by us all, of achieving a long-lasting cultural change. I am really not convinced that additional detailed legislation of the kind proposed in Amendment 15 would be right.

I hope that noble Lords are reassured by the comprehensive nature of what we are doing. I know that it is not all in the same place, although I assure the House that we will seek to bring everything together in terms of communication from the Small Business Commissioner. We have the measures in the Bill, the measures in the SBEE Act and the regulations being made under it, and the huge initiatives being taken on public sector payment rates, which I think we all agree are important. We have insurance, which we will come on to discuss, and, as I have just explained, we have agreed to move ahead and do something much sooner than originally suggested on construction. We are committed to achieving a real change in culture on the ground. I welcome the House's continued input to make this a reality but I hope that the noble Lord feels able this evening to withdraw his amendment.

Lord Stoneham of Droxford: I thank the noble Baroness for taking us through the arguments against these amendments. I remain somewhat unconvinced that this body will have real authority and clout without some additional powers, but in the light of what she has said, I am prepared to withdraw Amendment 11.

Amendment 11 withdrawn.

Clause 8: Confidentiality

Amendment 12

Moved by ***Baroness Neville-Rolfe***

12: Clause 8, page 8, line 35, leave out "legal" and insert "EU"

Amendment 12 agreed.

Clause 11: Power to abolish the Commissioner

Amendment 13

Moved by ***Baroness Neville-Rolfe***

13: Clause 11, page 10, line 22, leave out subsections (5) and (6) and insert—

"(5) Before making regulations under this section, the Secretary of State must consult—

(a) the Small Business Commissioner (unless that office is vacant),

(b) such other persons as appear to the Secretary of State to be persons affected by the regulations, and

(c) such other persons as the Secretary of State considers appropriate.

(6) If, as a result of consultation under subsection (5), the Secretary of State considers it appropriate to change the whole or part of the proposed regulations, the Secretary of State must carry out such further consultation with respect to the changes as seems appropriate."

Amendment 13 agreed.

Amendment 14

Moved by ***Baroness Neville-Rolfe***

14: After Clause 11, insert the following new Clause—

"Regulations under section 11: procedure

(1) In this section "regulations" means regulations under section 11.

(2) If after consultation under section 11, the Secretary of State considers it appropriate to proceed with the making of regulations, the Secretary of State may lay before Parliament—

(a) draft regulations, and

(b) an explanatory document.

(3) The explanatory document must—

(a) explain why the Secretary of State considers that one of the conditions in section 11(1) is met, and

(b) contain a summary of representations received in the consultation.

(4) The Secretary of State may not act under subsection (2) before the end of the period of 12 weeks beginning with the day on which the consultation began under section 11(5).

(5) Subject to subsections (6) to (13), if after the expiry of the 40-day period the draft regulations laid under subsection (2) are approved by a resolution of each House of Parliament, the Secretary of State may make regulations in the terms of the draft regulations.

(6) The procedure in subsections (7) to (10) applies to the draft regulations instead of the procedure in subsection (5) if—The Secretary of State must have regard to—

(a) either House of Parliament so resolves within the 30-day period, or

(b) a committee of either House charged with reporting on the draft regulations so recommends within the 30-day period and the House to which the recommendation is made does not by resolution reject the recommendation within that period.

(a) any representations,

(b) any resolution of either House of Parliament, and

(c) any recommendations of a committee of either House of Parliament charged with reporting on the draft regulations,

made during the 60-day period with regard to the draft regulations.

(8) If after the expiry of the 60-day period the draft regulations are approved by a resolution of each House of Parliament, the Secretary of State may make regulations in the terms of the draft regulations. If after the expiry of the 60-day period the Secretary of State wishes to proceed with the draft regulations but with material changes, the Secretary of State may lay before Parliament—

(a) revised draft regulations, and

(b) a statement giving a summary of the changes proposed.

(10) If the revised draft regulations are approved by a resolution of each House of Parliament, the Secretary of State may make regulations in the terms of the revised draft regulations.

(11) For the purposes of this section regulations are made in the terms of draft regulations or revised draft regulations if they contain no material changes to their provisions.

(12) In this section, references to the "30-day", "40-day" and "60-day" periods in relation to any draft regulations are to the periods of 30, 40 and 60 days beginning with the day on which the draft regulations were laid before Parliament.

(13) For the purposes of subsection (12) no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days.

(14) Regulations are to be made by statutory instrument."

Amendment 14 agreed.

Amendments 15 and 16 not moved.

Clause 13: Extension of target to provisions made by regulators

Amendment 17

Moved by ***Lord Mendelsohn***

17: Clause 13, page 11, line 6, at end insert—

"( ) In subsection (2), after "means" insert "—

(a) all regulatory provisions made under section 2(2) of the European Communities Act 1972;""

Lord Mendelsohn: My Lords, in moving Amendment 17 in this group, I will also speak to Amendments 18 and 38. At this stage I will just say how wonderful it has been to have my noble friend Lord Stevenson in for the first part of Report. He is looking in rather fine form and I hope we will continue to see him here in such fine fettle over a long period.

In Committee, my noble friend immaculately moved a similar amendment to provide an opportunity to discuss a broader question about regulation and its important role in promoting enterprise, helping to balance risk in society and providing a framework for a stronger and more productive economy. Regulations protect the vulnerable from harm and uphold the rights of consumers and new businesses, as well as more generally promoting a level playing field for businesses. Done well, the process of regulation can be a spur to competition and growth; done badly, of course, it can become a stifling burden.

No Government contemplate introducing new regulation believing it will make life worse for their citizens, yet the public perception of regulation is of a relentless, negative story, with faceless bureaucrats imposing rules in an inflexible and often absurd manner. However, policymakers face challenges, including the fact that the costs and benefits of regulation are not shared equally across all parts of society. It is often only the direct impacts that are measured by Governments when they design new policies. Indirect impacts, particularly compliance and transaction costs, are often important but extremely difficult to pin down, and are rarely measured.

The ultimate impacts on GDP growth—or well-being, as it is more fashionable to talk about now—are rarely discussed at all. The imbalance between the costs and benefits of regulation is often felt most keenly by businesses, which in turn seek to pass on a proportion of any higher costs to consumers, leading to a sort of stealth taxation. My noble friend Lord Stevenson argued in Committee, in a very forthright and forensic way, that we on this side of your Lordships' House are fans of intelligent regulation. We think it would be sensible for the Government to begin the argument for intelligent legislation by taking a long hard look at the composition of our current stock of regulation and how best to improve it.

I now turn to Amendment 17. I was astonished to find out recently that the Regulatory Policy Committee reported that,

"nearly half of the approximately 1,000 laws enacted during the previous parliament"—

under the coalition Government—

"were outside the scope of the Government's One-in, One-out and One-in, Two-out rules",

and:

"Nearly 70% of these were of EU origin".

That is nearly half of the approximately 1,000 laws that were introduced. The truism that what you measure gets reported applies here. Our amendment would require the Government, when they are assessing regulatory burdens, to count all regulations applying to businesses and not to exclude EU regulations en bloc as they do at present. What matters to businesses, in particular to small and medium-sized businesses, is which regulations they have to follow, not where they come from. Part of the traditional argument as to why we do not do these ones is that we have little influence over them. Again, that is a particularly unambitious way to look at it: we have a degree of influence and we should exercise it as much as possible. What is most important is the impact on businesses and we should make sure that we measure and look at that.

Our other amendments follow up the suggestion in Amendment 17. Amendment 18 would require Ministers to carry out a review and publish guidance every five years on what constitutes our stock of regulation. Without considering the whole stock, we have no way of assessing, for example, the claims made by the previous Government that something like £10.6 billion of savings were made during that Parliament because of reductions in red tape and regulation. The independent Regulatory Policy Committee suggests that not only is this a great overstatement but that more costs were incurred than were saved. If we are to get this right, we need to start with a proper definition of our regulatory stock. As someone who has a small business, I have made the point previously that I am still looking for the couple of thousand quid that I should be better off by if we had saved that amount of money.

Amendment 38 calls on the independent Regulatory Policy Committee to carry out an annual review of whether the duties placed on regulators under the Bill will affect their capabilities and capacity to conduct their regulatory role. In responding in Committee, the Minister spoke a lot about what was happening in Europe on regulatory reform—much of which is welcome—but she did not accept our argument that we need to consider the whole stock of regulation and not just overimplementation or gold-plating. Our amendment would require the target to include all EU-derived legislation. She felt that was too prescriptive, but we disagree. I beg to move.

The Earl of Lindsay (Con): My Lords, I have some sympathy for some of the issues these amendments explore, although I am not necessarily convinced that the exact proposals as captured in the amendments

[The Earl of Lindsay]
would be the right answer. None the less, with reference to Amendment 17, I fully accept that the regulatory target as measured by the Regulatory Policy Committee captures only part of the story. From a business's point of view, the movement in the net burden of regulation goes beyond the quantum of regulation that the RPC is itself measuring. I fully respect the Government's commitment to transparency in this area and believe that accessible information is available out there in terms of the additional regulations that are outside the scope of the RPC, but the fact that there is a regulatory burden sitting outside scope could be brought to people's attention more energetically and more regularly than is currently the case.

The sentiment behind Amendment 18 is interesting. I would probably have approached this in a slightly different way and said that rather than there having to be a report every five years that sets out the methodology and the extent to which some regulations were or were not in scope, perhaps this would be better as an annual exercise. Given that the Regulatory Policy Committee reports annually on its work and the scope it presides over, that cycle might be the right one to link in some sort of wider dissemination or reminder of what exactly the methodology is and to report on the issues that are set out in Amendment 18.

6 pm

Turning to Amendment 38, I am persuaded that the duties proposed in the Bill and related duties from recent Acts that we dealt with in the summer should not adversely affect the capabilities of regulators in discharging their responsibilities. In fact, I think that some of the new duties that we have been or will be imposing on regulators should make their job easier in terms of the more efficient relationships that are being sought between the regulator and the regulated.

However, if, hypothetically, anything about these or related duties could adversely affect the capabilities of a regulator, I hesitate to say that the Regulatory Policy Committee is the right body to conduct a review of the regulator and its duties. First, the RPC is heavily loaded with its current responsibilities, especially given the resources that are available to it. It is doing an extremely good job with its current remit. Its remit has been growing very logically in terms of the quality and quantum of regulation and in the way that departments assess policy options before bringing forward regulatory proposals. To ask the RPC to carry out an annual review of the capabilities and capacity of regulators to discharge their responsibilities would be a step in a very new direction and would require a considerable amount of work on its part.

If there were any concerns about a regulator's capabilities, the body that would be much better suited to overseeing and reviewing that issue would be the Better Regulation Executive. The BRE already has a routine relationship with regulators in terms of the entirety of their duties. It already has initiatives such as Focus on Enforcement, which is, I think, a better platform from which to take a more rounded view of a regulator's abilities and capabilities in terms of its statutory responsibilities.

So I do not share the scepticism which lies behind Amendment 38: the belief that the new duties might in any way undermine a regulator's abilities. But even if one accepts that a review might from time to time be necessary, I do not think that the RPC is the right body to carry it out.

Lord Curry of Kirkharle (CB): My Lords, I remind the House once again that I chair the Better Regulation Executive and clearly have an interest in this subject. I compliment the noble Lord, Lord Mendelsohn, on his eloquent speech, because we—the BRE—absolutely agree with the tenor of what he said. I shall comment on Amendment 17.

At the beginning of the coalition Parliament, when the BRE embarked on the one-in, one-out process, as your Lordships will be aware, we reported every six months on our progress. Initially, we did not include the impact of EU regulation in that six-monthly reporting process. It was precisely because we became very concerned that we were potentially misleading the business community by not highlighting the impact that EU regulation was having on it that we then, part-way through that process, declared through the RPC's reporting mechanisms the cost as we understood it of EU regulation and its impact on the business community. Yes, the cost of EU regulation in the previous Parliament largely equated to the savings that we achieved through our domestic one-in, two-out process, but the reason for our declaring that through the RPC is precisely why the noble Lord raised the subject this evening: because we did not want to mislead the business community.

Our policy has been to work in Brussels to try to encourage the same transparency and to apply the same principles there of setting a regulatory budget. We encourage the Commission, the Parliament and the Council to adopt the same policies as we have adopted here, and to work with other member states, seeking their support through agreement to sign up to these principles. We have made significant progress there, although it has to be said that we have not quite achieved that budgetary process yet. But in our view, that is where we should now target our resources to address the cost of EU regulation.

Baroness Neville-Rolfe: My Lords, I start by associating myself with the comments of the noble Lord, Lord Mendelsohn, about the noble Lord, Lord Stevenson. I am so glad to see him back and on the road to recovery.

This part of the Bill is about transparency and accountability, and about asking regulators to assess the impact of their work for the business impact target and to report on the effect of the Regulators' Code and the growth duty.

I was glad that my noble friend Lord Lindsay was able to bring his great knowledge of regulation and of being a regulator to this debate. Of course, the RPC assesses the impact of EU regulation, as we discussed in Committee, but this is not taken into account in checking against the business impact target. We agree that the cost to business of EU legislation should be

transparent, but the SBEE Act already achieves that. I cannot agree that those costs should now automatically be added to the target.

As a Government, we are rightly held accountable for the impact of our regulation on business. We should therefore focus the target on the measures that we are wholly in control of, not on EU regulation. That needs to be dealt with at source. As the Prime Minister's recent letter to Donald Tusk made clear, the Government will continue to press the Commission to introduce a target to cut the total burden on business. This could include stock as well. The European Council and Parliament have already made similar calls on the Commission for burden-reduction targets, so this is under active discussion.

Amendment 18 provides for publication of guidance regarding qualifying regulatory provisions—measures which will score in the business impact target—but Section 21 of the SBEE Act already requires the Government to publish their determination of qualifying regulatory provisions and the methodology for assessing their economic impact.

The noble Lord, Lord Mendelsohn, said that Amendment 18 required a review of the stock of regulation. That is not how we read it, but I do not think that that matters for today's purpose. The Government agree that the stock of regulation should be reviewed regularly. In the previous Parliament, Red Tape Challenge reviewed thousands of regulations, and our new programme of Cutting Red Tape reviews is continuing that work.

We will publish information regarding the operation of the target soon. I think that we have to do it by May, but I am hopeful that we will do it a long time before that. These documents will be laid before Parliament, which can debate them if it chooses to do so. The SBEE Act already requires annual publication of a list of all provisions outside the target, and the Bill will add to that a summary of other regulatory activity outside the target.

Turning to Amendment 38, I note that the duties in this part are aimed at ensuring that regulators are open and transparent about the impact that they have on the businesses that they regulate. This enables them to be properly held to account. I understand the concern about the impact of these measures on regulators' capability and capacity. We agree that these duties should operate proportionately; we do not, of course, want to overburden regulators or, indeed, the RPC. I agree with my noble friend Lord Lindsay that the RPC's involvement could actually help to make the job easier because of the good systems that it has developed, the way that it approaches analysis and the way that that can be spread across the public sector.

Our initial impact assessment suggests that the transparency obligations that we are introducing here will cost less than £1.5 million across all 65 regulators. That is less than 0.1% of their total budget for regulatory activity. Of course, if our implementation were to lead to disproportionate cost, we would look at the approach again. I am absolutely sure that the costs of transparency will be more than outweighed by the benefit. The discipline of assessing impact will encourage regulators to look at different options, including non-regulatory approaches and sharper targeting. They will be prompted to think harder about whether regulation is necessary.

Let me give an example. In 2013, the Environment Agency very sensibly voluntarily assessed the impact of a proposed measure on hydro power. When the agency board saw its own assessment, it concluded that the costs did not justify the benefits and withdrew the proposal, eventually bringing one forward that was much better. It was a benefit to both the businesses and the agency.

Reporting will encourage proper application of the Regulators' Code. Section 2.2 of the code asks regulators to engage with business. Doing so could help regulators to find ways of regulating that are more effective and require less enforcement.

I understand concerns about costs; I always share them, but we are trying to keep those to a minimum and I am sure that the benefits will be considerable. I hope I have reassured the House that the transparency we seek is already provided for, and that the Government intend the duties to operate in a proportionate manner. The House has noted our plans for the business impact target and to publish more detail on that. I hope, in the circumstances, that the noble Lord will feel able to withdraw his amendment.

Lord Mendelsohn: I thank the Minister for that reply. We share a view that regulators can act better; and we support the establishment of these targets, as we expressed in Grand Committee. We have also said on many occasions previously that two of the major flaws in the operation of the regulators are that they have taken insufficient care to ensure that they inform those that they are regulating—or consumers or small businesses—and that they do far too little to ensure that compliance is both widespread and as easy as possible. That is certainly something that we hope that the business impact target will help to achieve; but if they saw that mission as more central, we would regard that as useful.

I am sorry that the noble Earl, Lord Lindsay, thought that we were sceptical. We were just generally making the case that you can do two things at once. I am sorry if it came over as scepticism. In general, I was rather more convinced by the contributions from the noble Earl, Lord Lindsay, and the noble Lord, Lord Curry, than I was by that of the Minister in terms of the right approach, as we look at a deregulatory push as we move on. I am grateful to them both for their contributions. The noble Lord has made a very strong effort to ensure that better regulatory activity does something to try to address the problems that we have from Europe. He has been quite effective in that role, and I wish him continued success in it.

The Minister is acutely aware of my scepticism about the calculations that you net out with at the very end of calculating the reduction in regulation. In general, it would be much more convincing and I would be much more comfortable if the overall objective was to establish, including EU regulation, a net-negative target. I appreciate that that is not present in the amendments. Overall, we should establish that there is

[LORD MENDELSOHN]
a saving of a figure once you have netted out both. We can make a greater difference on those things that we can control. It is a source of some regret that, in the last Parliament, the RPC figures suggested that the overall regulatory burden was somewhere close to half a billion pounds more. If we establish that our target is to be significantly under, then we have a way that marries both together. In many ways, I thank the noble Earl, Lord Lindsay, for some of his observations on all the amendments.

6.15 pm

Baroness Neville-Rolfe: My Lords, I thought it would just be worth adding, in relation to the last Parliament, that a large chunk of the EU costs—nearly £2 billion—related to EU regulation introduced to address systemic financial risk following the crisis. I do not think that the noble Lord disagrees with that, but it is an important background point.

Lord Mendelsohn: I thank the Minister for that. Indeed, it made the case for a very large part of the speech that I made earlier about the importance of regulation. I am not suggesting for one moment that there is no case for regulation: I hope that I was making quite the opposite case. I happen to think that establishing a regulation to deal with the consequences of the financial crisis is a particularly good form of regulation. Overall, however, if you can calculate the number—whatever its merits or demerits—the Government should be establishing themselves as promoting a net-negative figure rather than accepting that whatever they do in their own right is sufficient.

I thank the noble Earl, Lord Lindsay, for his support, and I tend to agree with him. An annual health check is a much better idea: we were trying to be reasonable, but that is the best idea. I also thank him for an even better idea—that, rather than the RPC, the Better Regulation Executive is a much better body to take on that role. When drafting the amendment, we were just trying to make sure that we did not add anything to the Small Business Commission in case the noble Lord, Lord Cope, got even more exercised at the breadth and range of activities that we were proposing to give it, but I think that the Better Regulation Executive is the right body. To the Minister, the noble Earl and the noble Lord, Lord Curry, I say that if we can make a modicum of progress on some of these matters—if there were some measures that would enhance our deregulatory shift—I would be very happy to support what the Government might bring forward at Third Reading. I beg leave to withdraw the amendment.

Amendment 17 withdrawn.

Amendment 18 not moved.

Amendment 19

Moved by ***Baroness Neville-Rolfe***

19: Clause 13, page 11, line 30, leave out "given to the Secretary of State" and insert "published"

Baroness Neville-Rolfe: My Lords, during Second Reading, noble Lords expressed concern at the Government's intention to include the Equality and Human Rights Commission in the business impact target. They felt that it would put at risk EHRC's international accreditation as an "A" status national human rights institution. In Committee, there was further debate regarding the EHRC's international accreditation and the effect of its activities on business. Since then, I have had a very constructive meeting with the noble Baroness, Lady O'Neill, chair of the EHRC, and her officials. That meeting showed that the Government's and EHRC's objectives were closely aligned. The EHRC indicated a very welcome desire to assess, and be transparent about, the impact that changes to its regulatory activities had on business, and to have those assessments validated by the independent Regulatory Policy Committee.

The Government have no desire for the EHRC's inclusion in the business impact target to pose a risk, whether real or perceived, to its "A" status as a national human rights institution. The business impact target does not fetter the independence of the EHRC, or indeed any regulator, to make its own decisions in relation to the changes it introduces, but the Government have listened to the EHRC's concerns and recognise the value attached to its international standing.

The amendments to Clause 13 and Schedule 2 amend the reporting requirements of the target for all regulators that are in scope. They will require regulators to publish required documents relating to the regulatory activities that they have undertaken in an annual reporting period, rather than providing them to the Secretary of State. Cutting this direct reporting link to the Government will both mitigate any risk to the EHRC's "A" status and offer some comfort to other regulators that their independence is not at risk either. Vitally, it will deliver the Government's objectives of transparency around regulatory impacts to business.

In addition, Amendment 37 removes the EHRC in particular from the duty to provide a Minister with certain information relating to the effect of the regulators' code on the performance of its functions. We accepted, as a result of our discussions with the EHRC, that there may also be a risk here to its international standing and this amendment will mitigate that risk. I beg to move.

Baroness Hayter of Kentish Town (Lab): I thank the Minister for introducing these amendments so clearly and for the discussions she had. As she made clear, the key issue is obviously the protection of the EHRC and excluding it from the requirement to report on the impact of the Regulators' Code. As she said, we debated this at Third Reading of the small business Bill when she accepted its special case. I just ask the Minister to confirm that these proposals meet the aspirations that she set out at that point to eliminate all risk of the EHRC losing its "A" status.

We know that the EHRC has welcomed the amendments tabled today. It considers that they will deliver the Government's intention of improving transparency while safeguarding its ability to carry out its statutory functions free from government control

or direction. Also, the EHRC welcomes the Minister's assurance that the commission will not be subject to the growth duty.

On Amendment 37, the commission seeks assurances that the new business engagement requirements will be proportionate, allowing for the existing engagement mechanisms such as its routine contact with business organisations and its two-yearly stakeholder survey to be used to fulfil these requirements wherever possible. Subject to those reassurances, which I anticipate that the Minister will be able to give, from our side we are happy to support these amendments.

Baroness Neville-Rolfe: My Lords, I am grateful to the noble Baroness for her comments. All risk in relation to the proposals in this Bill has obviously been dealt with; the accreditation or reaccreditation is a wider matter. We sought to take on board the will of the House and talked to the EHRC. We dealt with the provision we were worried about at Second Reading and tabled the first amendment, which, as I said, applies more broadly. As a result of the discussions, we also tabled Amendment 37 because we identified with the EHRC a further possible risk. Certainly, we plan to manage the arrangement in a proportionate fashion.

My understanding is that the EHRC has signalled that it is content, but if the noble Baroness has reason to think that that is not the case I am obviously very happy to try and sort things out with the noble Baroness, Lady O'Neill, again. My impression is that it is very pleased with the changes that we have made and the process that we have gone through.

Amendment 19 agreed.

Schedule 2: Business impact target: consequential and related amendments

Amendments 20 to 36

Moved by ***Baroness Neville-Rolfe***

20: Schedule 2, page 54, line 22, leave out "give to the Secretary of State" and insert "publish"

21: Schedule 2, page 54, line 43, leave out "given to the Secretary of State" and insert "published"

22: Schedule 2, page 55, line 3, leave out "given to the Secretary of State" and insert "published"

23: Schedule 2, page 55, line 15, leave out "given to the Secretary of State or" and insert "published or given to"

24: Schedule 2, page 55, line 16, leave out from "of" to end of line 17 and insert "the publication of a required document;"

25: Schedule 2, page 55, line 18, leave out "given to the Secretary of State" and insert "published"

26: Schedule 2, page 55, line 21, leave out "given to the Secretary of State" and insert "published"

27: Schedule 2, page 55, line 28, leave out "given to the Secretary of State" and insert "published"

28: Schedule 2, page 55, line 39, leave out from "(c)" to end of line 40 and insert "publish anything amended and any back-dated assessment."

29: Schedule 2, page 56, line 2, leave out "given to the Secretary of State" and insert "published"

30: Schedule 2, page 56, line 4, leave out from "(b)" to end of line 5 and insert "publish any amended assessment or back-dated assessment."

31: Schedule 2, page 56, line 8, leave out "given to the Secretary of State" and insert "published"

32: Schedule 2, page 56, line 11, leave out "given to the Secretary of State" and insert "published"

33: Schedule 2, page 56, line 15, leave out "given to the Secretary of State or" and insert "published or given to"

34: Schedule 2, page 56, line 16, leave out from second "the" to end of line 17 and insert "publication of an updating document;"

35: Schedule 2, page 56, line 18, leave out "given to the Secretary of State" and insert "published"

36: Schedule 2, page 56, line 21, leave out "given to the Secretary of State" and insert "published"

Amendments 20 to 36 agreed.

Clause 14: Duty to report on effect of regulators' code

Amendment 37

Moved by ***Baroness Neville-Rolfe***

37: Clause 14, page 12, line 38, after "regulator" insert "other than the Commission for Equality and Human Rights"

Amendment 37 agreed.

Amendment 38 not moved.

Amendment 39

Moved by ***Lord Curry of Kirkharle***

39: After Clause 16, insert the following new Clause—

"Secondary legislation: duty to review

In section 30 of the Small Business, Enterprise and Employment Act 2015 (meaning of "provision for review" in section 28(2)(a) of that Act), in subsection (3)—

(a) after "must" insert "so far as is reasonable", and

(b) omit third "the"."

Lord Curry of Kirkharle: My Lords, I am moving a small, technical amendment to correct a drafting error in the Small Business, Enterprise and Employment Act 2015. This came to light as departments included the statutory review clause for legislation being introduced in this Session.

An important and often overlooked part of the better regulation agenda is reviewing legislation that impacts on business on a regular basis to see if it is working, is cost effective and continues to be needed. That is a really important principle. The Small Business, Enterprise and Employment Act strengthened the previous system of reviews through a statutory duty requiring Ministers to include a provision in secondary legislation to review the legislation. Where this is not considered appropriate, Ministers need to publish a statement. Once the legislation is in force, the Minister must carry out a review of the legislation within five years. These reviews are published as a report. They look at the legislation to see if it has worked, continues to be

[Lord Curry of Kirkharle]
needed and is cost effective. Recommendations will be made around keeping the legislation as it is, repealing it or amending it to make it more cost effective and less burdensome to business.

This duty applies both to domestic and EU-derived legislation. For EU-derived legislation there is a requirement to look at how other EU member states implemented the directive to ensure that how it is implemented in the UK does not put British business at a competitive disadvantage. As part of that exercise, it is clearly sensible for the comparative process to embrace other member states which are most relevant from a UK perspective, bearing in mind the nature of the activity subject to regulation. For example, in many cases there may be more to be learnt from member states that have a broadly similar institutional and regulatory structure to us in the UK, or where the scale of activity is comparable to that found here.

My amendment helps achieve that outcome by correcting a drafting error. The Act introduces a "the" in front of "other member states" in Section 30, where it says,

"have regard to how the obligation is implemented in the other Member States".

This unfortunately implies that in their reviews, departments must look at all the other EU member states. Clearly, that would be very burdensome and was never the intention. I therefore propose to remove "the" and add "so far as is reasonable" to the requirement to ensure that departments are able to carry out their reviews in a proportionate way and are not open to judicial challenge. I thank noble Lords, hope the amendment will be supported and beg to move.

Baroness Neville-Rolfe: My Lords, I am glad to be able to take this opportunity to thank the noble Lord, Lord Curry, for his great work on deregulation. "Intelligent regulation" was the phrase used by the noble Lord, Lord Mendelsohn, and that applies here. I also associate myself with earlier comments that he made about the Better Regulation Executive, which is the dynamite behind the Red Tape Challenge.

I thank the noble Lord for proposing this amendment. It is supported by the Government. The principle that new regulation should be kept under regular review is widely supported, but I accept the noble Lord's argument that it is important that these reviews are carried out in a proportionate manner. In the case of EU measures, that must mean focusing the comparison on those other member states most relevant from our perspective.

Amendment 39 agreed.

Clause 17: Extending the primary authority scheme under RESA 2008

Amendment 40

Moved by ***Baroness Neville-Rolfe***

40: Clause 17, page 24, line 16, leave out "other"

6.30 pm

Baroness Neville-Rolfe: My Lords, Clause 17 sets out the framework for a new and improved Primary Authority to enable more businesses to participate. The scheme is already very popular, with more than 8,000 Primary Authority partnerships in operation. The changes that we are making to the Primary Authority scheme in this Bill will make it easier for more small businesses to access consistent, tailored and assured advice that they can rely on, giving businesses greater confidence to invest and grow. The government amendments, suggested by parliamentary counsel, are minor and technical, and correct minor drafting discrepancies, meaning that the drafting is consistent throughout the new clause. Making these changes will ensure that the legislation is clearer and easier to understand for users of the Primary Authority scheme, with whom we have been discussing the Bill. The underlying policy and effect of the clause is unchanged. I beg to move.

Amendment 40 agreed.

Amendments 41 and 42

Moved by ***Baroness Neville-Rolfe***

41: Clause 17, page 24, line 29, leave out "other"

42: Clause 17, page 25, line 23, leave out "other"

Amendments 41 and 42 agreed.

Amendments 43 and 44 not moved.

Amendments 45 to 51

Moved by ***Baroness Neville-Rolfe***

45: Clause 17, page 28, line 28, leave out "regulator" and insert "person"

46: Clause 17, page 29, line 6, leave out "the primary authority" and insert "a direct primary authority or a co-ordinated primary authority"

47: Clause 17, page 30, line 8, leave out "the primary authority" and insert "a direct primary authority or a co-ordinated primary authority"

48: Clause 17, page 30, line 19, leave out from "if" to "inconsistent" in line 24 and insert "—

(a) another qualifying regulator nominated as the primary authority ("PA2") for the exercise of the function in relation to the person has previously given advice or guidance (generally or specifically), and

(b) the person considers the proposed enforcement action to be"

49: Clause 17, page 30, line 26, leave out from "that" to "action" in line 28 and insert "such advice or guidance has previously been given and that the person considers the proposed enforcement action to be inconsistent with it, PA1 must—

(a) refer the"

50: Clause 17, page 30, leave out lines 30 to 36 and insert—

"(4) If subsection (3) applies—

(a) the reference of the proposed enforcement action by PA1 to PA2 under subsection (3)(a) is to be treated as a notification given by the enforcing authority to PA2 under section 25C(2)(a), and

(b) accordingly, section 25C (but not this section) applies in relation to PA2 as the primary authority and ceases to apply in relation to PA1 as the primary authority."

51: Clause 17, page 30, line 40, leave out "for a primary authority or another" and insert "in relation to an"

Amendments 45 to 51 agreed.

Amendment 52

Tabled by ***Lord Stoneham of Droxford***

52: After Clause 17, insert the following new Clause—

"Report on the impact of cuts to public services on the functioning of enterprise

(1) Within 12 months of the passing of this Act, the Secretary of State must lay before Parliament a report on the impact of cuts to funding of public services on enterprise and economic growth in the UK.

(2) A report under subsection (1) must include, but is not limited to, an assessment of—

(a) the impact of reductions in Government spending on further education on the availability of skills in the UK;

(b) the impact of cuts to skills funding, and of any levy on companies to provide for apprenticeships, on the quantity, quality and level of apprenticeships offered by companies;

(c) the impact of reductions in the funding of the Department for Business, Innovation and Skills on advanced manufacturing;

(d) the ability of Her Majesty's Revenue and Customs to supply a comprehensive service to business customers; and

(e) the impact of reductions to the Local Government Finance Settlement on the ability of local authorities to support small businesses and promote economic growth."

Lord Stoneham of Droxford: I shall not move this amendment, as it has been overtaken by events today.

Amendment 52 not moved.

Schedule 3: Primary authority scheme: new Schedule 4A to RESA 2008

Amendment 53

Moved by ***Baroness Neville-Rolfe***

53: Schedule 3, page 57, line 12, leave out "enforcing" and insert "primary"

Amendment 53 agreed.

Amendment 54 had been withdrawn from the Marshalled List.

Clause 18: Public sector apprenticeship targets

Amendment 55

Moved by ***Lord Mendelsohn***

55: Clause 18, page 34, line 18, after "("apprentices")" insert "in high quality and high level skill apprenticeships"

Lord Mendelsohn: My Lords, apprenticeship quality is an issue that we are revisiting, as it was debated in Grand Committee. The argument was made very strongly by my noble friend Lord Stevenson, the noble Baroness, Lady Sharp, and the noble Lord, Lord Stoneham, and the provisions in Clauses 18 and 19, which set a target for the public sector, remain a matter of significant interest for us. We accept the argument that the Government have made—that, if they are asking this of business, as a major employer the public sector should not be exempt. We further accept their argument that the public sector should not just be another employer but that it should be exemplary, leading the way in ensuring that it demonstrates the strongest possible adherence to the policy and implements it in a way to set a gold standard. We agree and, in keeping with that objective, this amendment seeks to ensure that the gold standard and the Government's objective are properly reflected in the legislation.

Given the announcements today, I point out that local authorities should give careful attention to how they implement this commitment. It is not just the problem of having to deliver the level of restructuring required by the Chancellor, which might make it difficult in some areas to develop effective schemes, especially in places undergoing restructuring where management change might be present. Some schemes run by local authorities support those who cannot access apprenticeships due to weak literacy and other skills or learning difficulties. It would be tragic if such schemes that can never be delivered by business are cut as a result of the direct transfer of resource management away from these areas. I would be grateful if the Minister could say how existing schemes that provide skills and capabilities for people to access apprenticeships will be addressed in the implementation.

Amendment 55 amends the apprenticeship target so that it is no longer simply a numerical target but a target for high-quality and high-level skilled apprenticeships. The amendment suggests that there might be more return if the restrictions on statutory apprenticeships could focus on the higher-quality and the higher-skilled elements. In other words, they should be at levels 4 and 5 in the training schemes and not at levels 1 and 2.

Ofsted's report on the state of apprenticeships, *Apprenticeships: Developing Skills for Future Prosperity*, which business agrees with, highlighted the value of quality apprenticeships as the route to the high-level skills that business and the economy need. The message in that report is the message that we are trying to drive home today—that there is a distinction to be made between the level of an apprenticeship and the quality of that apprenticeship. The report found that one-third of apprenticeships did not provide sufficient high-quality training to stretch apprentices and improve their capabilities. During inspections, apprentices were seen engaging in activities which had become so common as to be a deplorable cliché, such as making coffee, serving sandwiches or cleaning floors. These were accredited placements. That is exactly the kind of scenario that we predict will occur with the Government's new target unless the quality threshold is strongly applied.

The noble Lord, Lord O'Neill, and the Minister, Anna Soubry, were challenged by the Business, Innovation and Skills Select Committee in another place earlier this month on how their work would ensure that apprenticeship starts counting towards the target were of sufficient high quality. Both said that focusing on the levels was not necessary; we do not agree.

[LORD MENDELSOHN]

The committee from all sides challenged the duo as to why the Government had not set a target for high-level apprenticeships at level 4 and above. One of the committee members encapsulated the issue in suggesting that all evidence presented to the committee in its inquiry had been that the emphasis should be,

"on quality not quantity—the only target you have is for quantity not quality".

The Minister responded by saying that apprenticeships should be,

"quality-assured by virtue of the Enterprise Bill".

However, I cannot really see anything in the Bill that assures such quality. I would be very grateful if the Minister could provide some clarity regarding the comments made in that evidence session, explaining how quality is assured in the Enterprise Bill for apprenticeships in the public sector. If it is not present in the Bill, I would be very encouraged if the Minister would confirm that we have ensured that Anna Soubry's commitment is properly reflected in our amendment.

In Committee, the Minister mentioned a few steps that the Government have taken to improve the quality of apprenticeships, and I would like some clarity on those. One measure that she cited was:

"Short-duration apprenticeships have been removed from the system; apprenticeships must … last a minimum of 12 months".

How does extending the length of the apprenticeship improve the quality? It could offer employers the opportunity to abuse the system further by offering low-quality apprenticeships with little learning opportunities for young people over a longer period of time. Was that the scenario addressed in the Government's consultation on these provisions, and are there any safeguards in place to prevent that happening?

The Minister said that the Government were,

"introducing more rigorous testing and grading at the end of the apprenticeship to ensure that apprentices are reaching full occupational competence".—[*Official Report*, 2/11/15; col. GC 283-4.]

Do the Government have any intention of piloting the programme in a few public authorities? Perhaps the test would help to estimate whether the apprenticeships on offer were successful or not.

The main argument that we heard in relation to the proposals in the amendment was that the Government are wary of the potential bureaucracy in the new arrangements and that there must be a balance. I searched for a copy of "Yes Minister" to help me to understand what that meant. Judging by the importance that the Government have placed on apprenticeships, I believe that they anticipated some level of bureaucracy in the delivery of this policy and that they have thought about what the border and membrane is between an acceptable and unacceptable level. There are many economic and social gains to be made by promoting apprenticeships, but that can be done only if they are of a quality by which young people can learn and become skilled workers. By prioritising the quality of apprenticeships, the contributions made to the public sector would far outweigh any of the anticipated bureaucracy. Indeed, productivity improvements in the private sector have been very encouraging, and there is no reason why such improvements could not be reflected in the public sector.

That is why we have tabled this amendment and have such a strong feeling on this issue. Apprenticeships represent barrier-breaking entry into industries that young people would otherwise not have a chance to work in. By undertaking high-quality and high-skill apprenticeships, they will be spending time in worthwhile employment, not wasting a year stacking shelves. I am sure the Minister will agree that that is not what the Government intend but, by simply imposing a target with few checks on quality, that is what is going to happen. For us, delivering quality is an essential part of the Government leading and establishing a gold standard. I beg to move.

Baroness Sharp of Guildford (LD): We on these Benches have considerable sympathy with this amendment. In Committee, we had a lot of discussion on quality and the number of apprentices who have completed only level 2 apprenticeships, which many people regard as being not really full apprenticeships. Indeed, the Government have a notion in a later part of the Bill of creating a statutory apprenticeship—the level 3 apprenticeship, which is normally a two-year or even a three-year apprenticeship.

Yesterday I had the benefit of visiting Rolls-Royce's Apprenticeship Academy and saw precisely what a high-quality apprenticeship is really about. It is important to recognise that there are different levels of apprenticeship. The noble Lord, Lord Mendelsohn, talked about the need for us to aim at higher-level apprenticeships—levels 4 and 5—but it is important to recognise that there is a progression in apprenticeships from level 2, which is almost an entry-level apprenticeship, through to level 3, which is the standard apprenticeship, and on to levels 4 and 5, which are the more detailed apprenticeships for technicians. As the noble Lord, Lord Mendelsohn, mentioned, we as a country are extremely short of those who have completed apprenticeships at level 4 or 5, the technician level, and we need to put in considerable effort to increase the numbers. Equally, for some young people, a level 2 or level 3 apprenticeship is more appropriate than trying to push them into the very much higher-level apprenticeships.

I endorse the move by the Government to try to increase the quality of apprenticeships as well as the number of apprenticeships. There is some danger that in trying to reach the 3 million target, this may get pushed to one side again. For that reason, we on these Benches endorse the amendment.

Lord Young of Norwood Green (Lab): My Lords, I shall speak also to Amendment 56, which is in my name. I endorse what my noble friend Lord Mendelsohn said about ensuring that we get high-quality as well as high-level skill. We are about to enter quite a complicated area in relation to apprenticeships. In the Autumn Statement today, the Chancellor talked about the apprenticeship levy. How it operates in relation not just to large companies but to SMEs will be vital. The Government have a doubled-edged, or perhaps even a triple-edged, challenge: increasing the number of apprenticeships to a large degree; ensuring that we sustain quality, which has already been mentioned by my noble friend Lord Mendelsohn and the noble Baroness, Lady Sharp; increasing the number of SMEs

that employ apprentices; and attracting young people into apprenticeships with the guarantee that they will participate in a high-quality scheme.

6.45 pm

My amendment addresses something that I have raised on a number of occasions. Although the Government have an impressive target, and I do not quarrel with the importance that they attach to apprenticeships, our experience to date is that somewhere between 60% and 70% of apprentices are adult apprentices and a significant number of them are people who were already in employment. In my view, the title is wrong. We are talking about retraining and reskilling, although it is important that we do that.

The Government talk about reporting back against this target in the public sector, in which that situation exists. The aim of my amendment is to ensure that we get an accurate assessment of exactly what is happening and of how many real, new apprenticeships are being created for those in the 16 to 24 age range and how many adult apprenticeships are apprenticeships—in other words, new jobs for people who have changed their occupation—or are just for people who are reskilling and retraining in existing employment. That information would be helpful in assessing what real progress is being made. I look forward to the Minister's response.

Baroness Warwick of Undercliffe (Lab): My Lords, I take the opportunity of this amendment to say that I was most grateful to the Minister for her reassurance in Grand Committee about the measures that the Government will bring forward to allow housing associations to become private sector bodies again following the statement by the ONS. It is hoped that those measures will take housing associations out of the scope of this duty. Will the Minister say how she plans to take account of the Government's commitment when preparing the consultation on those bodies that will fall within the scope of that duty, and will she clarify when the consultation will take place?

Baroness Neville-Rolfe: My Lords, I am grateful not only to the noble Lord, Lord Mendelsohn, but to the noble Baroness, Lady Sharp, and the noble Lord, Lord Young, for their comments and to the noble Baroness, Lady Warwick, for taking us back to Committee and the issue about housing associations. I am rather hoping that somebody from the Box will be able to let me answer her question about timing before we finish, but if not, I will write to her separately.

This group of amendments would require the public sector target to apply to high-quality and high-level apprenticeships and would differentiate between new and existing apprenticeships. I have spoken previously during the passage of the Bill about how the Government are committed to ensuring that all apprenticeships are of a high quality, and that is central to our reforms. So there is common ground here.

Having said that, we had a very good discussion in Committee, but, rather like Amendment 52, which the noble Lord, Lord Stoneham, sensibly did not move because of today's events in the spending review, discussion on quality has, I think, been overtaken to some extent by today's announcement in the other place by the Chancellor that the Government intend to establish the institute for apprenticeships. That will be central to the discussion of this area, and I hope that this independent new quality body will be welcomed once people understand in detail what is proposed.

It is against that background that I will try to respond to the debate this evening. First, in response to the noble Lord, Lord Mendelsohn, we are committed to an apprenticeship programme that is for all ages and all sectors. All apprenticeships should be quality apprenticeships. As the noble Baroness, Lady Sharp, made clear, all apprenticeships, whether they are level 2 or level 3, offer benefits and obviously should be of appropriate quality. We believe that they are an important step into the labour market and provide very valuable jobs in the economy. For example, recent research shows that adult apprenticeships at level 2 deliver £26 of economic benefit for each £1 of government investment. We must not lose that.

Employers are developing new standards to meet the skills of their sectors. The trailblazer quality statement sets out a range of measures to improve quality, including a minimum duration of one year, and must involve substantial on-the-job and off-the-job training. Training providers are also registered to ensure that they can provide good-quality services, and we are creating more degree apprenticeships.

The current employer-led apprenticeship trailblazer programme has rightly put employers in the driving seat, determining what constitutes quality. However, to deliver a genuinely world-class apprenticeship programme, it is widely agreed that we need a long-term arrangement that will support employers to uphold the high quality of apprenticeship standards and—I think this is an important point—to be able to respond to the changing needs of business, technology and society. We are therefore establishing a new employer-led institute for apprenticeships, as I have just explained. That will set the standards and ensure quality, and we anticipate that it will be active from 2017 onwards.

I would like to respond to the point that the noble Lord, Lord Mendelsohn, made about bureaucracy; as he knows, that is something against which I am as keen a campaigner as he is. That is something that we need to have regard to in this process. However, the good news is that the body will be independent. It will put employers at the heart of ensuring a sustainable governance arrangement to uphold high-quality apprenticeships and respond to the changing needs of business. We intend to introduce legislation to deliver the institute for apprenticeships, and further details will be made available in due course.

I turn to the amendment from the noble Lord, Lord Young. We do not think it necessary for the public sector target to differentiate between new and existing employees. The public sector duty and the apprentices levy will encourage the public sector to identify talent from diverse backgrounds across their organisations. It will help many people, new starts and existing staff, to learn new skills and achieve their potential. Apprenticeships are of course not just for young people entering the world of work. To my mind, there is value to both employer and apprentice when anyone takes up an apprenticeship as they change roles, get promoted or start a new, demanding role within their organisation.

[Baroness Neville-Rolfe]

The noble Lord, Lord Mendelsohn, asked about the impact on local authority schemes, which are a good entry route. Our approach to the apprenticeship programme will be not to undermine local authority-supported schemes that help to create entry routes into apprenticeships. Indeed, we believe that such schemes—for example, traineeships and the Prince's Trust—are also important. With regard to the end-point assessment in local authorities, we do not currently plan this but we welcome input on the role of the new institute from all stakeholders, and I will pick up the noble Lord's point about bureaucracy.

The noble Baroness, Lady Warwick, asked about the timing of the housing association consultation. We plan to bring forward the consultation by the end of the year.

Finally, in response to the noble Lord, Lord Young, I think that I have already explained and engaged on the question of whether apprenticeships should be new jobs. I think we agree that apprenticeships are paid jobs for people of all ages and are dependent on employers offering opportunities. They offer a substantial way of building a workforce with the skills that people need to succeed, and offer substantial training to ensure that apprentices gain significant new skills. I am conscious that the noble Lord is a great expert on apprenticeships and I look forward to his input.

Lord Young of Norwood Green: Frankly, given the large number of what are described as adult apprenticeships, I think that we should distinguish, but I can see that I have not won that particular argument.

I could not help reflecting on the point that the Minister made about the institute and apprenticeship standards. It will guarantee the quality of standard but not the quality of delivery, and that is the challenge—that is where things can sometimes go badly wrong. I am not opposed to the new institute. I merely say to the Minister that if the Government are going to increase the numbers and the volume that they are talking about and they are successful in doing so, the challenge will still be to ensure that every single employer is delivering a quality apprenticeship.

We know we have had experience in the past where that has not been the case. The Government have changed the definition of what constitutes an apprenticeship, the timescales have been altered and so on, but that does not mean that there is no element of risk there. I say that in a constructive way. The Government need to think through very carefully how they are going to ensure that the quality of the training provider and of employer delivery will match what they believe defines a quality apprenticeship. If they do not, they will not attract into apprenticeships the kind of people that we need to attract. We need engineers and people working in construction, and we need more young women going into those areas. To do that, you need to create an environment where people feel that they are entering a quality area of employment.

Baroness Neville-Rolfe: I thank the noble Lord, Lord Young, for his constructive comments. He is right to explain that there could be difficulties and that it is important that we ensure quality as well as set quality standards. I apologise to the House that, as it were, an announcement tumbled into our Report stage today, but that is the way of the world. I emphasise that the issue of the institute and how we ensure quality is work in progress, as is the question of the levy. There will of course be further discussions on all this, and appropriate consultation processes are continuing. However, I hope that the provisions in the Bill on apprenticeships, limited though they are, will prove fruitful and helpful. I hope that the noble Lords have found my explanation helpful and, on that basis, will feel able to withdraw their amendment.

Lord Mendelsohn: I thank my noble friend Lord Young for his excellent contribution to this debate. He always makes extremely important points on apprenticeships. My noble friend Lady Warwick also made an important contribution on housing associations.

I congratulate the noble Baroness, Lady Sharp, on her extremely impressive summation of the core issues here. She made the point that in many ways we have apprenticeships that are a progression, and it is important to take skills all the way through. It is important to emphasise again that in relation to these measures we are looking not to deride or exclude but for a balance. We made comments earlier about programmes to move people on to apprenticeships, so we can see the value in all this. But the noble Baroness made the point that in this country, on the schemes that we currently have, we have a massive deficiency at levels 4 and 5, and that is our core problem. Now that we have the opportunity of using the public sector to be able to increase the number of apprentices, it is for exactly those reasons that the public sector should lead and demonstrate its capacity to have a disproportionately high number of higher-level apprenticeships.

I am bound to say that I heard the announcement of the establishment of an institute for apprenticeships, but I am not compelled that it has much relevance to this debate—it is more targeted towards the private sector. Who knows—given the many announcements that the current Chancellor tends to make, some officials may be working busily away on what was merely a couple of lines of notes, and perhaps in due course sufficient expertise and brilliance on the part of the officials will be brought to bear and it will become relevant. However, as it currently stands it has no relevance to where this is.

I emphasise that we think this is significant because the Bill is in front of us now. We support the move towards increasing the number of apprentices and using them as a method to deliver growth, fulfilling lives and well-being to our citizens. It is absolutely core to our being that we provide them with the necessary skills. The public sector can and should take the burden of ensuring that we have the right blend of apprenticeships, and we can do that now by amending the Bill. It is important that we take that chance. I beg leave to test the opinion of the House.

7.01 pm

Division on Amendment 55

Contents 71; Not-Contents 107.

Amendment 55 disagreed.

Division No. 2

CONTENTS

Adams of Craigielea, B.
Alderdice, L.
Andrews, B.
Bach, L.
Bakewell of Hardington Mandeville, B.
Barker, B.
Bassam of Brighton, L. [Teller]
Browne of Belmont, L.
Bruce of Bennachie, L.
Burt of Solihull , B.
Campbell-Savours, L.
Chidgey, L.
Clark of Windermere, L.
Cotter, L.
Drake, B.
Dubs, L.
Falkner of Margravine, B.
Faulkner of Worcester, L.
Foulkes of Cumnock, L.
Golding, B.
Gordon of Strathblane, L.
Grantchester, L.
Greaves, L.
Grocott, L.
Hanworth, V.
Harris of Haringey, L.
Haskel, L.
Hay of Ballyore, L.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Howarth of Newport, L.
Humphreys, B.
Jones, L.
Kerr of Kinlochard, L.
Kirkhill, L.
Lane-Fox of Soho, B.
Lea of Crondall, L.
Lee of Trafford, L.
Lister of Burtersett, B.
McAvoy, L. [Teller]
McKenzie of Luton, L.
Maxton, L.
Mendelsohn, L.
Moonie, L.
Morris of Handsworth, L.
Morrow, L.
Murphy of Torfaen, L.
Ponsonby of Shulbrede, L.
Roberts of Llandudno, L.
Scriven, L.
Sharp of Guildford, B.
Shipley, L.
Shutt of Greetland, L.
Simon, V.
Smith of Basildon, B.
Smith of Gilmorehill, B.
Smith of Newnham, B.
Snape, L.
Stoneham of Droxford, L.
Storey, L.
Taverne, L.
Taylor of Goss Moor, L.
Thornton, B.
Touhig, L.
Tyler, L.
Verjee, L.
Warwick of Undercliffe, B.
Wheeler, B.
Whitty, L.
Young of Norwood Green, L.
Young of Old Scone, B.

NOT CONTENTS

Altmann, B.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Ashton of Hyde, L.
Astor, V.
Astor of Hever, L.
Balfe, L.
Barker of Battle , L.
Bates, L.
Borwick, L.
Brougham and Vaux, L.
Browning, B.
Callanan, L.
Cathcart, E.
Chisholm of Owlpen, B.
Colville of Culross, V.
Cope of Berkeley, L.
Courtown, E.
Craigavon, V.
De Mauley, L.
Deben, L.
Deighton, L.
Dixon-Smith, L.
Dobbs, L.
Eaton, B.
Elton, L.
Empey, L.
Evans of Bowes Park, B.
Fink, L.
Finlay of Llandaff, B.
Flight, L.
Fookes, B.
Gardiner of Kimble, L. [Teller]
Gardner of Parkes, B.
Geddes, L.
Harris of Peckham, L.
Hayward, L.
Helic, B.
Higgins, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Inglewood, L.
Jopling, L.
Kilclooney, L.
Kirkham, L.
Laird, L.
Lawson of Blaby, L.
Leigh of Hurley, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Lyell, L.
McColl of Dulwich, L.
Mackay of Clashfern, L.
Marlesford, L.
Masham of Ilton, B.
Mobarik, B.
Mone, B.
Neville-Rolfe, B.
Newlove, B.
Noakes, B.
Norton of Louth, L.
O'Cathain, B.
Oppenheim-Barnes, B.
Patel, L.
Patten, L.
Perry of Southwark, B.
Pidding, B.
Popat, L.
Porter of Spalding, L.
Prior of Brampton, L.
Redfern , B.
Robathan, L.
Rock, B.
Rogan, L.
Rose of Monewden, L.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Shackleton of Belgravia, B.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shinkwin, L.
Skelmersdale, L.
Smith of Hindhead, L.
Somerset, D.
Stedman-Scott, B.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Suri, L.
Taylor of Holbeach, L. [Teller]
Taylor of Warwick, L.
Tebbit, L.
True, L.
Ullswater, V.
Verma, B.
Vinson, L.
Wasserman, L.
Whitby, L.
Willetts, L.
Williams of Trafford, B.
Wolfson of Aspley Guise, L.
Young of Cookham, L.
Younger of Leckie, V.

7.13 pm

Amendment 56 not moved.

Amendment 57

Moved by ***Baroness Sharp of Guildford***

57: Clause 18, page 34, line 19, at end insert—

"( ) A prescribed public body may set apprenticeship targets for its subcontractors."

Baroness Sharp of Guildford: My Lords, this amendment is slightly different from the one that we discussed in Committee, and suggests that prescribed public bodies should be able to set a target for their subcontractors. In Committee, the Minister reminded us that on 1 September this year all central government contracts over £10 million were required to commit to including a certain number of apprentices within the contract. At that time, there were discussions with the Department for Communities and Local Government and the Local Government Association about extending to local authorities the notion of contracts over £10 million having an apprenticeship target attached to them. It would still exist—it would be a matter of all large contracts of one sort or another, over £10 million.

Although we very much welcome this initiative and feel that it is a right use of public procurement to help promote what is such a central aim of government—indeed, it is a cross-government aim, given that all of us back it—we feel that many local authority contracts fall well below the £10 million mark and yet could very usefully be used to help promote the apprenticeship programme. For that reason, we have put down the amendment again, though we have made it somewhat less prescriptive. It is very much a "may" amendment: that is, prescribed public bodies "may", if they wish, include a target for their subcontractors. It picks up the notion that I spoke of in Committee, of nudging contractors to move in this direction.

We are very concerned about the relatively small number of employers in this country who take on apprentices of one sort or another. Only 15% of employers do so, and many small and medium-sized businesses do not. It would be good if we had some

[Baroness Sharp of Guildford]
means of encouraging them to do so. It seems to me that, if it is felt appropriate to set such a target, it would help to nudge such employers into taking on apprenticeships. I beg to move.

Lord Mendelsohn: My Lords, I declare an interest as the co-president of Norwood, a very large charity that deals with children with special educational needs and people with learning disabilities. I thank the noble Baroness, Lady Sharp, for proposing this amendment. I apologise—I am speaking about the wrong amendment. I will return to that in due course.

I speak to Amendment 60, which raises a matter that we discussed in detail in Grand Committee—that is, the duty on trading standards to enforce apprenticeship quality. I thank the Minister for her excellent work on that and for the work she and her officials have done in talking to the Trading Standards Institute to make sure that this is addressed. I am very pleased that she has been able to report that trading standards have suggested a model using one lead standards institute to try to ensure that this is delivered—I believe that that is Birmingham City Council. In my view, they have made quite a small resource suggestion, and I hope that in due course that would be reviewed to see whether it is sufficient to undertake the duty. I am very pleased, too, that the Department for Business, Innovation and Skills has agreed to fund this additional post, which I think is essential.

I was very encouraged that the Minister has taken extra care to propose that the Skills Funding Agency acts as the first point of contact on compliance, which is a very good idea and bridged what was, in our view, a large hole. I think the Minister will understand that I would be more than tempted not to move this amendment, but I am taking the opportunity to say thank you for addressing this concern and coming up with an even better suggestion than we had in Grand Committee.

Lord Harris of Haringey (Lab): My Lords, I, too, rise briefly to speak to Amendment 60. I appreciate that there has been very substantial progress on this. It does highlight, though, the automatic tendency of government, when something needs to be enforced, to say, "Why don't we ask trading standards to do it?", without any thought about who in practice is going to be able to do so. I declare my interest, in being chair of National Trading Standards, although this is about local trading standards. Local authority trading standards departments have on average already faced reductions of 40% to 50%, and they may well be—we all wait to see what the implications of today's figures are in practice—facing substantially more. They already have had a very large number of duties placed on them, couched in similar terms to this, and the Government keep adding to the total.

Perhaps when she responds to this group of amendments and explains the solution that has been found in terms of this particular additional requirement, the Minister might tell us what arrangements the Government are going to put in place for all the other duties that are placed on trading standards departments to make sure that they can be effectively delivered. Indeed, perhaps in passing, she might want to tell us the precise number of duties and pieces of legislation that trading standards departments are expected to enforce.

Baroness Neville-Rolfe: My Lords, I thank the noble Baroness, Lady Sharp, for her support for the Government's new procurement rules under which, on big projects—a £10 million project lasting for more than 12 months—an apprenticeship commitment is now required in the contract.

Amendment 57 seeks to allow for the employment of apprentices by subcontractors of a public body to be included in targets set for the public body, and for a public body to be able to set apprenticeship targets for its subcontractors, as defined in Amendment 59.

Amendment 60 removes the enforcement duty on local weights and measures authorities for protecting the term "apprenticeship" from misuse. In order to meet the 3 million starts commitment, I agree that the public sector needs to do its fair share by employing more apprentices. As I said before, my own Bill team is leading by example, with an excellent apprenticeship, and I take the point made earlier by the noble Lord, Lord Mendelsohn, about levels.

It is important that the public sector seizes the real value and benefits that apprentices of all levels can bring to their organisations. This modern approach will allow it to develop internal talent, answer ongoing business needs and develop existing staff. However, I fear that Amendment 57 could put this ambition at risk. It would enable public sector bodies that are captured by the duty to meet their targets via persons who supply goods and services to them.

I reassure noble Lords that the Government recognise that certain public procurement contracts can be a key means of upskilling workforces, but we do not believe that this is the right way to do it. Although the policy is currently mandatory only for central government, its agencies and non-departmental public bodies, all other contracting authorities are strongly encouraged to adopt the new approach. Many public bodies and local government already build skills considerations into their procurement on a voluntary basis. A decision was therefore taken not to introduce this in the wider public sector initially but, in the first instance, to take a voluntary and collaborative approach, learning from the sort of good practice that we discussed in Committee —we talked about Crossrail, and of course other big infrastructure projects are on their way.

Officials in the Department for Business, Innovation and Skills and the Crown Commercial Service will work together with officials in the Department for Communities and Local Government, the Local Government Association and local authorities to identify existing best practice and experience and bring forward further proposals for wider action in local government in 2016.

I now turn to Amendment 60. I am very grateful to the noble Lord, Lord Mendelsohn, for returning, after a bit of a bump, to happy collaboration on this Bill. I would also like to thank the noble Lord, Lord Harris of Haringey, for what he said. I go back with trading standards; as an official, I was responsible for the Food Safety Act, where we also managed to find some

money for trading standards. I thank the noble Lord for the great work that he has done and that is done by trading standards right across the country. As he says, they are multitaskers with a vengeance and cover an enormous area. I understand the noble Lord's point and, as I am sure he knows, government officials have been reviewing the burdens on trading standards. In due course, we will return to that subject.

In the mean time, I reassure the House, as has been said, that we intend to appoint and fund a lead local authority to carry out the enforcement of the measure on behalf of the Department for Business, Innovation and Skills. That has been discussed with the Trading Standards Institute, which agrees that this is the most sensible approach. We already know that this model works successfully for some functions, such as the illegal moneylending team which is based in Birmingham City Council.

I hope that the noble Lords feel that we have made progress in these areas, have found my explanation reassuring and, on this basis, will feel able to withdraw their amendments.

Baroness Sharp of Guildford: I thank the Minister for her reply. I rather expected it, but had hoped that perhaps in discussing the issue further with the DCLG and the Local Government Association they might have discussed this all-embracing amendment.

I did not see, if I may say so, my amendment as necessarily meaning that a public body could transfer some of its target to its subcontractors, which was a point the Minister made. In the amendment I moved in Committee, one of the points I made was that the target could be transferred. However, I do not see this amendment as providing for a transfer of targets. I see it very much as an additional target that could be set using the power of public procurement for some of these smaller contracts, which the public bodies concerned might find quite useful.

I recognise that there is a push on the part of the Government to get all public bodies to take on apprentices, and this is one that we very much welcome. As I said, the idea was really to do nothing but provide an extra nudge. I am sorry that the Government are rejecting this idea of the extra nudge. With that, I beg leave to withdraw the amendment.

Amendment 57 withdrawn.

Amendment 58

Moved by ***Baroness Sharp of Guildford***

58: Clause 18, page 34, line 36, at end insert—

"( ) The regulations may specify that a proportion of the apprenticeship targets referred to in subsection (5) shall be reserved for—

(a) young people leaving care, and

(b) young people with physical and learning disabilities."

Baroness Sharp of Guildford: My Lords, Amendment 58 is again similar to an amendment that we moved in Committee. We have brought it back because we would like to discuss it just a little more.

I thank the Minister very much for her letter. There was considerable detail in it and it was extremely useful.

As the Minister said in reply to me in Committee, the Government are already doing a great deal to ensure that these vulnerable young people are given the opportunity to train through apprenticeships.

This amendment is much less prescriptive than the one we moved in Committee, which required the Government to set a specified proportion of the target for care leavers and those with special educational needs. This amendment suggests just that any such proportion is set out by regulations. Again, it is a "may" rather than a "must"; it states that "regulations may specify". To some extent, given the discretion that can be used in regulations, it might be more appropriate for the Government to suggest that some sets of public bodies should aim for a proportion of the apprenticeship target to be taken from care leavers and those with special educational needs.

I return to the point I made in Committee: these are two groups of vulnerable young people in society that often find it very difficult to get on to the job ladder. The opportunity to get an apprenticeship—admittedly, often a fairly low-level apprenticeship—and get on the ladder to show that they can achieve and be trained properly for a job is of great advantage. Sometimes, the period of training needs to be extended more than with other apprenticeships, but they are a very useful vehicle for helping these young people get into employment and on to some sort of career path.

We spoke in Committee about the good example of some local authorities and I drew particular attention to Birmingham as an exemplar in what it does for these young people. We thought it was worth bringing back a somewhat amended version of the amendment that recognised the points made by the Minister in Committee. We hoped she might look on this one somewhat more favourably. I beg to move.

7.30 pm

Lord Mendelsohn: My Lords, I declare an interest as the joint president of a large charity that works with children with special educational needs, people with learning disabilities and a large number of vulnerable children and young people. I want to thank the noble Baroness, Lady Sharp of Guildford, for introducing this amendment, which we discussed in Grand Committee and which this side supports.

My personal experience is that we are finding it increasingly hard, especially with the funds available for the care sector, to move people with an opportunity to adopt skills into areas where they can lead more fulfilling lives. The burden on those charities is ever-increasing. If some of the apprenticeships available in the public sector could be targeted towards helping those people, it would be very helpful. The public sector is one of the few institutions that has the means, capacity and expertise to deal with this difficult, challenging role. I wanted to express our strong support for this proposal and thank the noble Baroness, Lady Sharp of Guildford, for raising it.

Baroness Neville-Rolfe: My Lords, as the noble Baroness, Lady Sharp, said, Amendment 58 is less specific than the amendment we debated in Committee,

[Baroness Neville-Rolfe]
but its purpose is to impose targets on public sector bodies to specify a proportion of apprenticeships for young persons leaving care and young persons with learning difficulties or disabilities. Those are laudable aims, and I appreciate the way that the noble Lord, Lord Mendelsohn, shared his own charitable experience. But it is crucial that we ensure focus and simplicity for employers and do not deter them from hiring apprentices. It is a matter of principle for the Government that we should not mandate what type of person employers, whatever the sector, should be recruiting as apprentices. Apprenticeships are real jobs with training. Employers make the final decision about who they hire for any apprenticeships that they have advertised, and ring-fencing apprenticeships for particular groups would mean requiring employers to hire particular people for their vacancies.

Alongside the Department for Education, we will continue to promote opportunities for care leavers to receive extra support through traineeships and other study programmes. Among other things, we have introduced a personal adviser for every care leaver to support them until they are at least 21. In addition, full funding for apprenticeship training is available under existing frameworks for eligible 19 to 23 year-old care leavers. We are now extending this to cover the new apprenticeship standards and to care leavers up to the age of 24 from September 2016.

The Government will also publish, in spring 2016, a refreshed strategy to improve the lives and life chances of young care leavers. We anticipate that this will include the Government's proposals to support care leavers entering the world of work in the coming years. We are committed to ensuring that apprenticeships are accessible to young people with learning difficulties or disabilities. We continue to look at how we can improve accessibility by working with key stakeholders, and have already taken steps to ensure that barriers preventing access to apprenticeships for those with learning difficulties or disabilities are removed.

To respond to the noble Lord, Lord Mendelsohn, as an incentive to employers, the Government fully fund apprenticeship training for all young people aged 16 to 18. This fully funded apprenticeship training is extended to eligible care leavers aged 19 to 23. A number of local authorities already prioritise support with apprenticeships for care leavers, which of course we encourage, and, where eligible, care leavers can also access programmes such as traineeships to get the support they need to get ready for an apprenticeship. They are flexible, so providers can adapt them to the needs of the trainee by including additional support such as mentoring.

There are examples of good practice and they have grown in recent years, to respond to wider needs. I believe that this amendment would take us down the wrong path. I hope noble Lords will understand how the Government have approached this and the things we are doing outside the framework of the Bill, and that the noble Baroness will feel able to withdraw her amendment.

Baroness Sharp of Guildford: I am grateful to the Minister for her reply. It is rather as I had expected. I acknowledge the amount of work that the Government are doing outside the Bill by promoting apprenticeships, particularly for these vulnerable young people. I hope they will continue to press public authorities to take their share of helping to train young people and give them opportunities. With that, I beg leave to withdraw the amendment.

Amendment 58 withdrawn.

Amendment 59 not moved.

Clause 19: Only statutory apprenticeships to be described as apprenticeships

Amendment 60 not moved.

Clause 20: Insurance contracts: implied term about payment of claims

Amendment 61

Moved by ***Lord Flight***

61: Clause 20, page 38, line 34, at end insert—

"( ) It shall be open to the insurer to adduce evidence of the fact that it sought and obtained legal advice to the effect that it had reasonable grounds for disputing the claim without thereby generally waiving privilege in the substance or content of the legal advice it received."

Lord Flight (Con): My Lords, I have no interest to declare. I do not work for the insurance industry, never have done and have never been remunerated by it. Noble Lords may wonder why I am speaking on these issues. Over 45 years of my career, I have tried to keep an eye on things in the City that have been good for business and bad for business. Interestingly, it was the Wilson Government who took the key measures in relation to the payment of interest to foreigners that led to the Eurodollar and Eurobond markets and the dramatic recovery of London over the past 50 years to again being the financial capital of the world. I tried to persuade the Conservative Government of the 1980s to change the rules for funds so that they were competitive, particularly for European investors. That did not happen and Luxembourg has all this business, now running to many billions, which the UK could have had. Interestingly, the Government subsequently changed the rules, but it was too late.

I am concerned that the issues that I raised in Committee and now raise again put at risk a £60 billion international insurance business because there are some subtleties that would make London cease to be an attractive place to handle such business. These two amendments, however, are much narrower than the ones raised last time and neither undermines the aim of the Bill. I apologise for the absence of my noble friend Lord Kinnoull, who has been called overseas urgently. As I jointly tabled the amendment with him, it falls on me to move the amendment.

I will address Amendment 62 first, which has become known as the limitation period amendment. It is of great practical importance for the London insurance market. It draws in the limitation period for late payment claims under Clause 20 and creates more certainty for reserving purposes. Without the limitation amendment, insurers may not be able to assess accurately

when they are able to close off the books in terms of reserving for the underlying insurance claim. The baseline for the limitation period under Clause 20 is the reasonable time for payment. Who knows when this is, unless a court is to rule on it? In the case of a disputed claim, insurers may not be able to close the books for years after the settlement of the underlying claim.

Amendment 62 would make the limitation period for bringing a claim under Clause 20 much more certain because it is referenced to the payment of that underlying claim. With a more certain limitation period, insurers would be able to reserve and close books more readily. This ultimately goes to capital and premium levels where more certainty means less capital. It is reasonable that the basic limitation period is one year from the date of payment of the underlying claim. The insured will have received payment of the underlying claim which it already thinks is late. It has a basic six years to bring the underlying claim, so a further one year is ample for it to decide to bring a late payment case under Clause 20.

The amendment is supported by buyers, intermediaries and insurers across the insurance market and it is not just a Lloyd's proposition. It is also supported by the independent senior counsel Colin Edelman, who drafted the amendment. I understand that HM Treasury and the Law Commission both advised that there is a legitimate concern and the suggested amendment deals with this. Indeed the Law Commission sent a helpful email supporting the limitation amendment yesterday. I trust that the Government might either accept Amendment 62 or kindly offer to introduce a similar amendment in the other place.

I also ask the Minister to support Amendment 61. I do not know whether she will have had the time to consider the very serious and detailed independent legal opinion by Colin Edelman QC and Richard Harrison on the issue of privilege, which was sent to her this morning. Colin Edelman's independent advice details the seriousness of the precise issue. The instruction to Colin Edelman was for an independent review of all the objections that have been raised by, in this case, the Government rather than the London market. This further opinion from him is too long for it to be practical for me to read out, but I will endeavour to highlight some of the key points.

The Bill, as it stands, places on the insurer the burden of proving that there were reasonable grounds for defending the claim. In the context of placing such a burden on the insurer the use of "were" is in our view capable of being construed as requiring not only that the grounds for disputing the claim were objectively reasonable, but that the insured subjectively believed that there were reasonable grounds for disputing the claim. The provision also stipulates that even if there were reasonable grounds for disputing the claim, the conduct of the insurer in handling the claim could still give rise to a breach of the implied terms. This introduces a clear element of subjectivity—the way in which the insurer behaved and the reasons for its behaviour.

Insurers rely heavily on legal advice in contentious commercial claims, so it seems to us—that is, to Colin Edelman—that if an insurer's conduct is to be judged, the balance of fairness requires it to be able to explain to a court the real reason for its conduct, including its reliance on legal advice.

On our analysis of the operation of new subsection (4), the new cause of action could be open to abuse if the insurer were unable to assert the fact that it sought, obtained and relied on legal advice, without risking waiver of privilege. It could create a serious imbalance if the mere raising of a breach of the implied term were to place tactical pressure on the insurer to waive privilege in circumstances where there could be no such pressure on the insured. The allegation of breach could be used to try to flush out the insurer's confidential advice, which could then be deployed to the insurer's disadvantage in settlement negotiations.

In summary—this again is from the opinion—it is obvious that determining a claim for late payment should take place at the same time as the termination of the claim for the indemnity itself. The current provision risks routine—and possibly tactical—deferral claims for late payment which would quickly bring the law into disrepute.

7.45 pm

Amendment 61 makes a rule so that insurers would not lose legal privilege in respect of advice on the underlying claim when trying to defend themselves against a claim. It would also serve to discourage vexatious litigation. It is intended to address the problems in a way that creates a balanced and fair playing field, and allows claims for late payment to be determined without delay. It has market-wide consensus support, including buyers, and reduces the risk of satellite litigation under Clause 20. Objection has been raised to the proposal on the grounds that it would enable the insurer to conceal the fact that the advice was cautious or caveated, but given that the section requires the insurer to have only,

"reasonable grounds for disputing the claim",

the fact that the advice may have been cautious or caveated seems irrelevant.

In the light of Colin Edelman and Richard Harrison's independent further opinion—provided, I regret, only this morning—I hope that the Minister may be willing to at least consider Amendment 61 or to offer something similar to be raised in the other place.

We have also heard from the Law Commission on these matters and, interestingly, the key things it has to say is that the proposed amendments are related to the legal process and do not undermine the main policy aims in the way in which it felt the previous amendments did. It says that the Law Commission prefers to work on a consensus basis and will be pleased if a compromise could be reached if there were something that could align the concerns of the market without unduly prejudicing policyholders.

I am sorry to have gone on, but I wanted to put those points on the record because they are complex and obscure. Unless we get them right, the international insurance business in London is potentially at serious risk of moving elsewhere. Again, in my lifetime I have seen business en masse move elsewhere when this country has got things wrong in either regulatory or fiscal terms. I beg to move.

Baroness Noakes (Con): My Lords, these amendments raise difficult issues. My noble friend Lord Flight overstates his case when he says that the whole of the £60 billion insurance market is at risk of moving abroad because of a late-payment provision in the Bill.

We need to go back to basics. Clauses 20 and 21 are about providing protection for policyholders. They would have been included in the Insurance Act—a Law Commission Bill—which was processed through your Lordships' House through the special procedure for Law Commission Bills, in which I had the honour to take part. This provision was excluded only at the last minute because of the objections of traders in the London market, who have continued to maintain their objections to these clauses. The most important thing is to have Clauses 20 and 21 in the Bill when it is finally enacted.

I have been looking very carefully at the arguments that have been put forward by those who have been promoting the amendments to which my noble friend Lord Flight attached his name. I certainly did not support the amendments which we debated in Committee —which I said at the time of the debate in Grand Committee. I have looked carefully at the paperwork that has emerged subsequently, including the opinions of Colin Edelman—both the one that came out today and the one that came out recently. It is, of course, not our custom to make the law on the basis of counsel's opinion, however eminent the lawyers happen to be. At the end of the day, it is a matter for the Government and parliamentary counsel to determine the correct way to express the law.

Having said that, I have some sympathy with the limitation amendment. It replaces a somewhat uncertain provision, which is effectively six years from the date when reasonable payment should be made, to a very clear one of one year. It is fair to say that the Law Commission has said that at the very least it arguably provides more certainty to insurers without materially undermining policyholders' rights. If that analysis is correct, it seems to me to do no harm to the basic provisions but provides more certainty to the insurance world.

However, I am less convinced by the privilege amendment. I understand what the arguments are based on, but this is a funny Bill in which to be messing about with legal privilege—to single out one particular clause to exempt from the normal provision that when you claim legal privilege you disclose the legal advice on which you are basing your use of bringing that legal advice into play. I am far less convinced that that is the case. The Law Commission is of the view that a reasonable grounds test is an objective test and not a subjective test, as counsel's opinion asserts. We may have different legal opinions on this; I am just not sure that the case is made.

I suspect that it is unlikely that my noble friend the Minister could accept the amendments at this late stage, given that they were tabled quite late, but I hope that my noble friend might at least be able to take away the limitation clauses for consideration, without commitment, between here and Third Reading. I underline that the most important thing is that Clauses 20 and 21 are retained.

Lord Lea of Crondall (Lab): My Lords, I congratulate the noble Lord, Lord Flight, on this further rear-guard action in his retreat towards Dunkirk with Amendments 61 and 62. He has now reached the sand dunes and is within sight of Dover, so I hope he can find a small boat on which to embark.

It is worth reminding noble Lords how many stages it has taken us to get to where we are with this whole question. The noble Baroness, Lady Noakes, and I were on the Special Bill Committee that followed the Law Commission's report in the summer of last year. We did not report unanimously on the final outcome of the committee because she and I were in a minority—although not registered by votes—in saying that the Law Commission procedure, which means that if a matter is "controversial" it would not be taken forward in Parliament by a Special Bill Committee, translated into the fact that Lloyd's of London had a veto over what Parliament could do in this case. I found that quite extraordinary. It is the first time that I have encountered such a procedure in a democracy and I hope that it is the last.

Happily, a year on, we are doing, in broad terms, what the Law Commission recommended in the first place. We should be dealing with the unadorned principle and with nothing else. I am not sure how far emails, which I have not seen, from the Law Commission saying what someone in the Law Commission thinks is part of parliamentary procedure. As far as I am concerned, the Law Commission procedure concluded a year ago. So I do not see how Law Commission emails are evidence, any more than a QC's opinion. I echo the noble Baroness, Lady Noakes, on that matter.

Amendment 61 bears all the hallmarks of an attempt to introduce what the noble Earl, Lord Kinnoull, called "grit" into the system. This bit of grit is being introduced by the same constituency in the suggested provision, opening up a sort of litigation. I quote what the noble Earl said on 2 November. He said that a particular clause that he objected to could lead to more,

"disputed claims, leading in turn to … a lot of aggravation for the insurers concerned—in other words, grit in the machinery. That would naturally be less attractive to capital. Many factors decide where you want to deploy your capital as an insurance group, but I put it to the Minister that one wants to try to ensure that we do not have grit in the London machine, because any redirection of capital elsewhere would be damaging to the London markets".—[*Official Report*, 2/11/15; col. GC 305.]

This has been the leitmotif of one particular part of the insurance market, of which Lloyd's is, I think, 20%. It is the tail wagging the dog, as we all know. I was very sceptical when I saw the suggestion that we need to further accommodate the special pleading of Lloyd's of London in its campaign against having late payments covered by the law of the United Kingdom, as they are elsewhere in the world.

On this point about the collapse of London, far from being against the interests of our competitiveness, the truth is totally to the contrary. I will also quote what I think everyone in the House will think is a reasonably pertinent piece of evidence given by the Law Commission—by Mr Hertzell—a year ago. He quoted from a publication called *Commercial Risk Europe*, which quoted,

"a risk manager of a global company operating in 28 countries and employing 9,000 people".

This person,

"said of insurance generally, bearing in mind that his purchasing programmes are all around the world: 'I agree that most claims are paid on time. The London market is a different story'".

This person had a global perspective. He continued:

"'Claims can be harder to deal with in London as you come up against 20 lawyers'".

We have not had 20 tonight, but we have had one or two.

"'The system is not working and a lot of European companies will not go to London any more because if there is a claim you are in deep trouble'".

That is straight from the horse's mouth on this preposterous supposition that following what is the normal legal process around the world of dealing with late payment will destroy the competitiveness of the London market. That special pleading patently must be rejected by any independent observer.

Amendment 62 seems to shift the balance in favour of an insurer, against the background that we have read in many pieces of evidence given to the Bill Committee that one year is a short period before the claim is settled. Three years is given as an average for some large claims. Perhaps the Minister has more research to bring to bear on this subject. However, I wonder why this issue is being put forward by Lloyd's of London. That is a gift horse one might certainly look in the mouth. I think that—

8 pm

Lord Flight: The noble Lord may not be aware that the measure we are discussing has the support of the Association of British Insurers, the London and International Insurance Brokers' Association as well as Lloyd's and, indeed, the International Underwriting Association, so it is not just Lloyd's but the whole insurance industry that agrees with these points.

Lord Lea of Crondall: I spoke to some of those people yesterday and the general tone of their remarks was that they did not feel as strongly about this issue as they did about some of the other comments that Lloyd's has made. They did not want to be quoted as being on the opposite side. That was the message I got from them.

Baroness Hayter of Kentish Town: My Lords, like the noble Baroness, Lady Noakes, we cannot support Amendment 61 as it would enable an insurer to rely on the fact that it is had received legal advice to bolster the reasonableness of its position where a consumer had sued for an unfairly refused or delayed claim. However, it would not have to disclose the contents of the advice to the court, as the noble Baroness said. We consider that this would be an unbalanced tussle between the insurer and the insured.

Surely, if insurers refuse to make the content of their legal advice public, they must set out their other grounds for any delay without relying on their legal opinion. That should be sufficient for courts to assess, objectively, whether the grounds for delay were reasonable in the circumstances. It would be slightly absurd to allow an insurer simply to say that it had received legal advice saying that its grounds for dispute were reasonable, without requiring it to disclose the substance of that advice. Indeed, it would put insurers with deep pockets to obtain expensive legal advice in an unfairly strong position compared with the policyholder.

The House will be aware that the Law Commission takes a similar line to ours on whether an insurer's defence to a late payment being that it had "reasonable grounds" for disputing the original insurance claim could be bolstered by the assertion that a lawyer told it that it had such grounds. In the Law Commission's view, whether the insurer had reasonable grounds is an objective question based on the grounds themselves, not on a lawyer's letter. Indeed, the mere fact that it had received legal advice would have no evidential value. Surely, an insurer should not need to rely on its legal advice to prove the reasonableness of its position. Furthermore, it seems only fair for any such legal advice to become disclosable where a party wants to rely on the fact that it has received it to bolster the reasonableness of its position.

On Amendment 62, as has already been made clear, the Law Commission has written extensively on limitation periods. I have to confess that two colleagues present tonight have read all that in more depth than I have. During the insurance law project, the Law Commission considered recommending a special limitation rule in respect of late payment of insurance claims when it accepted that insurers with many claims would need certainty about when they could close their books on a claim. At that point, the commission decided that that was not the right way forward and that it was more consistent to recommend the application of general limitation laws. It said at the time that special limitation periods in particular circumstances add unnecessary complexity which can lead to further confusion and can disadvantage claimants.

Despite this, the commission, perhaps along with the noble Baroness, Lady Noakes, has some sympathy—the emphasis being on "some"—with Amendment 62, which sets out a measured change to the limitation period to give insurers more certainty about when they might close their books, knowing that their liability had been fully satisfied in relation to a particular claim. Although this could have the effect of shortening the limitation period for policyholders, possibly to their disadvantage, the commission also acknowledges that it is not an unreasonably short period and might even give insurers an incentive to make payments more quickly to start the one-year period rolling and we hopefully close that file.

We hear those arguments but remain to be convinced that this amendment is necessary, as we have seen no evidence of likely detriment, only assertion of it. We were particularly concerned that the Law Commission concluded that Amendment 62 would not "materially undermine" policyholder rights. That sounds a bit like some undermining of policyholder rights. Therefore, we look to the Minister to provide assurances on this point, should the Government be minded to consider this amendment further.

I am aware from what the noble Lord, Lord Flight, said that the insurers very much support this measure. Well, they would, wouldn't they? I have not heard the same from policyholders. We agree that there is some sense attached to Amendment 62—although not to

[Baroness Hayter of Kentish Town]
Amendment 61—although I think a little more evidence still needs to be produced before the Government take that fully on board.

Baroness Neville-Rolfe: My Lords, I am grateful to my noble friend Lord Flight for his comments and for the work done by the absent noble Earl, Lord Kinnoull. I am very grateful to my noble friend Lady Noakes for injecting realism into our discussion this evening. I agree that Clauses 20 and 21 are very important and overdue, and should improve London's reputation, as the noble Lord, Lord Lea of Crondall, said.

The Government and the Law Commissions that first developed the clauses have been keen to find a solution which would satisfy all stakeholders, allowing the London market to support the provisions. I am grateful to the market for its continued efforts. The latest amendments proposed by industry stakeholders relate to the complex legal areas of limitation periods and legal privilege.

I will deal first with Amendment 61, but I should say at this point that the Government have more sympathy for Amendment 62, which I will come to. The starting position in both areas is that the default rules should apply unless there is a very strong justification for making special exceptions for particular circumstances.

Amendment 61 seeks to answer some insurers' concerns that they will be forced to disclose legal advice they received in relation to the underlying insurance claim if they seek to show they had reasonable grounds for disputing that claim. Whether an insurer has reasonable grounds to dispute an insurance claim is an objective question, based on the substance of the grounds themselves rather than whether the insurer has received legal advice in relation to them. The insurer can establish these grounds without waiving privilege by setting out the grounds for dispute in its pleadings or by relying on the content of its correspondence with the policyholder.

Legal privilege is an important protection for parties, particularly during ongoing litigation. But the existing rules concerning waiver of legal privilege already balance the competing interests in the question of when legal advice should become disclosable. This amendment threatens to put policyholders at a disadvantage, which is not justified by a corresponding need on the part of insurers.

We have read the further legal opinion, which my noble friend Lord Flight kindly sent to me today. However, legal privilege is a complex topic which has been developed over the years by the courts and should not be changed in a specific context without very good reason. While I note all the work that has been done, the Government, like my noble friend Lady Noakes and the noble Baroness, Lady Hayter, are not convinced that such good reasons exist here. I therefore ask my noble friend to withdraw Amendment 61.

The Government have "some sympathy", to pick up the wording quoted by the noble Baroness, Lady Hayter, with Amendment 62, which relates to limitation. Some insurers have argued that the vast number of claims they deal with on a daily basis means that they need to know when they have satisfied all their liabilities in respect of a certain claim. I agree that it does not seem unreasonable to expect a policyholder to bring a late payment claim within a year of being paid the substantive insurance claim or the final payment under it.

It appears that Amendment 62 would increase certainty for insurers without materially prejudicing policyholders. It might even have the effect of encouraging insurers to make that final payment, to commence the one-year period for any subsequent late payment claim and bring the matter to a close. If that were the case, it would, of course, be a benefit to policyholders.

To that end, I believe that the amendment at least deserves further consideration. I agree that the policy intention behind it might represent an improvement to the late payment clause, which could be in the interests of both policyholder and insurer. In the light of this debate, I would like to explore the details of this possibility further and to discuss it with all interested parties. In the circumstances, I hope my noble friend will not move Amendment 62.

Lord Flight: My Lords, I thank the Minister for her professional and courteous reply. I am grateful that the Government are willing to further consider the issues raised in Amendment 62. With regard to Amendment 61, I say simply that I hope the relevant individuals will read the Edelman opinion. The bottom line is that if Clause 20 goes through as it is, it opens the door to vexatious litigation. But I thank the Government for their response and beg leave to withdraw the amendment.

Amendment 61 withdrawn.

Amendment 62 not moved.

Amendment 63 had been withdrawn from the Marshalled List.

Clause 22: Disclosure of HMRC information in connection with non-domestic rating

Amendment 64

Moved by ***The Earl of Lytton***

64: Clause 22, page 40, leave out lines 3 to 5 and insert—

"(1) An officer of the Valuation Office of Her Majesty's Revenue and Customs may disclose Revenue and Customs information to—

(a) a qualifying person for a qualifying purpose;

(b) a ratepayer for a hereditament.

(1A) Information disclosed under subsection (1)(b) may—

(a) be disclosed for the purpose of providing the ratepayer with all information used to assist determination of the valuation of any hereditament for which the ratepayer is responsible for the non-domestic rating liability and may be retained and used for that purpose, and

(b) include information relating to hereditaments not owned by that ratepayer."

The Earl of Lytton (CB): My Lords, I declare my relevant interests: as a business rate payer; as a one-time employee of the Inland Revenue Valuation Office, the antecedent body of the present Valuation Office Agency;

my membership of several professional bodies concerned with business rates; and as a landlord of let premises. Since this matter relates to local government finance, I further declare my vice-presidency of the LGA.

I thank the Minister for her forbearance, her communications with me and the facility of meeting her officials some days ago. I also thank the many noble Lords who have expressed an interest and listened to my sometimes convoluted explanations. I am particularly grateful to the noble Lords who have added their names to this amendment, and for the fact that they raised the matter in Committee when I was not able to attend.

In explaining the background, I start by noting that the valuation of business premises for rating purposes is a specialist field. Indeed, one feels that one is dealing with a rather narrow and slightly nerdy area of activity. It is true that it relates fundamentally to the rent that a hereditament, as it is called, would let for at a specified antecedent valuation date on a series of statutory assumptions, but the manner in which this calculation is made is obscure, may not bear any relationship to the actual rent and may be valued according to a pattern of rental evidence, precedent or a formula that is not immediately obvious, even to experts. There is an assumed state of repair. Some tenants' improvements and production plant will increase the assessment; others will not. That opacity defies most ratepayers' comprehension and is in itself offensive to the principle of transparency.

8.15 pm

Currently, entries in the present rating list are by reference to an antecedent valuation date of 1 April 2008—the peak of the property market. The national non-domestic multiplier—the number of pence in the pound which the rateable value is factored by to give the amount of rates payable—has been going up year on year by a percentage above inflation and now amounts to nearly 50% of the assessed rental value. In real terms, that is probably about 30% to 35% of the amount payable to the landlord in rent in most of the south-east of England; it is more in the north-east and north-west, and I have heard of some instances where ratepayers are paying more to their landlord in rates than in rent.

For decades it was customary for the Valuation Office Agency to share freely evidence underlying a rating assessment, but since 2010 it has pleaded confidentiality of information outside the arena of formal appeal processes due to its interpretation, after a pause of five years, of the Commissioners for Revenue and Customs Act 2005—the CRCA. Roughly speaking, this was to prevent the disclosure of private tax affairs. I never understood why it was appropriate to take the extraordinary step of extending this to the realms of business rating.

Faced with some 250,000 outstanding rating appeals, the agency has blamed the rise of slick but often unprofessional operators offering cut-price rating appeals for this state of affairs. It points out that some 50% of the appeals are eventually withdrawn and a further 25% are dismissed by the valuation tribunal in the appeals process. This has coincided with increased pressure on departmental budgets, reductions in the number of skilled staff and a legacy of failure going back much further to keep the rating system in a proper state of care and maintenance. This has been exacerbated by the fact that rates are being levied on the historically high 2008 antecedent valuation level and at absolute levels that ratepayers consider unfair and inequitable, coupled with the deferral to 2017 of the revaluation that would have taken place this year, leaving them paying rates on historically high tax bases.

I note with considerable regret that standards in the VOA seem to have slipped. I have been presented with some disturbing evidence of several high-profile cases in which valuation officers have been a great deal less than candid about the interpretation that can reasonably be placed on the evidence available or have attempted to conceal relevant facts in the context of rating appeals. This has reached the point where the confidence of ratepayers and professionals in the VOA has reached rock bottom. It is commonly believed that the agency has moved from being the dispassionate and objective government valuer to a partisan tax-gatherer as a proxy of Her Majesty's Revenue & Customs—HMRC. That matters. It matters professionally and in terms of the fair administration of this tax.

I do not blame individuals, who I suspect have been forced into a straitjacket caused by insufficient resources, coupled with demands to maintain the tax base at all costs. The problem is the system, which even the immediate past president of the Valuation Tribunal for England said in a recent interview in the *Estates Gazette* is broken and no longer fit for purpose. Seen in that context, the refusal to disclose information to ratepayers at the very earliest stage is identifiable as a deliberate blocking measure designed to frustrate access to essential information which otherwise the ratepayer cannot be expected to divine for himself or herself. It effectively ensures that a formal appeal is the only route to obtaining the full facts. This is to keep the hapless payer on the hook for continued payment of escalated rates bills for as long as humanly possible.

Despite attempts by the Minister's officials to reassure me, I remain utterly unconvinced by what is in Part 6, so my amendment is designed to cut through all that: to prevent the Valuation Office Agency citing CRCA and to free up the entire system by a process of transparency. It is the antithesis of what I see as the Government's retreat behind a further wall of regulatory barriers in Part 6. The Minister mentioned earlier today the intention to remove red tape and simplify things for business, so it is instructive to note what is actually in the draft regulations recently published under the Bill, under the *Check, Challenge, Appeal* consultation, and to contrast and compare this with the express thrust of government policy and the ostensible purposes of the Bill.

First, Part 6 will enshrine what I might call the confidentiality embargo in law. There is an obvious question as to whether it will thereafter seep into an extended embargo at appeal stage, so as to become like the public immunity certificates which apply in other areas of the law. I would like the Minister, if she would be so kind, to clarify what is intended there. That would be very helpful. Secondly, Part 6 would

[The Earl of Lytton]
pave the way for fees to be charged for making an appeal. This was an additional item put in following the earlier consultation in 2013. Thirdly, it may require a full statement of case and supporting evidence to be supplied ab initio by the ratepayer, failing which the valuation officer may declare the proposal to alter an assessment invalid—due, it might be added, to the absence of the sort of information that I am trying to ensure would be disclosed but which would, under the Bill, continue to be denied to ratepayers. All these measures are to be operated by the Valuation Office Agency as judge, jury and executioner without any apparent rights of challenge as to the fairness or appropriateness of what is imposed.

It seems to me that this is aimed at protecting the operation of the Valuation Office Agency and, perhaps, the tax base, but it is specifically to the unreasonable prejudice of ratepayers, the huge preponderance of whom are small businesses. It is clear to me that no additional funds for administration are to be available. Such reform as the Government have committed to is on the premise of fiscal neutrality. The Minister referred to small business relief; I would cite that in connection with fiscal neutrality because I remind your Lordships that small business relief is paid for by an additional amount levied on the ratepayers of larger properties. To say that all this is a manifestly disgraceful state of affairs is an understatement. It really looks more like the stuff of a police state and goes to the heart of confidence in fair taxation, impartial administration and the rule of law.

I turn briefly to the matter of confidentiality. This was looked at very closely in an opinion given by David Holgate QC, now the honourable Mr Justice Holgate, in which he debunked the fine distinction made by the Valuation Office Agency as between the CRCA and the Local Government Finance Act 1988. He points to the mismatch between this and the overriding duty under Section 41 of the 1988 Act, which requires valuation officers to maintain correct levels of value. In one Docklands offices case in 2014, the vice-president of the valuation tribunal made some unusually critical comments about the VOA straying from its assessment and valuation duty into revenue protection mode. As I have said, the principles of justice, honesty and fairness are at the core of any taxation code in a western democratic society, so there is an important principle at stake here.

My amendment has pan-industry support from such bodies as the Association of Convenience Stores, the British Council of Shopping Centres, the British Property Federation, the British Retail Consortium, the Federation of Small Businesses, the major rating surveying practices, relevant professional bodies and so on. I have seen the trade industry's most recent letter to a government Minister about this. In other words, all the arguments against the consultation that was commenced in 2013 and then not proceeded with in 2014 remain unresolved and unallayed.

In every other walk of life, the direction of travel is to reduce conflict and speed up process, ensure disclosure at the earliest stage in pursuit of those and reduce thereby costs, risks and delay. What is it about the Government's stance in the Bill so that, of all the measures that they might have chosen, this flies in the face of those admirable aims? What do the Government not understand about businesses that they choose what appears to be a deliberate racking-up of bureaucracy, a restriction of access to justice and a perpetuation of creeping malpractice? Concealing evidence is manifestly and objectively wrong. This is the only area of taxation I know of where what will have become statutory concealment applies.

Assuming that the measure gets through this House and the other place—although I hope that this debate will be noted and acted upon—I predict that it will foster dismay and a further cultural shift among ratepayers of equal and opposite magnitude to what I regard as this outrageous part of what is otherwise a good Bill. Part 6 is, ultimately, a temporary prop which will eventually fail. In any event, it will not work. People talk to each other—and in the property world, they talk to each other a lot. That is what makes our property industry so transparent and fluid. The common enemy will be seen as the system and its administrators. In a culture of growing scepticism and disregard, the provisions of Part 6 will simply provide further fuel to the flames. I hope that, even at this stage, the Minister will reconsider.

Perhaps I may say a brief word about government Amendment 65 while I am on my feet. This amendment, too, consolidates a principle of non-disclosure. In any event, I do not see how the disclosure of facts relating to a property transaction, the vast majority of such evidence being held by the Valuation Office Agency, equates to disclosure of personal or corporate tax affairs. The Government's stance on this is narrowly founded, oblique and, I suggest, flawed. That said, I beg to move.

Lord Stoneham of Droxford: My Lords, I somewhat regret that we are down to the last 10 people standing in the Chamber on what I regard as probably the most important issue to involve small businesses that we have looked at tonight. This amendment deserves some consideration because it is important. I think that the Government are going off in completely the wrong direction.

Clause 22 opens up information for local authorities and the Valuation Office Agency, but it does not go back to the legislation of 2005 and open up that information for ratepayers. That is the simple issue. The problem is that the Government are trying to overcome a large number of appeals made against rate assessments. There have so far been more than 850,000 challenging the 2010 rateable values. It is no wonder that the Government want to do something about it. We know that this ties up resources dealing with what the Government consider to be some unnecessary and frivolous claims, given that 70% of appeals lead to no change, but why is this happening? All the experts tell us that it is mainly because the only method to extract information from the Valuation Office Agency is to appeal. We ought to listen to them. I think the assertion—which I agree with—is that if the Valuation Office Agency shared more of this information up front, it would deal with much of this problem, and the ratepayers and small businesses would be much more satisfied with their clarifications.

We have a consultation at the moment, with the Government looking to set up a three-stage appeal procedure: check, challenge and appeal. The check stage ought to be where businesses can check the evidence that the Valuation Office Agency is using, but all they are allowed to validate is information that they already have about their property and the current occupier's rent. They will know that themselves, so that is hardly very helpful. This stage can take up to 12 months, and it then takes three years to complete the process for making an appeal. There are even more requirements on ratepayers to provide even more information and more grounds for appeal. It is very bureaucratic.

The Minister told us in Committee that the information that the ratepayer wants is confidential and therefore difficult to provide. But this information is known to landlords and their agents; it is simply information that is not available to the small businesses and the ratepayers, who do not have the resources to get it. We heard the quote from Graham Zellick, the recently retired president of the Valuation Tribunal for England, but it is worth quoting him again in this debate on this very important issue, because we think the Government are heading off in the wrong direction. According to the *Estates Gazette*, to which he gave an interview recently:

"The problem, he explains, is that the ratepayer is never given the full explanation for the valuation. As a result, every time there is a new rating list, ratepayers initiate a challenge … partly to protect their position but chiefly to 'flush out' more information".

He says in that interview:

"Unless information is given up front, the system will remain defective and unsatisfactory and unjust. I don't know any other tax that can be levied where the taxpayer doesn't understand in full down to the last detail the basis on which the taxman has calculated the tax due. It's unprecedented, it's unique and it's wrong."

What are the Government doing? They are doggedly refusing to require the Valuation Office Agency to help businesses by making this information available. Instead, the entire burden of proof is being shifted back on to businesses. We have a cumbersome series of administrative steps, with targets and timescales in the way, failure to meet any of which can invalidate the whole appeal. This is not the direction in which the Government should be going. They need to have a good look at the direction they are taking: they are not helping small business and they need to change course. It may be too late now to do it in this House, but by goodness, if anybody is interested in small businesses, they ought to address this in the Commons.

Lord Mendelsohn: My Lords, I express our side's strong support for Amendment 64 and will also speak to Amendments 66 and 67. This is one of those issues which seems small when it is first presented but then grows and grows as the significance of it becomes ever more apparent and as the voice of the people whom it impacts starts to find its full volume. I strongly associate myself with the speech of the noble Earl, Lord Lytton, which I thought was absolutely outstanding. It set out all these issues extremely clearly and demonstrated the quite extraordinary consensus that there is on this subject in every quarter—except in the Valuation Office Agency and, it would seem, in the Government. I also congratulate the noble Lord, Lord Stoneham, on an extremely impressive speech and a great summation of the issues, including a view on how check, challenge and appeal could actually work more sensibly.

I also declare an interest and an experience. Recently, at the business that I set up and where I spend a lot of time, surprised that our rates were significantly in excess of our rent, we decided that we would try to see why that was and what the situation was. I had never really dealt with this issue in any of my other businesses, and I did not know the answer. So we tried to find out what it was. We were given short shrift by pretty much everybody and were set the challenge that we would not find anything until we appealed. So we were invited to appeal by the very agency that is not happy about the level of appeals, because that was the only way we could find out information. We thought about whether we should do it. The hurdles were considerable—I do not think anyone does it particularly lightly in the first place—and we took the view that we had better things to do and that a full calculation of time and value would probably show that it was not worth it. So we left it.

Along came a chap knocking door to door in our building who said to us, "We do rating appeals. In fact, we have done most of the area and you, I am sure, are eligible to pay less". We asked how he could be so sure. He said, "I will tell you what everyone else is paying"—and he did. He said, "I have done most of their appeals and I have won. I think that you and others in this block should appeal. I'll tell you what: I am so confident, I'm not going to charge you anything; I will just take part of the upside". We thought that sounded fantastic. So I am one of those people currently in the queue waiting for an appeal. I am coming up to my one-year anniversary of absolutely nothing happening, except that I have now found out that there is a whole group of us who have either been through or are going through the experience in a particular geography.

In fact, I met someone who is in a block that I consider to be considerably plusher than mine—underground car park, very fancy and much, much newer—and who is paying less than I am, in what I consider to be a somewhat rum building but we call it our office. They said to me that they appealed because someone else in another building who was paying more thought that they were due to pay less. It seems that a lot of people have a certain level of knowledge and a lot of appeals are generated as a result.

I have experienced that myself. I know that a huge number of people—the noble Earl, Lord Lytton, said that it is 250,000—are waiting for an appeal. That is a considerable number given the overall number of business premises. I would be very interested if the noble Baroness could give us more detail about the people waiting for an appeal, particularly the ageing profile—that is, how long they have been waiting for their appeal to come through.

There is a complete misapprehension that 70% of cases lead to no change and that therefore there is a problem with vexatious appeals. You do not find out any information until you appeal and then you make a judgment as to whether it is worth pursuing. The system has created the wrong question, which has then been given the wrong answer. That is where we stand.

[LORD MENDELSOHN]

Non-domestic rating is a highly significant form of revenue for the public sector, as well as having a high impact on business. Naturally, in the new digital economy it is easier to tax anything with a physical presence. Retailers alone are paying £2.40 in business rates for every £1 in corporation tax.

However, our question is about who benefits at what level and whether it is the right system; it is also about the operation of the current system. Some experts have concisely highlighted the problem facing non-domestic ratepayers. Individual valuation officers are the sole judge of what is proportionate. Ratepayers are still denied the details of how their valuations are calculated for classes of property, and they lack the capacity to make a proper, sensible judgment through a denial of information.

I am very tempted to add to those noble Lords who have quoted the distinguished professor and Queen's Counsel, Graham Zellick, who, as the former president of the Valuation Tribunal for England, provided the best possible quote to summarise the situation. I have such a high regard for Professor Zellick that I agree with it without much hesitation, but the evidence of my personal experience is also strong.

Not only is the existing system unfair but it is hugely counterproductive. The lack of transparency has only resulted in more appeals, further burdening an overstretched process and creating a backlog which delays appeal results. In its current form, the Bill does not address the information deficiency between the ratepayer and the Valuation Office Agency.

The noble Baroness has previously stated that information cannot be shared with the ratepayer because assessments of other ratepayers are confidential commercial information. Let me be clear that we do not advocate the Valuation Office Agency sharing commercially sensitive information which may create some competitive or other advantage—or lead to the collapse of Western civilisation. We are not calling for the disclosure of individual commercial assessments which will never see the light of day in any other circumstances, but the information to contextualise a decision about the rate paid is important for the tenant.

As it happens, I do not agree with the assessment that there is such a thing as confidential information in this situation. The person who is deficient in information is usually the small business, the tenant, because larger companies and landlords can be provided with details of almost all the other deals in the area—a fact that I did not know until recently. I now declare another interest: I chair an advisory board of a property investment business. It specialises in residential property. I was shown a building needing refurbishment and we were able to get from all the agents—the estate agents and the large valuation agents—every detail of every deal in the surrounding area to make our commercial calculations. If it is good enough for other interests—particularly the landlords—why is it not good enough for the tenants? I really do not understand.

The inclusion of Amendment 65 is a matter for concern. I am grateful to the Minister for giving me an indication of why it is there, but I am rather more persuaded by the assessment that it prevents a sensible flow of information. It creates a new statutory bar to apply to identifiable taxpayer information that has been shared by the Valuation Office Agency under Clause 22, so the protection from disclosure under FoI is not lost with transmission. I am very concerned that we are just adding hurdles for the individual ratepayer.

I am inclined to believe that the check-stage process has some positive features—such as offering opportunities for more dialogue between stakeholders—but it does nothing to resolve the underlying issue that ratepayers enter into discussions with the deck stacked against them. They are expected to enter into a time-consuming and potentially costly endeavour with little knowledge of where they stand—unless they are fortunate enough to meet someone so confident and with such a strong record that they will do it for free. The amendment resolves the information asymmetry, enhancing considerably the check stage while protecting commercially sensitive ratepayer information.

Amendment 66 is designed to establish performance targets for the Valuation Office Agency. The timescales for the check, challenge and appeal process are unclear, and this ongoing lack of precision will further entrench a climate of uncertainty into the rate review and appeal process.

In Amendment 67, we are firmly against the imposition of any upfront fee for appeals. If the rationale for that is to discourage ratepayers from making appeals, penalising businesses and diminishing their access to justice is surely the wrong way to go about it; providing information seems much more sensible.

At its very core, in business rates, your liability depends not on your property but what is being paid by lots of other people, and you have no right to obtain that information or the context of their deals, while others have ready access to it. It is clear that there is a beneficiary from the measures—and we should play "hunt the beneficiary". The Local Government Association and the treasurers in local government see benefits neither for themselves nor for business. Experts and commentators suggest that these measures achieve little and do nothing to help enterprise or business, so who do they help? They help the Valuation Office Agency by making its exchange of information easier within government and by raising the bar on appeals. Surely this is not right. If the Bill was called, "Making the Valuation Office Agency's Life Easier at the Expense of Enterprise" then I would understand it. But this is the Enterprise Bill and it is meant to help businesses.

What is the calculable benefit to enterprise of any of these measures? If it is filling in one form, which has previously been suggested, then what we now have is a procedure that will require much more work, time, effort and resource—including cost—for businesses to pursue. Given that we have strong support for Amendments 66 and 67 from the Federation of Small Businesses—from the experience of small businesses—I hope that the Government will take these matters seriously.

8.45 pm

I am inclined to believe that there is a problem with the efficient running of the Valuation Office Agency, as there is in a variety of areas of government. I was recently informed that the DVLA chooses to suggest

that it is unable to search on its computer by any means other than a number plate. I hope that some of these agencies have much more complex computer systems than my children have. It is probably better to review the operation of agencies rather than provide legislative cover for their failings and for the failings of the system.

There are 250,000 cases. Agents find it especially easy to establish astonishing success rates for the appeals that they apply, and some of them do this for free. I also understand that the Valuation Office Agency is now saying that the case officer dealing with an individual matter will no longer be the person who will necessarily appear at a hearing. This is extraordinary. I was rather inclined to doubt that this was something that I would find so extraordinary. How is it possible for such a person who just arrives with such a case to claim any expertise? I was comforted to know that even the Valuation Tribunal has warned that such a person might be disbarred from giving expert advice because they are not considered to be expert in that case. Surely that speaks to the problems at the Valuation Office Agency and nothing that this measure will address.

I have also heard reports that the central region of the Valuation Office Agency is suspending all activity on appeals. This again is an extraordinary measure. Is this because there is already such a large backlog? I am concerned, once we change these measures, about what will happen to that backlog. I am sure that there are a number of people who are concerned. As I said, I have a direct interest, so it would be nice to know. I am reaching my anniversary, so should I buy a cake, or will it be that these measures will wipe out and everyone will have to start again?

I do not accept the premise of the arguments in favour of these measures, and these incidents in themselves provide a commentary on the stated objectives which the Government have presented before. Interim findings are that rating appeals are made with little supporting evidence and take too long to resolve; that is one of the central claims. That is absolutely true. The reason for this is that you have no option to pursue any part of the case other than to appeal on an instinct. You are not given any assistance, so if you ask the wrong question, you end up with the wrong answer.

Secondly, it is claimed that businesses can be confident that their valuations are correct and they are paying the right amount of rates. No, unfortunately not: I cannot see in this measure any way of doing that. If you were to do that at an earlier stage, in keeping with Amendment 64, you probably would not need to go through an appeal process.

Finally, the new staged process provides a structured and transparent approach with clear expectations about timescales, requirements and actions, even though there are not any established—we tried to establish it in one of our amendments—and there is not a transparent approach at the very core of it, which is what Amendment 64 does. I share the feeling of the noble Lord, Lord Stoneham, that this is one of those issues that actually has a direct and material benefit—a major, calculable and serious benefit to small businesses in an area where small businesses are at a material disadvantage. It seems to me a terrible shame that a couple of potential amendments that would have such a detrimental impact on business and a huge benefit only for an agency should form part of the Enterprise Bill. I really hope that the Minister will consider keeping this one open. It has become clearer to me that there are many people outside who have a very deep sense of grievance and a feeling that this is a matter that needs to be resolved. I hope that she will consider this very carefully and come back at Third Reading with at least something that will give some people some comfort.

Baroness Neville-Rolfe: I thank the noble Earl, Lord Lytton, for his amendment, and, in particular, for his words and the work that he has done in this very complex area. Having said that, some very critical comments have been made this evening which seem unfair. I will, therefore, take time to go objectively through the amendments and respond where I am able to do so.

The experience of the noble Lord, Lord Mendelsohn, underlined to me the urgent need for reform. That is why we brought forward provisions in the Bill, the consultation and the modernisation and improvement plan for the agency. I will look into the point that the noble Lord made, on which I am not briefed, about the fact that the backlog seems to be increasing and cases are not being dealt with—but I am not able to answer that this evening.

Amendment 64 would allow the Valuation Office Agency to share HMRC information with ratepayers. Members of my team greatly appreciated the meeting noble Lords held with them to discuss these issues. A subsequent meeting has now been held with ratings agents and further meetings with businesses will follow. I understand that our proposals to address the high volume of ineffective appeals and delays under the current system have been recognised as worthwhile, not least in speeding up any refunds. We will continue to work with businesses to ensure that the new system is practical, workable and beneficial.

As the noble Lord, Lord Stoneham, said, we have been running a parallel consultation on implementation, in which we set out a clear and structured three-stage process. The consultation is still open and I am sure that the bodies mentioned this evening will respond. The reforms promote full and early engagement between parties. Factual information will be established during check stage, with arguments and evidence exchanged at the beginning of the second challenge stage—far earlier than happens at present. This significantly brings forward the point at which the Valuation Office Agency is able to provide information to address the ratepayer's case.

Business rates are a unique tax which require the collection and holding of commercially sensitive information. This can include details of market deals such as rent-free periods or the treatment of fit-out costs—information that the landlords and tenants in question may well not wish to make available to their competitors. I note the concern about the Valuation Office Agency but we should abstract from that to some extent because it has a duty to protect information and the interests of the ratepayers must be taken into account. That is a fundamental principle of data

[Baroness Neville-Rolfe]
protection and to override it and allow routine sharing of confidential information would undermine the basis of trust on which the system depends.

Amendment 66 allows the Secretary of State to regulate the operation of several aspects of the appeals system. I share many of noble Lords' aims: to support small business, of course; to see high performance standards in the appeals system, which is obviously not fit for purpose at present; and to ensure that decisions are made quickly. I have some good news today for small businesses in that the spending review extended the doubling of small business rate relief for a further year. Given the discussions, particularly in Committee, noble Lords will also be pleased to hear that the Valuation Office Agency will now prioritise small businesses within the appeals system. Of course, the majority of rates are paid by larger businesses and they bring the most appeals, but I think we all agree that the small business interest is extremely important.

Performance is more appropriately addressed by a service-level agreement than in the Bill, and that is what we proposed in the consultation. The requirement for parties at every stage to provide specified information in a structured way will ensure that the Valuation Tribunal for England is able to deal with cases in a quicker and more efficient way. However, it would not be appropriate for Parliament to prescribe the operation of an independent judicial body, which is what would happen with the amendment.

The Government agree that ratepayers should be able to move on to appeal stage if no decision is forthcoming at challenge stage. The proposal for trigger points in the consultation paper will provide that right. The 18-month figure in the consultation paper is obviously longer than the six-month figure proposed by noble Lords. However, we have made a commitment to reduce that figure as the system develops and beds in.

Amendment 67 would remove the power to introduce the payment of fees at appeal stage. This is a fundamental part of our reforms, because it will increase the incentives for early and full engagement in the first two phases. It will promote quicker decisions and reduce costs for businesses, as well as helping to reduce the large number of speculative appeals, which I do not think anyone has mentioned but which clog up the system for everyone else. We need to get away from that.

In the three-stage process, there are no charges at check or challenge stage, where it is our expectation that the majority of cases will be resolved. We are also proposing that appeal fees will be refunded where appeals are successful. Discussions on these important matters will continue as part of the consultation process. The consultation closes on 4 January, and we will consult further next year on the draft regulations.

The Government are not, as the noble Lord, Lord Stoneham, implies, clamping down on taxpayer information. These measures introduce earlier information exchange and will help the ratepayer. The new system enables businesses to make the judgment on the basis of information provided at stage 2, before launching an appeal, which is stage 3. So the Bill addresses the information deficit, which I think is of mutual concern.

Finally, Amendment 65 changes Clause 22 to protect taxpayers' information. Identifiable taxpayer information which is held by the Valuation Office Agency is exempt from FOI requests, but that exemption does not extend to information shared with local government under Clause 22. Therefore, as the clause stands, identifiable taxpayer information could become exposed to disclosure under FOI. The amendment will exempt from FOI anything shared under the clause which would identify the ratepayer; it will not exempt any other information from FOI and will merely ensure that taxpayer confidentiality is maintained. I reassure the noble Lord, Lord Mendelsohn, that the amendment, far from restricting the flow of information, is key to enabling the safe transmission by giving the agency the confidence and security to share data without risk under FOI.

It has been a long debate and it is late. I commend Amendment 65 to the House and ask the noble Earl to withdraw his amendment.

The Earl of Lytton: I thank very much those noble Lords who have supported this amendment, and the Minister for her thoughtful comments. I particularly took to the comments of the noble Lord, Lord Stoneham, which were elegant, to the point and delivered much more effectively than I could ever have done.

I make one point on the point raised by the noble Lord, Lord Mendelsohn, on the check, challenge and appeal process, which relies entirely on resources being available at the check stage. I, too, had heard the point about resources being withdrawn from appeal handling until, I think, the 2017 revaluation is out of the way. So there is an ongoing structural problem. On that point, the Minister did not answer the question that I put about at what level disclosure would take place. If, under the check, challenge and appeal process, the disclosure does not appear at the check stage, we are precisely back where we are at the moment.

There are two other things. With regard to what the Minister said about HMRC information being disclosed, the label "HMRC information" in this context is by proxy only because this is information that has always been dealt with as a Valuation Office Agency matter under the relevant legislation. It is about the valuation officer role rather than the person concerned with general taxation, the district valuer. There is a very important difference—which was pointed out in the Holgate opinion, which I have circulated—between the two. There is a morphing into HMRC information under that label which should not be used. It is mislabelling where that information comes from, the purposes for which it is compiled and the route by which it comes.

My final point is on confidentiality. Why would a lessor or business want to keep its rental information confidential? Given what is known and the leakage through the system, that would be a tough call in this country. We are not dealing with the sort of closed shop that applies in many other jurisdictions. However, I can think of some very good reasons why a confidentiality clause might be included, for instance, where a letting is procured ostensibly at a headline rent but is actually underpinned by a three-year rent-free period in a five-year review cycle. Of course, someone

would not want that to be bandied about. If the Valuation Office Agency could be counted on to sift that out, so that there was absolutely no question of the integrity of the body in analysing that and it was a true reflection of what that rent was in real terms, as opposed to just the headline rent, I do not think we would have any problem. However, it cannot be. I know that from direct experience.

It is unfortunate that this very important point of principle occurs so late when there are not so many people in the House let alone in the Chamber. It would clearly be wrong even to consider pressing this amendment in the circumstances. Had it been in any other circumstances, I would have been sorely tempted to test the opinion of the House, but now is not the time or the circumstances to do that. It is with great reluctance that I withdraw this amendment because from having spoken with the clerks I am not at all clear that it will be possible to bring it back at a later stage. If it is not possible, we will have to rely on the good offices of the other place in order to raise this and, I hope, do it.

I will end on one thing. We stand in all this in terms of what we are doing to foster business in the construct of an Enterprise Bill, and we should never forget that mission. As the noble Lords, Lord Mendelsohn and Lord Stoneham, said, this runs entirely in the wrong direction. It is the wrong question and you get the wrong answer. It is a false premise. It is a reductio ad absurdum in terms of where we are. That has to be addressed. It is clear that this is an area of tax that is long overdue for fundamental, thoroughgoing reform. It is a failing of many Administrations over many years that it has not been dealt with. Businesses are the worse for it. With that, I beg leave to withdraw the amendment.

Amendment 64 withdrawn.

Amendment 65

Moved by ***Baroness Neville-Rolfe***

65: Clause 22, page 41, line 38, at end insert—

"63C Freedom of information

(1) Revenue and customs information relating to a person which has been disclosed under section 63A or 63B is exempt information by virtue of section 44(1)(a) of the Freedom of Information Act 2000 (prohibition on disclosure) if its further disclosure—

(a) would specify the identity of the person to whom the information relates, or

(b) would enable the identity of such a person to be deduced.

(2) In this section "revenue and customs information relating to a person" has the same meaning as in section 19(2) of the Commissioners for Revenue and Customs Act 2005."

Amendment 65 agreed.

Clause 23: Alteration of non-domestic rating lists

Amendments 66 and 67 not moved.

Consideration on Report adjourned.

House adjourned at 9.06 pm.

Volume 767
No. 73

Wednesday
25 November 2015

CONTENTS

Wednesday 25 November 2015