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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

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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

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House of Lords

Wednesday, 20 January 2016.

3 pm

Prayers—read by the Lord Bishop of Derby.

Death of a Member: Lord Weidenfeld

Announcement

3.06 pm

The Lord Speaker (Baroness D'Souza): My Lords, I regret to inform the House of the death of the noble Lord, Lord Weidenfeld. On behalf of the House, I extend our condolences to the noble Lord's family and friends.

NHS: Preventive Medicine

Question

3.07 pm

Asked by Baroness Rawlings

To ask Her Majesty's Government how they intend further to incorporate preventive medicine into the National Health Service.

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, the NHS five-year forward view set out a shared vision for the future of the NHS. It includes the long-standing aspiration for the NHS to focus as much on prevention and promoting wellness as managing poor health, working in partnership with local public health services through health and well-being boards.

Baroness Rawlings (Con): My Lords, I thank the Minister for his positive reply. I never thought that I would quote in your Lordships' House the leader of the Opposition in the other place. He asked the Prime Minister at Prime Minister's Questions recently whether he had,

"forgotten the simple maxim that prevention is cheaper and better than cure".—[*Official Report*, Commons, 16/12/15; col. 1545.]

I commend the National Health Service for shifting its policy from sickness and cure to wellness and prevention. Would the Minister, through the National Health Service, encourage private health insurance organisations to do likewise, thus evading certain serious sicknesses and not adding to the National Health Service's overstretched budget?

Lord Prior of Brampton: My Lords, there is clearly a direct legal contractual relationship between a private insurance company and an individual. The NHS cannot interfere directly with that contract. There is no similar legal relationship between the NHS and the citizen, although there is clearly a social and moral contract between the two. As part of that contract the state agrees to provide free, high-quality healthcare. It is

only right that the individual should accept personal responsibility for their health and well-being, and that of their family.

Lord Rooker (Lab): Can I make a suggestion to the Minister? If the Government want to take preventive medicine seriously, they should invite Sir Nicholas Wald, Professor of preventive medicine at the Wolfson Institute, to come and talk about his lifetime's work on things such as the polypill, and, indeed, his leadership in 1990 of the Medical Research Council's work on preventing spina bifida and neural tube defects in babies by the use of folic acid in flour.

Lord Prior of Brampton: I thank the noble Lord for raising this issue today. We discussed it yesterday and the Government will give him a full response to the issue of fortifying bread with folic acid in the very near future.

Baroness Finlay of Llandaff (CB): Does the Minister recognise in his answer that people should be responsible for their own health and the health of their families that there is a responsibility on the NHS to ensure that there is adequate support before, during and after bereavement of children? The preventive effect on mental health problems later in life is very clearly shown. Those who are unsupported do less well in the whole life course in mental health, and in social and educational outcomes.

Lord Prior of Brampton: My Lords, clearly, the state has a huge role to play in prevention; I was certainly not questioning that for one moment. I was just saying that I believe that individuals and families have responsibilities as well.

Baroness Tyler of Enfield (LD): My Lords, given that £1 in every £5 of healthcare costs is associated with conditions that could be prevented, what assessment have the Government made of the likely cost savings on NHS spending of using more preventive medicine?

Lord Prior of Brampton: My Lords, if the noble Baroness reads the *Five Year Forward View*, she will see that prevention is a very critical part of that. But, of course, prevention goes much wider than healthcare in the NHS; it goes to employment, housing, education and a whole range of other things. Having a strong and vibrant economy with high levels of employment is vital.

Lord Howarth of Newport (Lab): My Lords, in their preventive strategy what will the Government do to attend to the social determinants of ill health, including inequality, deprivation in early childhood and deteriorating public services?

Lord Prior of Brampton: My Lords, it is a very serious issue that over 40 years, and probably for longer, the difference between the life expectancy of the rich and the poor has always remained at about 10 years: and for healthy living it is more like 25 years. I think it is

[LORD PRIOR OF BRAMPTON]

fully understood from Sir Michael Marmot's report and thereafter that the social determinants are more important in closing that gap than anything we can do in healthcare directly, so what the noble Lord says is absolutely true.

Baroness Greengross (CB): In the 2015 report *Opportunity Knocks: Designing Solutions for an Ageing Society*, the University of Cambridge Engineering Design Centre, the ILC-UK and the IET highlighted the vital role of good design and technology in supporting preventive medicine, particularly, but not exclusively, for older people. The OBR warned us last year that without technological innovation over the next decade, health spending in 2063 might be 5% of GDP higher than currently projected. Do Her Majesty's Government agree that we must invest in technology to save money by facilitating the preferred solution of sustaining independent living, particularly among older people and those subject to the revolving door syndrome? Will the Government support this and invest in it?

Lord Prior of Brampton: My Lords, good design is very much part of any long-term strategy towards improving the lives of our citizens, so it is a hugely important part of our longer-term strategy.

Baroness Wheeler (Lab): My Lords, we know that smoking is by far the biggest cause of death in the UK and research shows that two-thirds of smokers want to quit, yet the recent ASH survey has shown that the cuts in public health funding and in council budgets have led to 40% of local authorities having to cut stop smoking services. Last year these were used by more than 450,000 people. They are three times more likely to quit if they get the vital support of these services. How can it make sense to cut services when for every £1 spent on cessation services, £10 is saved in future NHS and health gains?

Lord Prior of Brampton: Successive Governments have had a huge impact on reducing smoking levels, which are now down to 18%—the lowest they have ever been.

Lord Forsyth of Drumlean (Con): My Lords, would this not be a suitable subject to be considered by a royal commission on the health service, which my noble friend Lord Fowler has advocated and for which he has considerable support in all parts of the House?

Lord Prior of Brampton: My Lords, the issue to which my noble friend refers was fairly fully discussed in a debate in this House initiated by the noble Lord, Lord Crisp, only some two months ago. If Members of this House wish to discuss it further, they are, of course, very welcome to do so. However, I am not sure that a royal commission is necessarily the right way to proceed.

Housing: Underoccupancy Charge Question

3.14 pm

Asked by **Baroness Quin**

To ask Her Majesty's Government what is their assessment of the effect of the underoccupancy charge on the health and well-being of those subject to it.

The Minister of State, Department for Work and Pensions (Lord Freud) (Con): Our reforms are designed to ensure that work always pays and the removal of the spare room subsidy has incentivised more people to enter work and increase their earnings. Evidence shows that work can keep people healthy as well as help promote recovery if someone falls ill. Those who require additional support can access discretionary housing payments and we are making more than £800 million available over the next five years.

Baroness Quin (Lab): My Lords, the Government—and indeed the Minister in previous replies—have failed absolutely to concede that there has been an adverse effect on the health and well-being of those who are subjected to the bedroom tax. The Minister talks about evidence, but has he read the reports commissioned by his own department, the academic studies that have been done by a number of universities, the information from local authorities, the information from citizens advice bureaux, or the personal testimonies on blogs such as the “My Spare Room” blog? They tell a very different story. In the light of this overwhelming evidence, what changes will he bring in to this policy?

Lord Freud: This is now a long-standing policy of this Government, to make sure that we tie in the availability of social housing to those who need it. People tend to forget the numbers who are on waiting lists or are in overcrowded accommodation and that this policy of matching available stock to people's requirements improves their outcomes.

Baroness Eaton (Con): Can my noble friend the Minister tell us what is happening in health and well-being in this country?

Lord Freud: We have run a well-being survey since 2012, published by the ONS. I am pleased to report that, on all four key measures of well-being, there has been an improvement every year since the survey started almost four years ago; that is, in life satisfaction, finding activity worthwhile, happiness, and reduction of anxiety.

Baroness Meacher (CB): My Lords, I understand what the Government are attempting to achieve through the underoccupancy charge, but does the Minister have an estimate of the number of people who are subject to that charge for whom there is no appropriately sized accommodation available? Does he have any

plans to relieve those particular households from the charge, when it is no fault of their own that they cannot move out?

Lord Freud: We saw in the report that came out just before Christmas—which we were able to discuss in this Chamber—that nearly 100,000 people have moved and are no longer affected by the removal of the spare room subsidy. More than half of them have been able to downsize—mainly within the social sector, but some in the private sector. More want to do so and the process is continuing.

Baroness Lister of Burtersett (Lab): My Lords—

Baroness Manzoor (LD): My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, I am sorry to get up, but the noble Baroness, Lady Manzoor, has been trying to get in for a little while. Then we should go to the Labour Benches.

Baroness Manzoor: My Lords, it is really welcome that the Government have initiated the discretionary housing benefit allowance to offset the negative impacts that the spare room tax has on people's health and well-being. Despite this extra subsidy, many people are affected. They are going to food banks and are in significant rent arrears. This will be compounded by the ESA WRAG component, under which many people with mental health problems and with a disability may be further affected and may lose their homes. Can the Minister say how this effect will be mitigated?

Lord Freud: I just want to point out to the House that some of the concerns that the House rightly had about the impact of this policy on what would be happening to arrears and so forth have actually not come to pass. We are looking now at rent collection levels in the social sector at 99%, and 92% of social housing associations are saying that they are within plan and that customers are managing their rent accounts well.

Baroness Lister of Burtersett: My Lords, once again the Minister has talked about the policy incentivising people, but the report to which he just referred—which, as he said, we discussed just before Christmas—found that only 5% of those affected actually found work, and about half of those were still subject to the bedroom tax. In what way does this constitute a successful outcome for either the Government or the tenants, many of whom are clearly suffering hardship as a result?

Lord Freud: Some 20% of the total number affected have looked to improve their employment outcomes; among those who are unemployed, that is up to 63%. In the overall figures you can see real changes in behaviour, with the number of workless families in social housing down to an all-time low of 39%. This in a context of dramatic changes in employment levels, with employment at its highest level since records began;

record lows in inactivity; record female employment; record youth employment; the lowest number of workless households since 1996; and out-of-work benefits at their lowest level since 1982. We are seeing a transformation and this is part of it.

Lord Beecham (Lab): My Lords, in Newcastle alone, 4,720 households are affected by the charge—1,200 with children and 1,000 of them working households. The average loss per household is £748 a year, and arrears from 2,000 households amount to £639,000. How does the charge contribute to the well-being of these families and will the Government be applying equivalent financial sanctions for underoccupation to those to whom they intend to offer benefits under their starter homes policy?

Lord Freud: I understand that the noble Lord is referring to a study conducted by Newcastle University. I have to point out that that study was a qualitative survey, based on interviews with 38 people, which was a self-selecting sample.

Syria: Refugees Question

3.22 pm

Asked by **Lord Balfe**

To ask Her Majesty's Government what assessments they have made of the range of potential flows of refugees from Syria, under different scenarios for the future of that country; and of the potential numbers who might be offered asylum in the United Kingdom.

The Parliamentary Under-Secretary of State, Department for International Development (Baroness Verma) (Con): We use UNHCR assessments of refugee flows and fund the International Organization for Migration to improve data collection and analysis. The overwhelming majority of refugees remain in the region and this is where our support is targeted. We have been at the forefront of the response and have pledged more than £1.1 billion to the crisis. The vulnerable persons relocation scheme will prioritise the most vulnerable and resettle up to 20,000 Syrian refugees during this Parliament.

Lord Balfe (Con): I thank the Minister for her reply and point out that sometimes, in pursuing foreign policy, one has to sacrifice ideals to a sense of national pragmatism. If the current Government fell, the flow of refugees from Syria would increase substantially, particularly if the Alawite and Christian communities were turned into refugees. This could mean 2 million further refugees looking for asylum. Do the Government have any plans to deal with this possible influx?

Baroness Verma: My Lords, the Government have been consistent in trying to support people within the region, where we think they are best placed to be looked after, and to encourage them not to become

[BARONESS VERMA]

victims of smugglers and people traffickers by trying to get across to Europe. We are also encouraging our donor partners to contribute so that we can work better within the region. We have a conference coming up in February. Ultimately, what we need is a long-term political solution.

Baroness Northover (LD): My Lords, I am sure that the Minister has noted how vulnerable unaccompanied refugee children are. For example, of those seen in an Italian clinic, half were suffering from sexually transmitted diseases. Will the Government urgently address the request from Save the Children that we should take in 3,000 of these children?

Baroness Verma: My Lords, the Prime Minister has committed to looking again at this issue but we have been consistently clear that the relocation of asylum seekers between member states is the wrong thing to do. It will act as a pull factor and does not address the cause of the problem but simply moves it around the EU, so making an exception for children makes little sense. However, as I have said, the Prime Minister is committed to looking at the issue again.

Lord Hylton (CB): My Lords, I suggest that there are things more important than quotas, or the possibly uneven decisions made by UN officials. Does the Minister agree that we should have approved channels for family reunion in this country, whereby those families already here and those overseas can apply directly for family reunion here?

Baroness Verma: My Lords, through our vulnerable persons relocation scheme, we have made it clear that the 20,000 refugees we will be taking in will be able to access all the services that the country offers. They will be able to reach out to engage in getting their families here, too. We are being very targeted because we want to make sure that we reach the most vulnerable—those who have no means of supporting themselves in Syria—but also the families whom the partners we are working with on the ground say need our help the most.

Lord Dubs (Lab): My Lords, does the Minister not accept that unaccompanied children who may be in parts of Europe must be among the most vulnerable asylum seekers needing help? We have an amendment to the Immigration Bill coming up. Can she please be more positive and say something encouraging? These children need our help and it would be our humanitarian duty to give that help.

Baroness Verma: My Lords, I do not think the UK needs lessons in being right at the front in giving support. What is right and proper is that, rather than moving people around Europe, we look at the source of the problem. That source is in Syria and its region. As I said in response to the noble Baroness, Lady Northover, the Prime Minister is committed to looking at this issue again but we do not want it to be an encouraging pull factor, so that others risk their children by crossing dangerous waters to get to Europe.

Lord Elton (Con): My Lords, this House has been frequently reminded that the established camps in the area are not regarded as safe places for Christians. Consequently, the Government's efficient help, financial support and so on for the established camps is leaving the Christian community from several countries uncatered for. What steps are the Government taking to address this problem through the voluntary sector? What support are they giving there and what quotas are they providing for the admission of these most unfortunate fellow sufferers?

Baroness Verma: My Lords, my noble friend raises a very important and concerning issue. However, we work with local partners and faith communities on the ground and we provide support to people regardless of their religious background or ethnicity. We just need to focus on the most vulnerable; that is where we must target our support. However, this issue has come to me on a number of occasions and I have asked noble Lords to engage with us to see how we can better reach those vulnerable communities.

Lord Collins of Highbury (Lab): My Lords, last November the summit in Valletta focused on gaining more co-operation from key origin and transit countries. While there, the Prime Minister announced a £200 million package of development and humanitarian support for Africa. What steps is DfID taking to monitor this spend in meeting the objectives and goals set at Malta, specifically on enhancing the protection of refugees while in transit countries?

Baroness Verma: My Lords, the Government keep a continuous watch on these situations and monitor them, but we need to find longer-term solutions and to ensure that the countries in the region where there is the greatest number of refugees are well supported. The Prime Minister has been very much focused on leading the way in getting other donor partners to contribute fully, so that we support those who are in the region—there are more than 4 million—and those who have come and transited across, so that we can make sure that those people are safe and have the support they need. Ultimately, however, what we need to do is provide long-term solutions.

Cumbria: Floods Question

3.30 pm

Asked by **Lord Liddle**

To ask Her Majesty's Government what funding they intend to make available to Cumbria and other areas in the north of England to restore infrastructure damaged during the recent floods.

Lord Liddle (Lab): My Lords, I beg leave to ask the Question standing in my name on the Order Paper and declare my interest as a member of Cumbria County Council.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, the Government have announced funding of £40 million for Cumbria and Lancashire following Storm Desmond and Storm Eva, and we will help fund the assessment of damage to local highway infrastructure in both areas. Additionally, we have announced £3.3 million to provide a temporary footbridge and for the repair of Tadcaster Bridge in North Yorkshire, and a further £5.5 million to rebuild Elland Bridge in Calderdale.

Lord Liddle: I thank the noble Baroness for her reply and thank the Government for the immediacy of their response to this tragedy. However, the question remains whether the Government are, in principle, prepared to find the full costs of recovery. In terms of transport infrastructure, these are estimated to be £257 million in Cumbria alone—£465 million when you count everything—and £40 million is not much by comparison with that. This is at a time when we are having to make cuts of £80 million over this Parliament, on a £375 million budget, and reduce our staff from 7,000 to 5,200. Given that we are stretched beyond capacity, will the Government commit to fully funding the costs of recovery?

Baroness Williams of Trafford: My Lords, over this Parliament, the Government will commit £2.3 billion for flood defences and the flood maintenance budget will be protected. In 2015-16, £171 million will be invested. There are pockets of funding in addition to that: there is £40 million for Storm Desmond and Storm Eva, as I said, and £4 million has been committed in match funding in respect of the charitable donations that have so kindly come in.

Lord Framlingham (Con): My Lords, along with their many other excellent qualities, trees have a massive part to play in this battle against flooding. I urge the Minister and the Government to do all they can to encourage the widest tree planting possible in the areas liable to flooding, as a matter of urgency, so that we can make the maximum use of this invaluable resource.

Baroness Williams of Trafford: My noble friend is absolutely right that trees are a very effective mechanism in terms of mitigating floods and slowing flood waters down. However, the storms we had over Christmas, Eva and Desmond, were too severe for this alone to have been an entire solution. We have to look at all the various solutions in the round, including managing the flow of water, to help to prevent such problems in future.

Lord Campbell-Savours (Lab): My Lords, my noble friend asked for an assurance on the expenditure which now faces the county of Cumbria. Having looked at the figures, Cumbria County Council has produced a report which shows an overall funding gap of £374 million for repairing all the damage done in the county. Is that bill going to be paid? Talking about £2 million here and £4 million there is irrelevant in the context of the

huge expenditure now faced by the county. Who is going to pay this bill? Someone has to pay for all the damage that has been done.

Baroness Williams of Trafford: My Lords, the noble Lord is absolutely right. I have given the figure for the funding committed for the transport infrastructure, but over this Parliament £2.3 billion will be provided for a range of flood defence schemes, which should help to mitigate the risk. It compares with £1.7 billion in the previous Parliament and £1.5 billion in 2005-10. At this point, that is what the Government are committing.

Lord Greaves (LD): My Lords, the points raised about the infrastructure are quite right—it is vital—but does the Minister agree that also vital are small, ongoing maintenance schemes month by month and year by year, particularly clearing leaves from gullies, plastic bags from culverts and trees that have fallen into the becks? Councils are having increasing difficulty doing that because of the funding cuts; I declare my interest as a councillor.

Baroness Williams of Trafford: The noble Lord is absolutely right that ongoing maintenance is vital. In the recent floods, we have had two things: volumes of water, and therefore surface water increasing dramatically, and an extreme weather pattern increasing during some of these disasters. That is why the Government are reviewing the flood defences that we are putting in place because, no matter what we have done before, the next event is all the more extreme.

Baroness McIntosh of Pickering (Con): My Lords, will the Minister explain how long the money will be available for, given that North Yorkshire County Council has not had time to examine damage to other bridges?

Baroness Williams of Trafford: My Lords, I recognise the issue that my noble friend is raising: that it may not be immediately obvious what are the problems and what repairs are needed. The Government are giving local authorities the time that they need to assess the damage and apply for the funding needed.

Trade Union Bill

Motion

3.37 pm

Moved by Baroness Smith of Basildon

That it is desirable that a Select Committee be appointed to consider the impact of Clauses 10 and 11 of the Trade Union Bill in relation to the Committee on Standards in Public Life's report, *Political Party Finance: Ending the Big Donor Culture*, and the necessity of urgent new legislation to balance those provisions with the other recommendations made in the committee's report; and that the committee do report by 29 February.

Baroness Smith of Basildon (Lab): My Lords, as a House, our scrutiny role appears to have excited some interest in recent months, with our powers and limitations becoming more widely known and understood—and,

[BARONESS SMITH OF BASILDON]

indeed, facing scrutiny. So I want to be crystal clear about what my Motion is intended to do, but also what it does not do.

Noble Lords will be aware that Clauses 10 and 11 of the Trade Union Bill are deeply controversial. These two clauses basically deal with how trade unions raise and spend their members' money for political purposes. The Government contend that this has no direct bearing on political party funding—specifically, Labour Party funding—but both we on this side of the House and the trade unions contend that it does.

I am not seeking today to make the case one way or the other, but I am seeking a way through that will allow us to consider the Bill in the normal way and, at the same time, provide for a Select Committee to examine this specific point. The noble Lord, Lord Tyler, made a similar proposal about a Select Committee in his excellent speech at Second Reading.

The merit of our approach is that it will take the political argument on the clauses away from the debates on the Bill during the normal Committee stage. It will ensure that the issues other than those in those two clauses, Clauses 10 and 11, receive proper and full consideration, without being clouded by what is a very specific party-political point. Select Committees of your Lordships' House are highly regarded. Such a committee could take evidence, including from those who have independent expertise, to assess any potential impact of the Government's proposals on party-political funding. It would examine the Government's proposals in the light of the recommendations of the Committee on Standards in Public Life in relation to party-political funding, a committee now chaired by the noble Lord, Lord Bew. Our approach would not prevent any of our other committees from reporting on this Bill, and a Select Committee could make recommendations and offer advice as to whether legislation could be improved.

What the Motion does not do is in any way to seek to hinder, delay or impede the passage of the Bill. I have suggested 29 February as a time limit for the Select Committee to report back, as that would allow time for consideration and for any findings to be taken into account on Report. I appreciate that the Minister and the Government do not share our concerns, but the BIS Minister, Nick Boles, responded to a Written Question by saying:

"The proposals in the Bill are not about party funding ... Therefore no assessment has been made in relation to the impact on the finances of any political party".

In answer to a similar Question, the noble Baroness, Lady Neville-Rolfe, the Minister in this House, responded:

"There has been no assessment. However, the proposals in the Bill are not about party funding".

Many noble Lords will have seen her letter circulated yesterday, which reiterated the same points at some length. I wish that I could accept those assurances, but we believe that the Government are wrong or, at the very least, in denial about the consequences of Clauses 10 and 11.

Let us be precise: our genuinely held concern is that this aspect of the Bill will have a significant impact on the resources of one major political party—my party, the Labour Party. In doing so, that will both disrupt

the political balance in the UK and have a damaging effect on the electoral process and on our democracy. Any examination of this issue by your Lordships' House should be evidence based rather than reliant on opinion—even if they are the opinions of the Minister or myself. We should examine the facts and the detail. The problem is that, even when we eventually receive the long-promised impact assessment—and I find it extraordinary that the Bill has gone this far before we even get one—there will be no consideration of any impact on party-political funding. It will not even look at it as a potential unintended consequence.

The Committee on Standards in Public Life, then chaired by Sir Christopher Kelly, sought to reach a political consensus on this vexed issue in its 2011 report, *Political Party Finance—Ending the Big Donor Culture*. That committee made four recommendations, only one of which has found its way into any legislative proposals from the Government—this one, the one on trade union funding. The noble Lord, Lord Bew, who now chairs the committee, wrote this week that:

"The committee made a similar recommendation but as part of an overall package of measures".

He quoted from that report, saying:

"Failure to resist the temptation to implement some parts, while rejecting others, would upset the balance we have sought to achieve".

Lord Robathan (Con): The noble Baroness is talking about party-political funding, but I thought that we were discussing the Trade Union Bill. Is she not being perhaps a bit sensitive to the idea that trade unionists wish to subscribe only to the Labour Party? Actually, the political funds might easily go to any other party that they wish.

Baroness Smith of Basildon: I would entirely agree with the noble Lord's final point. As I said, the clause looks at how trade unions collect and spend the money from their members on party-political issues. But it might be helpful to him if he took care to listen to the point that I am making—he says that he is all ears, so let us see if he proves it—which is that the Committee on Standards in Public Life made four recommendations on party-political funding, and only one of those is proposed by the Government in this Bill. The others are being ignored. When we look at such issues, they are sensitive. The noble Lord is quite right—I am sensitive about my party funding, and I am sure that he is equally sensitive about his. But we have to look at this in the round, and consensus is always sought on this issue. That point was made very well by the committee, which was very clear, saying:

"Both as a matter of principle and to support its sustainability, the regulatory regime must be fair to all political parties, and widely believed to be so".

3.45 pm

By rejecting out of hand, as the Government have, that there is any such impact on political funding and despite it being so similar to the committee recommendation, the Government are seeking to avoid proper examination and consideration of any such potential impact. I have to say to the Minister that just saying, "It isn't so", is not enough. Across this House

noble Lords will hold different views about how political parties receive their funding, whether from trade unions, businesses or donors, but whatever our views, I hope we agree that it would be totally wrong for any Government of any colour to use their power to attack the funding of other political parties, especially the Official Opposition.

There is a precedent for such a Select Committee, although I should inform noble Lords that the precedent goes much further than what I am proposing. In 2004, the now retired Lord Lloyd of Berwick successfully moved a Motion for a Select Committee to examine proposals on the entire Constitutional Reform Bill, over which I am sure noble Lords who were here at the time will remember there was some controversy. The Select Committee delayed the progress of the Bill Committee. This Motion proposes something significantly narrower: a very focused, timed-limited Select Committee on the impact of just two clauses. It will not delay the consideration of the Bill. By being so focused, it can be undertaken in a reasonable timescale. I think the noble Lord, Lord Strathclyde, has proved how prompt we can be when we set our minds to it without losing out on quality.

There is clearly a fundamental difference of opinion between the Government and us. We are never going to deal with that by seeing who can shout the loudest, and we should not try to. Surely it makes sense to take a step back and ensure a separate, careful, civilised, evidence-based consideration of just those two clauses by a Select Committee of your Lordships' House. I hope that my explanation has clarified the purpose, objective, wisdom and reasonableness of our Motion. I beg to move.

Lord Tyler (LD): My Lords, I shall try to be reasonably brief because, as the noble Baroness said, I referred to a number of these issues at Second Reading last week.

Since then, I have been struck by the number of Members on the Cross Benches and the Conservative Benches who have agreed that this is the right time to look at the wider issue of party funding. Indeed, it is probably the only opportunity that we will get in this Parliament. I therefore very much welcome the initiative by the noble Baroness, Lady Smith, to bring the idea back before the House this afternoon in prime time, and I hope that we will be successful today.

The Trade Union Bill before the House is deliberately very tightly drawn. The Minister told us repeatedly at Second Reading that it is not about party funding and, as the noble Baroness said, we have all received a letter from her which makes that point yet again. However, I refer the House to the Conservative Party manifesto which contained a two-part promise not only to make this change in this Bill but to reinstitute cross-party discussions about party funding, so this is part of the general package to which the manifesto referred. By making a tight Long Title to the Bill, without even the usual provision of "connected purposes", the Government are able to advance changes to the way in which individuals contribute to the Labour Party through union political funds and ward off any amendments to the Bill about the way in which such provisions might apply to other parties and other action on the issue.

Most of the big money goes to the Conservative Party. It took 59% of all party-political donations by individuals in the 12 months leading up to the previous election. Even once trade union donations are taken into account, the Conservatives attracted £2 in every £5 donated to all political parties put together. We now know that the cash was spent—in avalanches—in target seats, in marginal constituencies, in the 2015 general election. Jim Messina, the Conservatives' election adviser from the US, told the *Spectator* just a few days ago that he thinks the party spent £30 million in the run-up to the poll last year. I suspect that the Conservative treasurer may have recalculated that in the final returns to the Electoral Commission, since the legal limit is £19 million.

As it happens, quite coincidentally, the figures are out today from the Electoral Commission, and they repay very careful analysis. Michael Crick of BBC2, who I think is acknowledged to be an expert in these matters, comments:

"those are the OFFICIAL national party spending figures. I don't believe them".

Nor do I. They do not include Conservative candidates' own expenditure. He then highlights "unsolicited material to voters" costing £4 million. As a recipient in a target marginal seat, I can confirm that, yes, we were all receiving unsolicited mail of that nature. And then it is identified in the Electoral Commission figures published today that £2.4 million was paid to Mr—as he was then—Lynton Crosby, and £369,000 was paid to that very same Jim Messina. Presumably, his opinion on the amount that has been spent by the party is worth paying for.

Having deployed those funds to win a narrow majority in the other place, the Government are now plainly set on redefining the rules of the political game to entrench their own power, perhaps permanently. The Bill must be set against the overall picture of changes secured by Conservatives in the past few months and years. There were arguments over boundary changes. We then saw in the House at the end of last year Ministers nipping through provisions to wipe nearly 2 million people off the electoral register just in time for the boundary-change calculations. We saw last week how the Government are now challenging, with as yet no parliamentary process, even the power of your Lordships' House. Now with this measure, presented as a technical change to make union members' donations to political funds more transparent, we have an extraordinary attempt to fully stymie an already hobbled Opposition.

It is extraordinary that we need this Motion, but it is absolutely right to refer us back to the recommendations of the Committee on Standards in Public Life, which examined in detail a whole suite of issues on party funding five years ago. Its work built on that of Sir Hayden Phillips in the review that was commissioned by the then Labour Government. Sadly, no progress was made following the Phillips report because no consensus could be reached on the twin matters of altering principally Conservative funding by way of individual donations on the one hand and altering principally Labour funding by way of restrictions on the way in which trade union political funds work on the other.

[LORD TYLER]

We have now an opportunity to look again at a comprehensive package, balanced to affect the major parties in roughly equal measure. The CSPL arrived at such a package in 2011, and that should have been implemented by the coalition Government. It is one of my biggest regrets that no progress was made and the nettle was not grasped then in a fair and equitable way. We cannot turn the clock back, but what we can and should make progress on now, in the first year of this Parliament, is a fundamental package of party-funding reform. It was promised in the Conservative manifesto as well as in those of Labour and the Liberal Democrats.

As the noble Baroness has made clear, a Select Committee of your Lordships' House seems to be an ideal catalyst for implementing those commitments, and of course it could make very good use of the evidence that the CSPL amassed. Last week the noble Lord, Lord Bew, who chairs the CSPL, made it clear that there is still some work to do in updating the calculations and judgments that his committee made in 2011, and surely a Select Committee is the most effective way to do that. His contribution to the debate last week and that of the noble Lord, Lord Kerslake, are essential reading, particularly perhaps for their colleagues on the Cross Benches, because they were particularly significant.

The Select Committee could look carefully at the partisan effects of the Trade Union Bill and could make recommendations for progress on balancing the provision of a donation cap. It could also review fully, in the light of Electoral Commission evidence, the operation of the current law on constituency spending. As my noble friend Lord Rennard pointed out last week, the spirit of the law on constituency spending limits is being abused—no doubt by all parties—even if its letter is still observed.

Lord Forsyth of Drumlean (Con): Does the noble Lord not think that his credibility in arguing for fairness and balance and non-partisan behaviour in respect of constituencies would be greatly enhanced if the Liberals had not voted to prevent the boundary changes going through in time for the general election?

Lord Tyler: It is quite irrelevant. What is absolutely clear—and I think I will have the noble Lord, Lord Forsyth, with me on this—is that all parties now do not respect the constituency limits that he and I had to observe years ago when we stood as candidates. We were told, were we not, by our lawyers and our agents, that were we to spend one penny over the limit for a constituency, we would be in trouble. Indeed, last year all parties swamped marginal, targeted constituencies with money from outside which, as long as it did not mention the name of the candidate, was completely outwith the constituency limits. I think the noble Lord and I would agree that what was set in motion by the 1883 Act, which limited how you could buy a constituency, is now not worth the paper it is written on. We need to look at that again, and it is important that it should be effectively considered by a good cross-party Select Committee of your Lordships' House.

Spending on material of that nature hugely exceeds the constituency limits, and it is clear from the figures published today that the Conservative Party, and no doubt the other parties, made huge use of that just last year. Voters do not get to vote nationally in our system. Every voter in a constituency votes for their own constituency MP, and therefore material distributed in those constituencies by parties contesting the election is just constituency campaigning. The law needs to reflect that point.

The Motion today sets out an ambitious timetable for the committee, seeking a report by 29 February. I support that, because foot-dragging is the enemy of progress in this issue, perhaps more than any other. No sooner are proposals produced than people start saying, "It's too close to the next election to do anything", so it is urgent that this issue is looked at now. The committee might choose to make a first report by 29 February, which could then of course be seen in the light of progress with the Trade Union Bill through your Lordships' House. This timetable, however, must enable it to work constructively and fully with the Committee on Standards in Public Life to bring forward renewed proposals for comprehensive reform.

If anyone still doubts that the clauses in the Trade Union Bill will entrench the invidious iniquity in the UK's party funding arrangements or that there is a dangerous arms race in spending, they need only consult the figures the Electoral Commission has published today, which speak eloquently to both. Ministerial claims in the debates hitherto and in the letter sent to us that the Bill may not adversely affect Labour's income are either charmingly naive or stark-staring mendacious. Perhaps they think we are naive. Either way, balancing provisions for the rest of party funding are urgently needed, so my noble friends and I will strongly support this Motion in the Lobbies this afternoon.

4 pm

Lord Cormack (Con): My Lords, the noble Lord, Lord Tyler, has a good way with words. In fact, however, he demolished the argument in favour of the Motion before us today. I speak as one who has very real sympathy with the noble Baroness and her colleagues in regarding the Bill as being significantly deficient. If ever a Bill needed the constructive attention and detailed scrutiny of your Lordships' House, it is this Bill. But the problem with the ostensibly very sensible proposal of the noble Baroness is time. That was hinted at in the concluding words of the noble Lord, Lord Tyler.

I say to the noble Baroness that there is a better way forward. I believe there should be not a committee of this House, but a Joint Committee of both Houses to look at political party funding. It could not conceivably report within five or six weeks; there are a whole lot of issues to be examined. Of course, it need not sit indefinitely, and a reasonable timeframe would be to say that it had to report by the end of May or June. The work done by the committee of the noble Lord, Lord Bew, is not absolutely complete, although I agree with the general thrust of his committee's arguments. It is wrong to single out one political party if we are looking at the funding of parties in this country. Frankly, to suggest that the Bill is not singling out a political party is disingenuous.

I joined the Conservative Party and have been a proud member of it for some 60 years, because I always thought it was a party of fairness. I am a one-nation Conservative, and I do not believe that this Bill marches well with what I understand as one-nation conservatism. I believe, very strongly, that we need reform on the trade union front. I have no objection to looking carefully at ballot arrangements; although, as colleagues mentioned last week, when we are doing that we have to bear in mind the enormous popularity of police commissioner elections—and our failure to invalidate those because they did not cross a threshold. But that is not the subject of this afternoon's debate. Here, we are looking at funding, and I believe that the best way forward, frankly, is to proceed with this Bill and to seek to amend it where appropriate. It would not be entirely inappropriate to have an amendment that delayed the implementation of this part of it until there is a more comprehensive agreement on political party funding. That would be a measured, sensible and very fair approach to this issue, in the tradition of one-nation conservatism.

The Bill cries out for your Lordships' attention, however, and I hope that that attention will not, in any part of your Lordships' House, be overtly partisan. The trade unions have a very important part to play in our economy. There were times when they exceeded their powers and authority, and there are those in the trade union movement today who would do that again. But that is not what we are talking about. We are talking about trying to have a fair construct which deals with the position of the trade unions in this first part of the 21st century. It is not unreasonable to say that people should make a conscious decision before they make a contribution to a political party. But I think it quite wrong to single out one particular party and its main source of funding, particularly at a time when we have also decided, in our wisdom—or lack of it—that Short money needs looking at.

We have to examine this matter in the round, so I say to the noble Baroness, who made a very good and persuasive speech, that I cannot support her this afternoon because, bearing in mind the complexity of the subject, I do not think that the timetable that she has put before your Lordships' House is reasonable or practical. I think we should get on with this Bill; in the best tradition of your Lordships' House, seek to amend it; perhaps consider whether there is merit in implementing certain sections of it at different times; and try to persuade the powers that be that there should indeed be a Joint Committee of both Houses—as your Lordships know, I believe passionately in the supremacy of the elected House—to look at the whole issue of party funding and to try to come to a fair and equitable solution which applies, as what I would call the Bew recommendations apply, to all parties and, so far as possible, in all circumstances.

This afternoon's Motion is not the way forward but there are great issues to debate as the Bill proceeds through your Lordships' House.

Lord Bew (CB): My Lords, the debate this afternoon—not on the Bill as a whole but on the Motion—revolves around two opposing truths. The Opposition, I think quite correctly, claim that the 2011 report of the

Committee on Standards in Public Life, *Political Party Finance: Ending the Big Donor Culture*, which has already been referred to many times, has to be taken in the round and that the idea that you can extract one element from it is an entire misreading of the logic and structure of the report. That I have no doubt about—it has to be taken in the round. The committee makes it clear numerous times in the report that that is its view. To take one element, whether it be the role of trade unions or of business in party funding, and to deal with it separately is not in the spirit of that report. That has to be conceded. I have been sitting late at night reading the report from many different angles over the last few days, as noble Lords may imagine, and I can see no other possible reading of it.

On the other hand, the Government say that they have never claimed to be implementing the report. It is worth remembering that it was published with two dissenting minutes raising substantial matters—one from Dame Margaret Beckett from the Labour Party and the other from Oliver Heald, the Conservative Party representative on the committee. I say in passing that the Conservative dissenting minute, which raised a number of substantial and serious points, does not challenge the idea that the issue should be dealt with in the round. It absolutely accepts that point. None the less, the Government do not claim to be implementing the report. Indeed, if we are talking about the element that we are dealing with today—the role of trade unions—I accept that the Government's proposals are quite distinct from the proposal in the report from both trade unions. So the Government are not even cherry picking; they have a different agenda, which they are pursuing. It is being debated and the issues are to be put before the people in the country. So there are two competing truths here, neither of which it is possible to dispute, and it is very difficult to see an easy way through.

On the terms of the Motion—the noble Lord, Lord Tyler, has already hinted at this, and certainly the noble Lord, Lord Cormack, has done so—I feel that there really is a question over what can be done in five weeks. Since the publication of the report, there has been a very scratchy history of progress or non-progress. Indeed, if we go back to Sir Hayden Phillips's report of 2007, we see, again, that there has been no real progress. So why do we suddenly believe that an issue that characteristically we have been stuck on in this country will be resolved in five weeks? I find it hard to believe that that can possibly be the case. There is a serious issue there. It does not mean that the concerns that have been raised are not serious, but there is a really serious issue about the terms of this resolution and its practicality.

I also feel a certain frustration with the idea that suddenly progress can be made. After the general election, I wrote to all the parties about their manifesto statements in this area. Only one party, the Conservative Party, replied. It was not a particularly encouraging reply and I can recall no other replies. But that fact alone makes me think that we will not make great progress on this in five weeks. I would regard it as a huge achievement if even one of the issues could be resolved. For example, in Dame Margaret Beckett's dissenting minute she argues that the Co-operative

[LORD BEW]

Party and its arrangements are implicitly treated unfairly in our report. I would regard the sorting out of that, which is one tiny element of a massive structure of problems, as a huge achievement within five weeks, so I am sceptical about the timing implied by this resolution.

I have a comment and a word of warning to all the parties in our system. One thing that is happening is that, almost unconsciously, the conception of Parliament as involving the representation and management of interests is changing. That conception was widely held for a long period in our history, whether those interests be trade union, labour or business interests. We are now moving towards a conception of Parliament as being about the fostering of individual human rights. Those who support the Bill will actually say that certain provisions are designed to enhance the human rights and freedom of choice of trade union members. I understand that that is a possible argument. But matters will not stop here. We are a different place in the way that these matters are now discussed and it is impossible that wider questions about big donor culture and the role of business will go away. Many senior Conservatives have implicitly and explicitly accepted that, as the noble Lord, Lord Cormack, has done in his speech. They have expressed their concern about that matter. That is so important because it goes to the heart of perceptions of trust in modern British politics and the inherent difficulty that my committee has with respect to these perceptions of trust.

The noble Baroness, Lady O'Neill, has rightly reminded us several times that we should not be too obsessed with public opinion polls about the level of trust in Members of Parliament and that what really matters is the actual level of trustworthiness. She is absolutely right to say that many of these polls should be taken with a pinch of salt. We have no reason to believe anything other than what my predecessor Lord Nolan said 20 years ago—that standards are not actually in decline in our Parliament or our public service. I would go further today. There is every reason to believe that standards are actually higher, as a result of the recommendations made by Lord Nolan, the much greater transparency that there now is in our public life, the role of IPSA in dealing with issues around MPs' expenses and the fact that we have in this country the most transparent system for party donations in the OECD. Now that I have said that, some Member of Parliament will be in the papers having done something rather foolish in the next three or four days. None the less, there is no real reason to believe anything other than that Lord Nolan was right and that the many reforms that have been made in terms of transparency have improved the situation.

However, we are in a position where 80% of members of the public believe that people give money to political parties because they expect a tangible reward, such as being made a Peer, and 80% of the public believe that they will not accept party funding. Today's poll from the Electoral Reform Society has only 77% of the public believing that people give money to political parties expecting a peerage. We can be reassured by that 3% drop in cynicism, but I am not particularly reassured.

There is a huge difficulty in making progress on this because 80% of the public also say that it is a very important part of the proposal made by the Committee on Standards in Public Life that there should be some system of state funding for political parties, but the £25 million envisaged at the moment is something the public will not accept. That is absolutely the case. It is why I am doubtful about taking five weeks to make progress. We are stuck with these issues because they are really difficult, but we cannot evade them—this is the point I am trying to argue with as much vigour as I can. A recent book entitled *Ethics and Integrity in British Politics* by Nicholas Allen and Sarah Birch, published by the Cambridge University Press, points out that 87% of the public believe that standards are lower than they once were. As I have said, I do not really think that there is strong evidence for that. The use of Lord Acton's famous quotation that power corrupts and absolute power corrupts absolutely has now become a credible cliché although it has been completely stripped of the precise meaning he gave it in 1887 to deal with the cruel abuses of power that he was talking about. It has now become a kind of journalistic mantra which creates a problem, and indeed research by the Edelman Trust supports that. It backs up our own report on comparative perceptions of the political class in Europe, which showed that 3% of the Dutch and 3% of the British have actually had experience of corruption, but only 49% of Dutch people believe that it is widespread in their society while 69% of British people believe it to be so. We have a malaise in public opinion that goes well beyond anyone's empirical experience.

4.15 pm

But precisely because these things exist, it means that the issues focused on by the Committee on Standards in Public Life, party funding being one of them, have to be faced up to; they cannot be allowed to drift. The Edelman Trust argues that countries with better figures than ours on these matters have a better attitude towards economic innovation and progress. That may or may not be so, but it is still the case that the pride of this country requires that we face up to these issues, acknowledging that many reforms have been made which have not provoked a positive echo in the form of real changes in public opinion.

It is quite correct to say that the details of the committee's report should not be fetishised, but it is a serious, intellectual and morally formed document. It makes an attempt to achieve something which in its broader terms might lead to a cross-party consensus. I absolutely believe that the points made in the dissenting minutes by both Dame Margaret Beckett and Sir Oliver Heald, thus by both the Labour and the Conservative parties, will have to be debated in any restructured document that emerges. We support the need for reform and we very much hope that both the Government and the Opposition will not forget about these matters when the story of this Bill is over.

Lord Kerslake (CB): My Lords, I spoke at length on this Bill at Second Reading so I will keep my remarks today short. Many noble Lords were kind enough to give me feedback about my speech, and I have to say

that it is easy to make a good speech when you feel passionately about the issues involved. For me, this is absolutely an issue of the utmost constitutional seriousness that should be of concern to those who are in any political party, or indeed, like myself, are not in a political party at all. What we are debating today is of crucial importance to anyone who believes in an open, plural democracy.

My sense is that, like the noble Lord, Lord Cormack, who argued the point very well, I would prefer us not to act on this part of the legislation until the full conversation has happened. That is a compelling argument which I support. Where I think the proposal adds value is that it can and should look at the impact of what is being proposed here, and that is made clear in the Motion before us today. It is both possible and credible to do that in the time available. That is why I support the amendment.

We have what is often called cognitive dissonance here between two different and competing positions. We may be keen to smoke while also being aware of the health impacts of smoking. We have a proposition that these clauses have no impact, and that they are related to the trade unions and have nothing to do with political parties. Yet we know that the practical effect on one political party would be devastating. We have to reconcile and resolve those issues and have them debated in a committee where they can be balanced against the wider issues. The noble Lord, Lord Bew, spoke very powerfully and I absolutely concur with his wider thesis. But there is a useful job to be done here, which is to have a proper conversation and debate about impact in this wider debate of party funding. I will support the Motion.

Baroness Burt of Solihull (LD): My Lords, I am conscious of the House's time this afternoon, so I will be brief. The purpose of this Motion is to convene a separate committee to consider Clauses 10 and 11 of the Trade Union Bill, because its practical outcome is all about political party funding. The Government can say that the Bill is not about political funding but it patently is. It has the practical effect of further unbalancing the playing field in favour of the Conservative Party by practically reducing the access to funds for the Labour Party.

If we look at the report on the Committee of Standards in Public Life, the opt-in was the quid pro quo for Labour to be considered alongside the reduction in maximum donation of £10,000, which would, it thought, roughly equate to a similar reduction in Conservative funding. But after the analysis that the noble Lord, Lord Tyler, treated us to, that perhaps is a little optimistic.

To my mind, two points follow. First, the Conservatives seem to misunderstand the role of trade unions in this country. They are as much a part of our functioning democracy as the courts, political parties and the dual-Chamber system, which is also under attack, as are the freedom of information changes which the Government are also currently trying to push through. The Labour Party can be accused of many things, including exceeding powers, as the noble Lord, Lord Cormack, has mentioned, but someone, as well as the

Liberal Democrats, must constitute an Opposition in a functioning democracy, and Labour, frankly, is in a weak enough state already.

Secondly, if the Government have already taken away Labour's bargaining chip in any future negotiations on party funding, what incentive is there for the Conservatives to ever return to the negotiating table? It is a win-lose situation and happy days for them. The winning advantage that they will get will enable them to stay in power for the foreseeable future.

At Second Reading, I said that one of the roles of this House is to ensure fair play and a level playing field. This section of the Bill risks that, so a Select Committee is the right approach. I urge noble Lords from all sides of the House to support it.

Lord Forsyth of Drumlean: My Lords, I was not planning to speak on this matter but I have been provoked. I do not know what I think about this because I am in two minds. First, this is a manifesto commitment. This House is not expected to oppose Conservative Party manifesto commitments. However, the manifesto commitment is in two parts—it is about a review of funding, and this is only one part. I had to deal with this when I was a Minister of State in the Department of Employment in 1992.

In 1982, my noble friend Lord Tebbit dealt with the matter very well. The issue then on opting out or opting in was that people were not able to choose whether they wished to subscribe to the political fund and many were not aware that there was a political fund. In 1982—I hope that my memory is correct—my noble friend Lord Tebbit and Lady Thatcher's Government decided that the fairest way to deal with this was to have a regular ballot every 10 years to establish whether there should be a political fund and that people should be able to opt out if they wished, thus preserving individual freedom.

In 1992, 10 years on, we looked at this again and we had some employment legislation which was a little controversial. It included abolishing wages councils and one or two other things like that. The debate in the Conservative Party and the Government at the time was that we should change the law and make a requirement to opt in. I decided that we should not do that and the Government took that view. I decided that we should do so not for any reasons about party political funding, but because I thought that it would be unfair to the Labour Party, reduce its funding and inevitably start a debate about state funding of political parties, to which I am totally opposed. The day we put our hands in the pocket of the taxpayers to pay for our party political campaigning is the day when a bigger gap will open up between us and the electorate.

It would be a great mistake if we moved away from the system that we have—I take the point raised by the noble Lord, Lord Tyler, about the importance of controlling expenditure in constituencies—and the need for political parties to raise their funds by getting members on the ground and in the constituencies. A culture that enables one or two very rich people to bankroll one party, or three or four trade unions to bankroll another, encourages the loss of that grass-roots support that is so desperately needed at present.

[LORD FORSYTH OF DRUMLEAN]

As I say, I am in two minds. I hope that my noble friend will be able to answer this in responding to the debate on the Motion: what is the problem that we are trying to solve? What has gone wrong with the trade union political funds and the system established in 1992? I have seen the letter that my noble friend wrote to all of us. Is it that we think that people are being lent on not to opt out of the political levy? Is it, as she said in her letter, that we think that people are not aware that they have the right to opt out of the political fund? If that is the case, is it not possible for the trade unions to come forward with proposals on a voluntary basis that would establish that whatever these deficiencies are would be put right? I know that they have done so.

We are provoking a confrontation that will do none of us any good and certainly will not do the political system any good. I say to the noble Baroness, who I have enormous respect for, on the idea that we can sort this out in five weeks: this will be a bean-feast for the media to have a go at all political parties and their funding.

Baroness Smith of Basildon: If I might briefly assist the House in looking at this issue, I am not for one moment suggesting that, in the five weeks or so to the end of February, the Select Committee would be able to look at all issues of party funding. That is not the purpose of my Motion. It is on one specific point: that, on the issues that the Committee would be deciding and voting on, there should be a parallel process to inform its deliberations. No one would dream that it could do it in five weeks—if we cannot do it five or 10 years, we will not do it in five weeks. It is specific on the point of what the committee will be debating.

Lord Forsyth of Drumlean: The noble Baroness is very smart and clever and that is exactly the right answer to give to my point, but I am trying to make bricks here. She may be correct in saying that the terms of reference for the committee and its functions could be limited to that period of time, but that will not affect what goes on in the outside world. We will have a great old row about party funding and we will not be in a position to get agreement between the political parties. We all know that it was about setting a limit. The trade unions think that the limit should not apply to them, the Labour Party is so dependent on the trade unions that it will not want to do that, and the same on our side. We know where the differences are. I hope that these might be resolved in the future, but I do not think that the noble Baroness's Motion is the right way to do that. I agree with my noble friend Lord Cormack that the proper way to do this is in consideration of the Bill.

I hope that my friends on the Front Bench will recognise that this will take away funding from the Labour Party at a time when the Labour Party is perhaps not at its strongest. I have no brief to build up the Labour Party, but our parliamentary system depends on having a strong and effective Opposition. The Short money is supposed to enable the Opposition to operate in Parliament; it is nothing to do with party politics as such and is being cut, so that makes it

harder for them to operate. At the same time, to attack the funding is, I think, misguided because I know what will happen. The people will say, "Well, let's have a look at the Tory Party. How can we inflict this there?", and we will get into a war of mutual destruction. I do not think that would help enhance the reputation of Parliament or of the political parties. Therefore, the best possible outcome would be not to pass the noble Baroness's Motion and for the Government to think again about whether there is a way to meet our manifesto commitment and, at the same time, reach a deal with the trade unions which enables whatever the problem is that the Government perceive makes it necessary to do this to be resolved.

4.30 pm

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, I thank the Leader of the Opposition for introducing her Motion and I have listened very carefully to the arguments for appointing a Select Committee to consider Clauses 10 and 11 of the Trade Union Bill. However, I ask the House to bear with me as I set out the Government's position that these clauses relate to trade union reform and not to party funding reform.

The Trade Union Bill is just that: it is about trade unions, and it introduces a number of reforms based on the 2015 Conservative election manifesto, as my noble friend Lord Forsyth explained so eloquently. I believe that most uncommitted observers would regard these reforms as unexceptional. They represent proportionate reform based on a clear manifesto commitment, which includes a transparent opt-in process for union subscriptions.

However, I must deal first with the confusion which has surfaced—namely, the difference between contributions to trade unions' political funds and trade unions' funding of political parties. The Bill requires members of trade unions explicitly to opt in to a political fund. That is not the same as requiring opt-in to union donations made to a political party. Political funds are used for all sorts of campaigns, some of which are not at all party political.

Let me explain the problem that Clause 10 seeks to address. Under current trade union legislation, union members have the choice to opt out of contributing to a union's political fund. However, that choice is on too many occasions difficult to exercise, and not made clear to individuals. So, to reply to my noble friend Lord Forsyth, we want to end that unfairness and provide full transparency by allowing union members an active opt-in to the political fund. I look forward to discussing that in Committee.

This Motion has been brought to consider Clauses 10 and 11 in the light of the 2011 report of the Committee on Standards in Public Life. Of course, the noble Lord, Lord Tyler, also sought to bring forward a Motion on party funding at Second Reading based on the same report. However, Recommendation 4 of the report specifically addressed a cap on affiliation fees to a political party, not how the contributions are made to political funds of trade unions. The latter did not, in fact, form part of the recommendations of the

CSPL report, as the report related to party funding, and party funding is not a matter for this Bill. It is a separate matter that has been the subject of a large number of reports over many years. The recommendations in the 2011 report of the Committee on Standards in Public Life were not accepted by the two major political parties, as we heard, including the party of the noble Baroness, Lady Smith. It would be peculiar for a Select Committee on political party funding to be set up based on a report that does not command cross-party consensus. As the noble Lord, Lord Bew, suggested, a lack of party consensus is at the heart of the problem. Therefore, it would be difficult to make any progress in five weeks, as he said.

Lord Forsyth of Drumlean: Can my noble friend give us some examples of where people have been prevented from opting out of the political fund and explain the extent of the problem? Can she also explain why this cannot be achieved by some kind of agreement of a code of conduct with the trade unions?

Baroness Neville-Rolfe: My Lords, this is a Motion on procedure and I was not planning to go into the detail, but I will certainly write to my noble friend and other noble Lords and we can discuss in Committee the sort of examples that he is talking about.

As we made clear in our manifesto, we will seek to secure an agreement on party funding reform. Indeed, it is open to the committee of the noble Lord, Lord Bew, to take this work forward in the light of updated data but, I repeat, such work is entirely separate to the passage of the clauses in this Bill, which relate to trade unions and not to party funding discussions. The noble Lord, Lord Tyler, and other noble Lords have made a number of interesting points today, which I will not seek to reply to, as this Bill is not about party funding. I recognise, of course, that some noble Lords feel strongly about the Bill, but all institutions need modernisation and that is what the Bill is about.

The noble Baroness, Lady Smith, has suggested that the House is underinformed about the Bill. I find this difficult to believe, given the marathon debate that we had at Second Reading. The measures in the Bill are rooted in the manifesto, for which we won a majority of support in the election. They are supported by members of the public, whose interests as parents, patients and commuters the Government were elected to defend. The measures secured clear majorities at all stages of the Bill in the elected Chamber. They had the benefit of extensive scrutiny in the other place, including in oral evidence from key stakeholders in Committee.

Furthermore, I am looking forward to a comprehensive debate shortly in a Committee of the whole House. Even my noble friend Lord Cormack, with whom I do not always see eye to eye, seemed to think that the Bill should be considered in Committee, in the best traditions of this House. That is because a primary purpose of this House is to scrutinise and improve legislation. Today's Motion will not improve the effectiveness of that scrutiny; indeed, it would shift the focus of scrutiny to party funding and away from the central purpose of the Bill, which is trade union reform.

To address the specific concern raised by the noble Baroness, Lady Smith, I am pleased to confirm that we will publish impact assessments on the Bill tomorrow. I will personally ensure that copies reach the noble Baroness and the noble Lord, Lord Mendelsohn, once they are published.

Lord Rooker (Lab): Would the Minister please address the points made by the noble Lord, Lord Kerslake?

Baroness Neville-Rolfe: My Lords, as I said, I have listened to the debate and we will all reflect further—as we do when we have important debates of this type—but I would like to conclude on this Motion.

Lord Rennard (LD): Can the Minister tell us why these impact assessments could not have been published yesterday so that we could have considered them when considering this Motion?

Baroness Neville-Rolfe: My Lords, I promised in a meeting that they would be published before Committee stage and I have delivered on that promise. I have arranged for them to be published tomorrow, which will give plenty of time before Committee starts on 8 February. I look forward to discussing them with noble Lords across the House.

In conclusion, this Bill seeks to modernise the relationship between trade unions and their members and to redress the balance between the rights of trade unions and the rights of the general public, whose lives, as I have said before, are often disrupted by strikes. Clauses 10 and 11 embrace the good democratic values of choice, transparency and responsibility. I look forward to full scrutiny of the Bill in this House.

This Bill is a package of measures and it is disappointing that the party opposite has chosen to misinterpret our intentions. As I have demonstrated, Clauses 10 and 11 are quite distinct from the report of the Committee on Standards in Public Life mentioned in the Motion and relating to party-political funding. We would merely be adding confusion if we established a Select Committee.

Our reforms in the Bill look at how trade union members choose to contribute to trade union political funds. We are not looking at how trade unions fund political parties. Opt-ins and opt-outs for trade union political funds have always been a matter for trade union legislation. Party funding and its regulation have always been a matter for party funding legislation. Party funding is rightly outside the scope of the Bill and I call on the House to reject the Motion.

Baroness Smith of Basildon: My Lords, I thought the Minister was making quite a good fist of it until she said that we had misinterpreted the intention of the Bill. I thank all noble Lords who have contributed to today's debate. That has been very helpful.

It may assist the House if I very briefly make it absolutely clear what my Motion seeks to do. The noble Lord, Lord Kerslake, hit the nail on the head when he said it was about the impact of the legislation, not the intention. The Minister says that the impact

[BARONESS SMITH OF BASILDON]

assessment will be published tomorrow. That is great but it would not have informed this debate at all, I say to the noble Lord, Lord Rennard, because there is nothing in there about any impact that the Bill may have on party-political funding.

We strayed a long way from the specifics of my Motion. My Motion is quite clear. It is not about party funding as a whole; it is not about the Trade Union Bill as a whole. It is very specifically about the two clauses in the Bill over which there is a clear difference, as noble Lords have heard, between the Minister and this side of the House—between the Government and I was going to say the Opposition but I think it is much more widespread than that—about whether those clauses will have an impact on political funding.

The Minister reminded us of the Conservative manifesto. The noble Lord, Lord Forsyth, was quite right to challenge on this—I apologise for citing him again. The Conservative Party manifesto says, on page 49:

“In the next Parliament, we will legislate to ensure trade unions use a transparent opt-in process for subscriptions to political parties”,

but now she tells us it is nothing at all to do with political parties. Is the manifesto right or is she? The manifesto goes on:

“We will continue to seek agreement on a comprehensive package of party funding reform”.

I entirely agree but that is not what is in the Bill. The Bill looks at what the Committee on Standards in Public Life says and picks one area. The noble Lord, Lord Bew, was quite clear that one of the recommendations is reflected—I am not saying it is exactly the same—in these proposals.

I particularly thank the noble Lord, Lord Cormack, for his contribution—wise words, as usual. I remind him how narrow and specific our Motion is. He says that he would much rather not have the clauses implemented. That could be debated by the Committee on the Bill when we get to those clauses. What I am proposing today is the opportunity to inform the debate on those clauses on one specific point; otherwise, the debate on those clauses will be clouded by the debate on whether or not there is an impact on party-political funding, although I entirely accept the point about what was in the manifesto about the opt-in or opt-out. I am seeking to remove that party-political element from the debate and debate the specifics of that in a Select Committee in order to then inform the Committee.

Lord Cormack: Does the noble Baroness not appreciate the points made by the noble Lord, Lord Bew, as well as by me, that the timescale is wholly unrealistic? A committee has to be set up. It then has to meet. It has to decide precisely on its remit. It has an order to report back by Monday 29 February. That is just unrealistic.

Baroness Smith of Basildon: I understand the point the noble Lord is making but I respectfully say to him that he is wrong. The timescale of this is dictated by the timescale that the Government have set to debate the Bill. These issues have to be debated in that timescale because that is the timescale the Government have set

for conclusion of the Bill. With due respect to both noble Lords—I think the noble Lord, Lord Bew, made this point—this committee would not address the far wider issues of party funding. Both noble Lords are absolutely right: it could not do so in that timescale. But what it can do is inform the Committee that will be discussing the Bill as a whole in the timescale set down by the Government. It is purely to inform. If we do not have the committee that I am suggesting, those issues will be discussed in the same timeframe but without the external information provided by the Select Committee.

The key thing here is not what the Minister or I think. It is about an assessment of what the impact will be—a forensic assessment of whether it will have that impact. The Minister says no, and I say yes. Who is right? I do not think that we can reach a conclusion on that here, but a Select Committee could look into that impact and it can inform our deliberations on the Bill.

I apologise for citing the noble Lord, Lord Forsyth, again but he gave reasons for not voting for my Motion. I say to him that there were reasons for not bringing forward the Bill in the first place because those clauses are so deeply flawed. For the Government to produce an impact assessment which does not even address one of the major issues of controversy that is causing concern across your Lordships' House is an absolute disgrace. I have heard the Minister but I do not think that she made her points very well and I beg to test the opinion of the House.

4.45 pm

Division on Baroness Smith of Basildon's Motion

Contents 327; Not-Contents 234.

Baroness Smith of Basildon's Motion agreed.

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Immigration Bill

Committee (2nd Day)

5.01 pm

Relevant documents: 7th Report from the Constitution Committee, 17th and 18th Reports from the Delegated Powers Committee

Amendment 73

Moved by **Lord Bates**

73: Before Schedule 1, insert the following new Schedule—

“Schedule

Functions in relation to labour market

Employment Agencies Act 1973 (c. 35)

1 The Employment Agencies Act 1973 is amended as follows.

2 Before section 9 insert—

“8A Appointment of officers

(1) The Secretary of State may—

- (a) appoint officers to act for the purposes of this Act, and
- (b) instead of or in addition to appointing any officers under this section, arrange with any relevant authority for officers of that authority to act for those purposes.

(2) The following are relevant authorities—

- (a) any Minister of the Crown or government department;
- (b) any body performing functions on behalf of the Crown;
- (c) the Gangmasters and Labour Abuse Authority.”

3 (1) Section 9 (inspection) is amended as follows.

(2) Before subsection (1) insert—

“(A1) This section does not apply to an officer acting for the purposes of this Act in relation to England and Wales if the officer is a labour abuse prevention officer within the meaning of section 114B of the Police and Criminal Evidence Act 1984 (PACE powers for labour abuse prevention officers).”

(3) In subsection (1), for “duly authorised in that behalf by the Secretary of State” substitute “acting for the purposes of this Act”.

(4) In subsection (4)(a), in each of subparagraphs (ii) and (iii), for “or servant appointed by, or person exercising functions on behalf of, the Secretary of State” substitute “acting for the purposes of this Act.”

National Minimum Wage Act 1998 (c. 39)

4 The National Minimum Wage Act 1998 is amended as follows.

5 In section 13 (appointment of officers for enforcement)—

(a) in subsection (1)(b), for the words from “Minister of the Crown” to “body shall” substitute “relevant authority for officers of that authority to”;

(b) after subsection (1) insert—

“(1A) The following are relevant authorities—

(a) any Minister of the Crown or government department;

(b) any body performing functions on behalf of the Crown;

(c) the Gangmasters and Labour Abuse Authority.”

6 In section 14 (powers of officers) before subsection (1) insert—

“(A1) This section does not apply to an officer acting for the purposes of this Act in relation to England and Wales if the officer is a labour abuse prevention officer within the meaning of section 114B of the Police and Criminal Evidence Act 1984 (PACE powers for labour abuse prevention officers).”

Modern Slavery Act 2015 (c. 30)

7 The Modern Slavery Act 2015 is amended as follows.

8 Before section 12 (but after the italic heading before it) insert—

“11A Enforcement by Gangmasters and Labour Abuse Authority

(1) The Secretary of State may make arrangements with the Gangmasters and Labour Abuse Authority for officers of the Authority to act for the purposes of this Part in taking action in circumstances in which it appears that an offence under this Part which is a labour market offence (within the meaning of section 3 of the Immigration Act 2016) has been, is being or may be committed.

(2) For provision about the powers of such an officer who is acting for the purposes of this Part, see section 114B of the Police and Criminal Evidence Act 1984 (PACE powers for labour abuse prevention officers).”

9 (1) Section 15 (slavery and trafficking prevention orders on application) is amended as follows.

(2) In subsection (1)—

(a) omit the “or” after paragraph (b);

(b) after paragraph (c) insert “, or

(d) the Gangmasters and Labour Abuse Authority.”

(3) In subsection (7)—

(a) for “or the Director General”, in the first place it occurs, substitute “, the Director General or the Gangmasters and Labour Abuse Authority”;

(b) for “or the Director General”, in the second place it occurs, substitute “, the Director General or the Authority”.

(4) In subsection (8)(b)—

(a) for “or the Director General”, in the first place it occurs, substitute “, the Director General or the Gangmasters and Labour Abuse Authority”;

(b) for “or the Director General”, in the second place it occurs, substitute “, the Director General or the Authority”.

10 In section 19(7) (requirement to provide name and address)—

(a) for “or an immigration officer” substitute “, an immigration officer or the Gangmasters and Labour Abuse Authority”;

(b) for “or the officer” substitute “, the officer or the Authority”.

11 (1) Section 20 (variation, renewal and discharge) is amended as follows.

(2) In subsection (2), after paragraph (f) insert—

“(g) where the order was made on an application under section 15 by the Gangmasters and Labour Abuse Authority, the Authority.”

(3) In subsection (9)—

(a) for “or the Director General”, in the first place it occurs, substitute “, the Director General or the Gangmasters and Labour Abuse Authority”;

(b) for “or the Director General”, in the second and third places it occurs, substitute “, the Director General or the Authority”.

12 (1) Section 23 (slavery and trafficking risk orders) is amended as follows.

(2) In subsection (1)—

(a) omit the “or” after paragraph (b);

(b) after paragraph (c) insert “, or

(d) the Gangmasters and Labour Abuse Authority.”

(3) In subsection (6)—

(a) for “or the Director General”, in the first place it occurs, substitute “, the Director General or the Gangmasters and Labour Abuse Authority”;

(b) for “or the Director General”, in the second place it occurs, substitute “, the Director General or the Authority”.

(4) In subsection (7)(b)—

(a) for “or the Director General” substitute “, the Director General or the Gangmasters and Labour Abuse Authority”;

(b) for “or Director General” substitute “, the Director General or the Authority”.

13 In section 26(7) (requirement to provide name and address)—

(a) for “or an immigration officer” substitute “, an immigration officer or the Gangmasters and Labour Abuse Authority”;

(b) for “or the officer” substitute “, the officer or the Authority”.

14 (1) Section 27 (variation, renewal and discharge) is amended as follows.

(2) In subsection (2), after paragraph (f) insert—

“(g) where the order was made on an application by the Gangmasters and Labour Abuse Authority, the Authority.”

(3) In subsection (7)—

(a) for “or the Director General” in the first place it occurs, substitute “, the Director General or the Gangmasters and Labour Abuse Authority”;

(b) for “or the Director General” in the second and third places it occurs, substitute “, the Director General or the Authority”.

15 After section 30 (offences) insert—

“30A Enforcement by Gangmasters and Labour Abuse Authority

(1) The Secretary of State may make arrangements with the Gangmasters and Labour Abuse Authority for officers of the Authority to act for the purposes of this Part in taking action in circumstances in which it appears that an offence under this Part which is a labour market offence (within the meaning of section 3 of the Immigration Act 2016) has been, is being or may be committed.

(2) For provision about the powers of such an officer who is acting for the purposes of this Part, see section 114B of the Police and Criminal Evidence Act 1984 (PACE powers for labour abuse prevention officers).”

16 In section 33 (guidance), in subsection (1) for “and the Director General of the National Crime Agency” substitute “, the Director General of the National Crime Agency and the Gangmasters and Labour Abuse Authority”.

Amendments 73A to 76A (to Amendment 73) not moved.

Amendment 73 agreed.

Amendment 77

Moved by Lord Bates

77: Before Schedule 1, insert the following new Schedule—

Schedule

Consequential and related amendments

Public Records Act 1958 (c. 51)

1 In the Public Records Act 1958, in Schedule 1 (definition of public records), in Part 2 of the Table at the end of paragraph 3 (other establishments and organisations), for “Gangmasters Licensing Authority” substitute “Gangmasters and Labour Abuse Authority”.

Parliamentary Commissioner Act 1967 (c. 13)

2 In the Parliamentary Commissioner Act 1967, in Schedule 2 (departments etc subject to investigation)—

- (a) at the appropriate place insert “Director of Labour Market Enforcement”;
- (b) for “Gangmasters Licensing Authority” substitute “Gangmasters and Labour Abuse Authority”.

Superannuation Act 1972 (c. 11)

3 In the Superannuation Act 1972, in Schedule 1 (kinds of employment to which that Act applies), under the heading “Other bodies”, for “Gangmasters Licensing Authority” substitute “Gangmasters and Labour Abuse Authority”.

House of Commons Disqualification Act 1975 (c. 24)

4 In the House of Commons Disqualification Act 1975, in Schedule 1 (offices disqualifying for membership)—

- (a) in Part 2 (bodies of which all members are disqualified), for “Gangmasters Licensing Authority” substitute “Gangmasters and Labour Abuse Authority”;
- (b) in Part 3 (other disqualifying offices), at the appropriate place insert “Director of Labour Market Enforcement”.

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

5 In the Northern Ireland Assembly Disqualification Act 1975, in Schedule 1 (offices disqualifying for membership)—

- (a) in Part 2 (bodies of which all members are disqualified), for “Gangmasters Licensing Authority” substitute “Gangmasters and Labour Abuse Authority”;
- (b) in Part 3 (other disqualifying offices), at the appropriate place insert “Director of Labour Market Enforcement”.

Regulation of Investigatory Powers Act 2000 (c. 23)

6 In the Regulation of Investigatory Powers Act 2000, in Schedule 1 (relevant public authorities), in Part 1 (relevant authorities for purposes of sections 28 and 29 of that Act) in paragraph 20E for “Gangmasters Licensing Authority” substitute “Gangmasters and Labour Abuse Authority”.

Freedom of Information Act 2000 (c. 36)

7 In the Freedom of Information Act 2000, in Schedule 1 (public authorities), in Part 6 (other public bodies and offices: general)—

- (a) at the appropriate place insert “Director of Labour Market Enforcement”;
- (b) for “Gangmasters Licensing Authority” substitute “Gangmasters and Labour Abuse Authority”.

Police Reform Act 2002 (c. 30)

8 The Police Reform Act 2002 is amended as follows.

9 In section 10 (general functions of the Independent Police Complaints Commission)—

- (a) in subsection (1), after paragraph (g) insert—
 “(ga) to carry out such corresponding functions in relation to officers of the Gangmasters and Labour Abuse Authority in their capacity as labour abuse prevention officers (see section 114B of the Police and Criminal Evidence Act 1984 (PACE powers for labour abuse prevention officers)).”;
- (b) in subsection (3), after paragraph (bc) insert—

“(bd) any regulations under section 26D of this Act (labour abuse prevention officers);”.

10 After section 26C insert—

“26D Labour abuse prevention officers

(1) The Secretary of State may make regulations conferring functions on the Commission in relation to the exercise of functions by officers of the Gangmasters and Labour Abuse Authority (the “Authority”) in their capacity as labour abuse prevention officers (see section 114B of the Police and Criminal Evidence Act 1984 (PACE powers for labour abuse prevention officers)).

(2) Regulations under this section may, in particular—

- (a) apply (with or without modifications), or make provision similar to, any provision of or made under this Part;
- (b) make provision for payment by the Authority to, or in respect of, the Commission.

(3) The Commission and the Parliamentary Commissioner for Administration may jointly investigate a matter in relation to which—

- (a) the Commission has functions by virtue of this section, and
- (b) the Parliamentary Commissioner for Administration has functions by virtue of the Parliamentary Commissioner Act 1967.

(4) An officer of the Authority may disclose information to the Commission, or to a person acting on the Commission's behalf, for the purposes of the exercise by the Commission, or by any person acting on the Commission's behalf, of an Authority complaints function.

(5) The Commission and the Parliamentary Commissioner for Administration may disclose information to each other for the purposes of the exercise of a function—

- (a) by virtue of this section, or
- (b) under the Parliamentary Commissioner Act 1967.

(6) Regulations under this section may, in particular, make—

- (a) further provision about the disclosure of information under subsection (4) or (5);
- (b) provision about the further disclosure of information that has been so disclosed.

(7) In this section “Authority complaints function” means a function in relation to the exercise of functions by officers of the Authority.”

Gangmasters (Licensing) Act 2004 (c. 11)

11 The Gangmasters (Licensing) Act 2004 is amended as follows.

12 In the italic heading before section 1, for “Gangmasters Licensing Authority” substitute “Gangmasters and Labour Abuse Authority”.

13 In section 1 (Gangmasters Licensing Authority)—

- (a) in the heading, for “Gangmasters Licensing Authority” substitute “Gangmasters and Labour Abuse Authority”;
- (b) for subsection (1) substitute—

“(1) The body known as the Gangmasters Licensing Authority is to continue to exist and is to be known as the Gangmasters and Labour Abuse Authority (in this Act referred to as “the Authority”).”;

(c) after subsection (3) insert—

“(3A) When carrying out functions during a year to which a labour market enforcement strategy approved under section 2 of the Immigration Act 2016 relates, the Authority and its officers must carry out those functions in accordance with the strategy.”

14 In section 2 (directions etc by the Secretary of State), in subsection (2) after “the Authority” insert “and the Director of Labour Market Enforcement”.

15 In section 3 (work to which Act applies)—

- (a) in subsection (5)(b), for the words from “the following nature” to the end substitute “a prescribed description as being work to which this Act applies”;
- (b) after subsection (5) insert—

“(6) The Secretary of State must consult the Authority and the Director of Labour Market Enforcement before making regulations under subsection (5).”

16 In section 8 (general power of Authority to make rules)—

(a) in subsection (1), after “may” insert “with the approval of the Secretary of State”;

(b) omit subsection (3);

(c) after subsection (4) insert—

“(5) The Authority may from time to time with the approval of the Secretary of State revise the rules.

(6) The Authority must publish any rules made or revised under this section.”

17 In section 14 (offences: supplementary provisions) after subsection (2) insert—

“(2A) Subsections (1) and (2) do not apply to an enforcement officer who is acting for the purposes of this Act in relation to England and Wales if the officer is a labour abuse prevention officer within the meaning of section 114B of the Police and Criminal Evidence Act 1984 (PACE powers for labour abuse prevention officers).”

18 In section 15 (enforcement and compliance officers) after subsection (6) insert—

“(6A) Subsections (5) and (6) do not apply to an enforcement officer who is acting for the purposes of this Act in relation to England and Wales if the officer is a labour abuse prevention officer within the meaning of section 114B of the Police and Criminal Evidence Act 1984 (PACE powers for labour abuse prevention officers).”

19 In section 16 (powers of officers) before subsection (1) insert—

“(A1) This section does not apply to an enforcement officer who is acting for the purposes of this Act in relation to England and Wales if the officer is a labour abuse prevention officer within the meaning of section 114B of the Police and Criminal Evidence Act 1984 (PACE powers for labour abuse prevention officers).”

20 In section 17 (entry by warrant) before subsection (1) insert—

“(A1) This section does not apply to an enforcement officer who is acting for the purposes of this Act in relation to England and Wales if the officer is a labour abuse prevention officer within the meaning of section 114B of the Police and Criminal Evidence Act 1984 (PACE powers for labour abuse prevention officers).”

21 In section 25 (regulations, rules and orders)—

(a) omit subsection (4);

(b) in subsection (6), omit paragraph (b) (and the “or” before it).

22 (1) Schedule 2 (application of Act to Northern Ireland) is amended as follows.

(2) In the italic heading before paragraph 3, for “Gangmasters Licensing Authority” substitute “Gangmasters and Labour Abuse Authority”.

(3) In paragraph 6—

(a) after “work in Northern Ireland,” insert “—

(a) ”;

(b) at the end insert “, and

(b) the requirement under subsection (2) of that section to consult the Director of Labour Market Enforcement is to be ignored.”

(4) In paragraph 7, for paragraph (b) substitute—

“(b) paragraph (b) is to be read as if for “work of a prescribed description as being work to which this Act applies” there were substituted “work of the following nature as being work to which this Act applies—

(i) the gathering (by any manner) of wild creatures, or wild plants, of a prescribed description and the processing and packaging of anything so gathered, and

(ii) the harvesting of fish from a fish farm (within the meaning of the Fisheries Act (NI) 1966 (c. 17 (NI)).”

(5) For paragraph 10 substitute—

“10 (1) Rules under section 8 (general power of Authority to make rules) which make provision for Northern Ireland licences (“Northern Ireland rules”) are to be made by statutory instrument.

(2) Section 8 as it applies in relation to Northern Ireland licences is to be read as if—

(a) in subsection (1) the words “with the approval of the Secretary of State” were omitted, and

(b) subsections (5) and (6) were omitted.

(3) The Authority must consult the relevant Northern Ireland department before making any Northern Ireland rules about fees.

(4) A statutory instrument containing Northern Ireland rules is subject to annulment in pursuance of a resolution of either House of Parliament.”

Natural Environment and Rural Communities Act 2006 (c. 16)

23 In the Natural Environment and Rural Communities Act 2006, in Schedule 7 (designated bodies), in paragraph 13, for “Gangmasters Licensing Authority” substitute “Gangmasters and Labour Abuse Authority”.

Regulatory Enforcement and Sanctions Act 2008 (c. 13)

24 In the Regulatory Enforcement and Sanctions Act 2008, in Schedule 5 (designated regulators), for “Gangmasters Licensing Authority” substitute “Gangmasters and Labour Abuse Authority”.

Modern Slavery Act 2015 (c. 30)

25 The Modern Slavery Act 2015 is amended as follows.

26 In section 52 (duty to notify Secretary of State about suspected victims of slavery or human trafficking), in subsection (5)(k), for “Gangmasters Licensing Authority” substitute “Gangmasters and Labour Abuse Authority”.

27 In Schedule 3 (public authorities under duty to co-operate with the Independent Anti-slavery Commissioner), for “Gangmasters Licensing Authority” substitute “Gangmasters and Labour Abuse Authority”.

Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2) (N.I.)

28 In the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, in Schedule 3 (slavery and trafficking prevention orders), in Part 3 (supplementary) in paragraph 18(7)(e), for “Gangmasters Licensing Authority” substitute “Gangmasters and Labour Abuse Authority”.

Amendments 77A to 77C (to Amendment 77) not moved.

Amendment 77 agreed.

Schedule 1: Licensing Act 2003: amendments relating to illegal working

Amendment 78

Moved by Baroness Hamwee

78: Schedule 1, page 55, leave out lines 4 to 28

Baroness Hamwee (LD): My Lords, my noble friend Lord Paddick and I have Amendments 78 to 91 in this group, in which there are also two government amendments. I am sorry that they are not the sort of all-singing, all-dancing amendments with which one might like to start the day’s proceedings, but they are important.

Schedule 1 provides for changes to licensing related to illegal working and covers licensed premises and personal licences. The Licensing Act 2003 sets out

[BARONESS HAMWEE]

licensing objectives. They are the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. It seems to us that they cover the ground pretty well and they have been found to do so, particularly when taken with the local administration of licensing which sets it in the local context. I dare say that the Minister will say that illegal working—the subject of the schedule—is a crime, but we have already explained our view that the schedule is futile at best, dangerous at worst and has unlooked-for consequences. I will not repeat those arguments now. If a crime is committed, then whether that specific crime needs a schedule is one of the overarching questions.

Amendments 78 and 79 would retain the Secretary of State's right to be notified of an application for a licence and to object to that application along with the occupants of 25 Acacia Avenue, those next door to the Bull public house and so on, but it would delete the immigration officer's right to enter to see—those are the words of the Bill—whether an immigration offence is being committed. In our view, the licensing objective should be about particular individuals and premises and whether they are appropriate for a licence to be granted. Apart from the substantive objections, this schedule produces a lot of bureaucracy. Is it not enough that the Secretary of State has a right to object to the grant of the licence? If the licensee has been employing one or two people without the right to work, it is possible that there may have been confusion, difficulties of checking and so on, so there is a great possibility for mistakes. That is very different from an operation being dependent on an almost entirely unentitled or illegal workforce.

I have mentioned public houses, but I know that there is also concern in, for instance, the curry house trade that these provisions will cause considerable disruption to their operation. What consultation has there been with various relevant organisations, including within the licensed trade? A lot of small businesses stand to be affected by this. The Immigration Law Practitioners' Association has analysed Home Office lists of penalties imposed for illegal working and says that many of them relate to small businesses. It asks a pertinent question about whether that is because they employ illegal workers more often or because they are targeted more often. Also, for immigration officers to be able to enter premises on something of a fishing expedition without the need for suspicion is a wide power.

Amendments 80 and 83 may look as if I am seeking to extend the powers of the Secretary of State; I am not. This is to probe how the powers will operate and, again, to ask what consultation there has been. The police can already object to the transfer of a licence because it would undermine the crime prevention objective in the exceptional circumstances of a case, so presumably the Home Office has experience of this and should be able to help me with that question. I also ask whether this right for the police is not enough in itself without extending a similar right to the Secretary of State.

Amendments 81, 82, 84, 85, 87, 88 and 90 would change “appropriate” to “necessary”, which is the term used in the 2003 Act. For instance, it would be

“necessary” to reject an application under that Act for the crime prevention objective. To change that term to being “appropriate” to reject it for these objectives seems to give a discretion to the Secretary of State that is wider than we are accustomed to in current licensing law, and which I am unconvinced about.

Amendments 86 and 89 are also about the scope for the Secretary of State's discretion. They mean that the Secretary of State must be satisfied—I will give that much on the basis of reasonableness—that refusing a licence or the continuation of one is necessary to prevent illegal working, not just that the grant of a licence would prejudice the prevention of illegal working, as the schedule says.

Lastly, and rather differently, there is Amendment 91. The schedule provides that on appeal the magistrates cannot consider whether, after the original decision that is the subject of the appeal, an individual has actually been granted leave to enter or remain in the UK. Why is this necessary? What happens if the individual is granted leave to enter or leave to remain but his initial application for a licence has been turned down? Does he in those circumstances have to make a fresh application for a licence, which will carry with it costs as well as difficulties in running a business, and indeed for employees of that applicant? I will hear what the Minister has to say about his amendments, but I beg to move.

Baroness Butler-Sloss (CB): My Lords, I support what might be seen as the rather technical points raised by the noble Baroness, Lady Hamwee. I am looking particularly at Amendments 81, 82, 84, 85, 86, 87, 88, 89 and 90. Where it is the practice in earlier legislation to use the word “necessary”, it seems inappropriate to use the word “appropriate”. One should keep to similar phraseology in legislation unless there is some very strong view to change it. “Appropriate”, as the noble Baroness says, gives a very wide degree of discretion—far greater than necessary—and I cannot at the moment see why it is necessary to have it wider than that. The other points—refusing continuation of a licence and so on—are similar. They are perhaps technical but, when they are worked on the ground, they have considerable force, and I am rather concerned to be broadening out what it does not seem necessary so to broaden.

The Earl of Sandwich (CB): My Lords, I support Amendments 78 and 79, which would remove the Secretary of State's power. It is a snooping power—a very wide power to search any licensed premises, with no need for suspicion, as the noble Baroness said. I will ask her question again in different words: what is the evidence for the growth in illegal working in licensed premises which justifies these new rules?

5.15 pm

Lord Kennedy of Southwark (Lab): My Lords, the amendments in this group are in the names of the noble Baroness, Lady Hamwee, and the noble Lord, Lord Paddick, with the exception of the final two, which are in the name of the noble Lord, Lord Bates. They are all concerned with Schedule 1 to the Bill and are generally technical in nature.

Amendments 78 and 79 aim to remove from the schedule amendments to the Licensing Act 2003, which would bring that Act into line with the proposals in the Bill. These amendments highlight the very unsatisfactory nature of the Bill that has been brought before us today, and for that reason, if nothing else, they are useful.

The next part of this group seeks to delete and insert certain words to make changes in emphasis and to clarify at what point action is sought to be taken. To remove the word “appropriate” and insert the word “necessary” in its place would raise the requirement from what is deemed “suitable” or “fitting” to achieve the objective or outcome to something where those exercising the power would have to be satisfied that it is “essential” or “indispensable” to achieve the desired outcome. I agree with the points made in this respect by the noble and learned Baroness, Lady Butler-Sloss.

I will not spend any more time on this as there will be more substantial debates later today, but I hope that the noble Lord, Lord Bates, will be able to answer the important points that have been raised in this initial debate. The final two amendments, which are in the name of the noble Lord, Lord Bates, seek to clarify further what is proposed in the provisions in the schedule, and I am satisfied with them.

The Minister of State, Home Office (Lord Bates)

(Con): My Lords, I thank the noble Baroness for speaking to her amendments. Before coming to the questions that have been asked, I will briefly speak to Amendments 92 and 93 in my name. Schedule 1 to the Bill concerns the powers to prevent illegal working in premises licensed to sell alcohol or provide late-night refreshment in England and Wales. These are two technical amendments to Schedule 1 which aim to ensure that those who have applied for a premises licence or a personal licence for the sale of alcohol or the provision of late-night refreshment, and who have not had a decision on that licence application before these provisions have commenced, will have their application determined on the basis of the licensing law in force at the time they made their licensing application.

Amendments 78 to 91 are proposed by the noble Baroness, Lady Hamwee. Schedule 1 integrates protection against illegal working into the existing licensing regime, including by adding the Home Secretary to the list of responsible authorities for the purpose of the Licensing Act, by making the prevention of illegal working an objective of the licensing regime and by requiring licence applicants to have the requisite right to work. The amendments proposed by the noble Baroness would adjust the threshold at which the Secretary of State may object to a licensing application. They would permit a court to consider whether the appellant has been granted leave to enter or remain in the UK after the date of the decision being appealed against, in effect duplicating the proper role of the tribunal—the Immigration and Asylum Chamber. The amendments would also make changes to the proposed “entitlement to work” definition from the Licensing Act 2003 to prevent immigration status and, in particular, the lack of it being relevant to alcohol or late-night refreshment licensing decisions.

We do not believe that these amendments would achieve the objective of preventing illegal working in this high-risk sector. They would not provide the necessary clarity for licensing authorities or the Home Office in respect of the proposed power to withhold personal and premises licences based on the absence of the applicant’s right to work in this sector or concerns about the risk of illegal working in the premises concerned. They would also result in inconsistency with the standards employed in the wider licensing framework. Changes made by the Police Reform and Social Responsibility Act 2011 have given licensing authorities greater power to tackle alcohol-related crime and disorder, and it is appropriate that the same level of evidence and discretion is also afforded in respect of the prevention of illegal working.

The Home Office decision to object to the issue of a premises licence to prevent illegal working will not be taken lightly. Schedule 1 makes it clear that the Secretary of State may object only where she is satisfied that the exceptional circumstances of the case are such that issuing a licence would be prejudicial to preventing illegal working. Schedule 1 also provides the necessary clarity on the circumstances in which a person’s immigration status should render them ineligible to hold a licence to sell alcohol. The proposed amendments would permit an individual to apply for a licence even though they are not permitted to work in the UK, or where their immigration status prevents their doing work related to licensable activity. This cannot be right. An applicant who has been refused a licence but is subsequently granted leave would simply need to make a fresh application and include the required information that provides evidence of immigration status.

Let me turn to some of the particular points that were made. The noble Earl, Lord Sandwich, asked what evidence exists that this is a particular problem. Of the civil penalties served for illegal working in the year to June 2015, 82% were served on the retail industry or hotel, restaurant and leisure industry sectors. A large proportion of these sectors hold premises or personal alcohol licences. Enforcement activity is decided as a consequence of intelligence and does not affect only companies that employ a small number of employees.

The noble Baroness, Lady Hamwee, asked what consultation had taken place. The changes proposed to the Licensing Act in the Bill have been subject to consultation with interested partners, including licensing authorities, the police, and representatives of the licensed trade. The consultation was undertaken last summer via a number of workshops, which were attended by the Local Government Association, the Institute of Licensing, licensing officers from seven licensing authorities, representatives of the national policing lead on alcohol, and the police and crime commissioner lead on alcohol. The second workshop included industry partners such as the British Beer & Pub Association, the Association of Convenience Stores, the Wine and Spirit Trade Association and the Association of Licensed Multiple Retailers. These partners provided a significant contribution to shaping our proposals.

Let me turn to perhaps the most interesting point, raised by the noble and learned Baroness, Lady Butler-Sloss, which is the subject of most of the amendments in this group: the use of the term “appropriate”.

[LORD BATES]

This was introduced across the licensing regime in the Police Reform and Social Responsibility Act 2011. We want the test in standards to be consistent across the two pieces of legislation. If we ended up with a differently worded test in the Bill before us, that might require consequential changes to the 2011 Act to bring them into line. I have listened carefully to the arguments that have been made and the point made by the noble Lord, Lord Kennedy, on behalf of the Opposition, and I am very happy to look at this issue ahead of Report to see whether any change is needed. However, that is the rationale for the choice of language.

With that assurance, I hope that the noble Baroness will feel able to withdraw her amendments, and in doing so I commend my amendments to the Committee.

Baroness Hamwee: I am grateful to noble Lords who have spoken in support of my amendments. I have to say that my trigger finger on my iPad is not fast enough to have got into the Police Reform and Social Responsibility Act. The Minister will understand that I will want to check whether it is on all fours in this regard. If it absolutely is, I might have to say, “You have got me there”.

The amendments have been described as technical. I do not think that they are; they are about people’s livelihoods, and that is why I am quite persistent with them. That was an impressive list of consultees who, we are told, helped to shape the proposal. I could not deduct whether they were shaping a proposal that they did not like and just making it a little better or whether they were going along with the proposal as it was put to them.

I will finish by saying that what I really do not want to see is a confusing of licensing and immigration—a point that crops up at a number of points in the Bill. They are separate issues and that is why I was so concerned. I am grateful to your Lordships for allowing me to indulge myself with this tranche of amendments, and I beg leave to withdraw Amendment 78.

Amendment 78 withdrawn.

Amendments 79 to 91 not moved.

Amendments 92 and 93

Moved by Lord Bates

92: Schedule 1, page 67, line 10, at end insert “pursuant to an application made”

93: Schedule 1, page 67, line 14, after “granted” insert “pursuant to an application made”

Amendments 92 and 93 agreed.

Schedule 1, as amended, agreed.

Clause 11: Private hire vehicles etc

Amendment 94

Moved by Lord Bates

94: Clause 11, page 8, line 6, leave out subsections (2) to (5)

Lord Bates: My Lords, I shall speak also to government Amendments 95 to 99, 102 to 104, 107 to 116, 118 and 119, 123, and 127 to 132. I shall await the formal

moving of the other amendments in this group and will cover them in my response.

The Government are seeking to prevent illegal working in the taxi and private hire sector, which, like the licensing sector, represents a high risk of illegal working. Many, but not all, licensing authorities undertake immigration checks. We are therefore taking action in Clause 11 and Schedule 2 to mandate immigration checks by all licensing authorities and to embed immigration safeguards in the existing licensing regimes.

I shall be moving a number of amendments today. While they appear significant in number, their purpose is simple, and that is to extend the existing provisions in Schedule 2 to Scotland, Northern Ireland and Plymouth. The main thrust of the government amendments is therefore to ensure that this measure applies across the whole of the UK. The Bill currently amends primary legislation in England and Wales with the sole exception of Plymouth, as I am sure the Deputy Chairman will be interested to know. We have needed extra time to work out and consult on the technical detail to fill these jurisdictional gaps. Taxi and private hire vehicle licensing in Plymouth is covered by the Plymouth City Council Act 1975 and not by the Local Government (Miscellaneous Provisions) Act 1976. Accordingly, we are seeking to amend the 1975 Act to extend to Plymouth taxi and private hire vehicle licensing provisions equivalent to those in the rest of England and Wales.

Further government amendments remove the enabling power in Clause 11 to extend provision to Scotland and Northern Ireland and, in its place, introduce substantive provision. In the case of Scotland, the provisions amend the Civic Government (Scotland) Act 1982 and, in the case of Northern Ireland, the Taxis Act (Northern Ireland) 2008. The Government have worked with the Governments of Scotland and Northern Ireland in bringing forward these amendments.

The remaining government amendments are also technical. We wish to ensure that there is consistency across all relevant licensing legislation where possible in relation to the offence of non-compliance with the mandatory return to the relevant licensing authority of expired licences and licences which have been revoked or suspended on immigration grounds. We also wish to specify the circumstances in which immigration offences and penalties will not be taken into account in any decision to revoke or suspend a licence. These are spent convictions and civil penalties which were served more than three years previously and which have been paid in full. I beg to move.

5.30 pm

Baroness Hamwee: My Lords, I have a number of amendments in this group; most of them are amendments to the government amendments and most of them come in pairs.

Amendment 99A is the first amendment of these pairs and deals with the licensing authority having to set an expiry date for a licence for someone who has been granted limited leave to enter or remain in the UK. The Government are proposing that the licence period,

“must end at or before the end of the leave period”,

which could mean a significantly shorter time before the end of the leave period. My amendments would mean that the licence would end at the end of the leave period. It would be fairly obvious that I would want to ask why the Government think it necessary to make provision for it to end some time before the end of the leave period. Presumably, the licensing authority can grant a licence for a shorter period in any event. I can see the need that it should not go on beyond the end of the leave period, but why does it have to be less?

Amendment 99B is the first of the other pairs of amendments. If leave is extended, the licensing authority can set the duration of the licence, which must not be more than six months. Again, I would ask why. I am proposing that the licence should coincide with the leave period. I make the point that I made in the previous group of amendments that we are dealing with people's livelihoods.

Amendment 117 is pretty much the same as the amendment in the previous group about whether an appeal, having been successful, can be entertained when a licence has been refused and is appealed on. I lost a grip of what the Minister said on that and will have to read *Hansard*, but he will probably have the same answer.

On Amendments 120 to 124, Schedule 2 provides for guidance from the Secretary of State to the licensing authorities in determining whether an applicant for a licence is disqualified because of his immigration status. My amendments amount to a requirement to consult with representatives of the licensing authorities, including Transport for London.

Lord Kennedy of Southwark: My Lords, this group comprises a large group of government amendments in the name of the noble Lord, Lord Bates, and a number of amendments in the names of the noble Baroness, Lady Hamwee, and the noble Lord, Lord Paddick. It is clear that the government amendments are included to make matters clear and consistent across all relevant lines of legislation. That in itself is a good thing. But for me that further illustrates the point that this legislation has been rushed and ill thought out and these revisions should have been in the Bill from the start.

Also, the Secretary of State is given powers in these government amendments to amend fine amounts by secondary legislation. That may be perfectly acceptable in this case. But the Government like their secondary legislation, hiding behind the limited ability of Parliament to hold them to account in such circumstances, but that I think is a wider issue for the House.

I have looked at the amendments put down by the noble Baroness, Lady Hamwee, and the noble Lord, Lord Paddick, and with respect to Amendment 117, they have a good point to make. It is not unreasonable for the courts to take into account that, after the date of a decision being appealed against, the person has been granted leave to remain in or enter the UK.

I take it that the other amendments are probing in nature in order to assist the Committee in further understanding the intention of the Government and satisfying noble Lords that what is being proposed is achievable, and of course they can be retabled later in

the course of the Bill if we think it necessary. I very much accept the point made by the noble Baroness, Lady Hamwee, that these are important issues that concern people's livelihoods.

Lord Bates: My Lords, I understand the nature of the amendments and I understand them better now that the noble Baroness has spoken to them. At the same time, I should like to provide some reassurances on the points she has made, in respect of taxi and private hire licence holders who have limited leave to be in the UK, that any licence granted must be for the full duration of the leave period. This fails to recognise that taxi and private hire licences cannot be granted for more than three years, while operating licences cannot be granted for more than five years. As the licence holder's immigration leave may expire after the relevant maximum licence duration, the Bill must enable licences to be granted for a shorter period.

Amendments 99B, 99D, 101, 106, 118B, 122, 126 and 131B relate to leave being extended by virtue of Section 3C of the Immigration Act 1971 when a person makes an application in time for an extension of leave, an administrative review or an appeal. While I appreciate the reasons behind these amendments, the Government believe that it is reasonable to limit the duration of a licence issued during a period of Section 3C leave to six months. The provisions would not work in practice without a stated duration, since licensing authorities cannot grant licences of unspecified duration. The six-month duration mirrors the period of an excuse provided to an employer who performs a right to work check on a migrant during a period in which they may have Section 3C leave to remain. If at the end of the six-month period the licence holder has been granted further leave, he or she will be able to demonstrate this leave and obtain a new licence.

Amendment 117 has already been considered by noble Lords in the context of alcohol and late night refreshment licences. The purpose of an appeal is to ascertain whether the original decision was correctly made. It would therefore not be appropriate for the court to consider a subsequent immigration decision. An appellant who has subsequently been granted leave would need to make a fresh application and include the required information which provides evidence of immigration status.

Amendments 120 to 124 would require the Secretary of State to consult licensing authorities and Transport for London before issuing relevant guidance on whether an applicant is disqualified from holding a licence because of their immigration status. This will be done anyway. In formulating these provisions, the Home Office, with the assistance of the Department for Transport, consulted the Local Government Association, licensing authorities, the Institute of Licensing and Transport for London.

In the light of this explanation, which I hope has addressed the key points made by the noble Baroness, Lady Hamwee, and the noble Lord, Lord Kennedy, I hope that she feels reassured enough not to press her amendment.

Amendment 94 agreed.

Clause 11, as amended, agreed.

Schedule 2: Private hire vehicles etc**Amendments 95 to 98****Moved by Lord Bates**

95: Schedule 2, page 67, line 23, at end insert—

“London Hackney Carriages Act 1843 (c. 86)

(1) Section 18 of the London Hackney Carriages Act 1843 (licences and badges to be delivered up on the discontinuance of licences) is amended as follows.

(2) At the beginning insert “(1)”.

(3) At the end of subsection (1) insert—

“(2) Subsection (1) does not require the delivery of a licence and badge on the expiry of the licence if the licence was granted in accordance with section 8A(2) or (4) of the Metropolitan Public Carriage Act 1869 (but see section 8A(5A) of that Act).”

96: Schedule 2, page 68, line 14, at end insert—

“(5A) If a licence granted in accordance with subsection (2) or (4) expires, the person to whom it was granted must, within the period of 7 days beginning with the day after that on which it expired, return to Transport for London—

(a) the licence,

(b) the person’s copy of the licence (if any), and

(c) the person’s driver’s badge.”

97: Schedule 2, page 68, line 22, at end insert “(5A) or”

98: Schedule 2, page 68, line 22, at end insert—

“(7A) The Secretary of State may by regulations made by statutory instrument amend the amount for the time being specified in subsection (7)(b).

(7B) Regulations under subsection (7A) may make transitional, transitory or saving provision.

(7C) A statutory instrument containing regulations under subsection (7A) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

Amendments 95 to 98 agreed.**Amendment 99****Moved by Lord Bates**

99: Schedule 2, page 69, line 3, at end insert—

“Plymouth City Council Act 1975 (c. xx)

3A The Plymouth City Council Act 1975 is amended as follows.

3B After section 2 insert—

“2A Persons disqualified by reason of immigration status

(1) For the purposes of this Act a person is disqualified by reason of the person’s immigration status from carrying on a licensable activity if the person is subject to immigration control and—

(a) the person has not been granted leave to enter or remain in the United Kingdom, or

(b) the person’s leave to enter or remain in the United Kingdom—

(i) is invalid,

(ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or

(iii) is subject to a condition preventing the individual from carrying on the licensable activity.

(2) Where a person is on immigration bail within the meaning of Part 1 of Schedule 7 to the Immigration Act 2016—

(a) the person is to be treated for the purposes of this Part of this Act as if the person had been granted leave to enter the United Kingdom, but

(b) any condition as to the person’s work in the United Kingdom to which the person’s immigration bail is subject is to be treated for those purposes as a condition of leave.

(3) For the purposes of this section a person is subject to immigration control if under the Immigration Act 1971 the person requires leave to enter or remain in the United Kingdom.

(4) For the purposes of this section a person carries on a licensable activity if the person—

(a) drives a private hire vehicle,

(b) operates a private hire vehicle, or

(c) drives a hackney carriage.

2B Immigration offences and immigration penalties

(1) In this Act “immigration offence” means—

(a) an offence under any of the Immigration Acts,

(b) an offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence within paragraph (a), or

(c) an offence under section 1 of the Criminal Law Act 1977 of conspiracy to commit an offence within paragraph (a).

(2) In this Act “immigration penalty” means a penalty under—

(a) section 15 of the Immigration, Asylum and Nationality Act 2006 (“the 2006 Act”), or

(b) section 23 of the Immigration Act 2014 (“the 2014 Act”).

(3) For the purposes of this Act a person to whom a penalty notice under section 15 of the 2006 Act has been given is not to be treated as having been required to pay an immigration penalty if—

(a) the person is excused payment by virtue of section 15(3) of that Act, or

(b) the penalty is cancelled by virtue of section 16 or 17 of that Act.

(4) For the purposes of this Act a person to whom a penalty notice under section 15 of the 2006 Act has been given is not to be treated as having been required to pay an immigration penalty until such time as—

(a) the period for giving a notice of objection under section 16 of that Act has expired and the Secretary of State has considered any notice given within that period, and

(b) if a notice of objection was given within that period, the period for appealing under section 17 of that Act has expired and any appeal brought within that period has been finally determined, abandoned or withdrawn.

(5) For the purposes of this Act a person to whom a penalty notice under section 23 of the 2014 Act has been given is not to be treated as having been required to pay an immigration penalty if—

(a) the person is excused payment by virtue of section 24 of that Act, or

(b) the penalty is cancelled by virtue of section 29 or 30 of that Act.

(6) For the purposes of this Act a person to whom a penalty notice under section 23 of the 2014 Act has been given is not to be treated as having been required to pay an immigration penalty until such time as—

(a) the period for giving a notice of objection under section 29 of that Act has expired and the Secretary of State has considered any notice given within that period, and

(b) if a notice of objection was given within that period, the period for appealing under section 30 of that Act has expired and any appeal brought within that period has been finally determined, abandoned or withdrawn.”

3C (1) Section 9 (licensing of drivers of private hire vehicles) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a) after “satisfied” insert “—(i), and
- (b) for the “or” at the end of paragraph (a) substitute “and
 - (ii) that the applicant is not disqualified by reason of the applicant’s immigration status from driving a private hire vehicle; or”.

(3) After subsection (1) insert—

“(1A) In determining for the purposes of subsection (1) whether an applicant is disqualified by reason of the applicant’s immigration status from driving a private hire vehicle, the Council must have regard to any guidance issued by the Secretary of State.”

3D In section 11(1) (drivers’ licences for hackney carriages and private hire vehicles)—

- (a) in paragraph (a) for “Every” substitute “Subject to section 11A, every”, and
- (b) in paragraph (b) after “1889,” insert “but subject to section 11A,”.

3E After section 11 insert—

“11A Drivers’ licences for persons subject to immigration control

(1) Subsection (2) applies if—

- (a) a licence within section 11(1)(a) or (b) is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period (“the leave period”),
- (b) the person’s leave has not been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision), and
- (c) apart from subsection (2), the period for which the licence would have been in force would have ended after the end of the leave period.

(2) The Council must specify a period in the licence as the period for which it remains in force; and that period must end at or before the end of the leave period.

(3) Subsection (4) applies if—

- (a) a licence within section 11(1)(a) or (b) is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period, and
- (b) the person’s leave has been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision).

(4) The Council must specify a period in the licence as the period for which it remains in force; and that period must not exceed six months.

(5) A licence within section 11(1)(a) ceases to be in force if the person to whom it was granted becomes disqualified by reason of the person’s immigration status from driving a private hire vehicle.

(6) A licence within section 11(1)(b) ceases to be in force if the person to whom it was granted becomes disqualified by reason of the person’s immigration status from driving a hackney carriage.

(7) If a licence granted in accordance with subsection (2) or (4) expires, the person to whom it was granted must, within the period of 7 days beginning with the day after that on which it expired, return the licence and the person’s driver’s badge to the Council.

(8) If subsection (5) or (6) applies to a licence, the person to whom it was granted must, within the period of 7 days beginning with the day after the day on which the person first became disqualified, return the licence and the person’s driver’s badge to the Council.

(9) A person who, without reasonable excuse, contravenes subsection (7) or (8) is guilty of an offence and liable on summary conviction—

- (a) to a fine not exceeding level 3 on the standard scale, and
- (b) in the case of a continuing offence, to a fine not exceeding ten pounds for each day during which an offence continues after conviction.

(10) The Secretary of State may by regulations made by statutory instrument amend the amount for the time being specified in subsection (9)(b).

(11) Regulations under subsection (10) may make transitional, transitory or saving provision.

(12) A statutory instrument containing regulations under subsection (10) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

3F (1) Section 13 (licensing of operators of private hire vehicles) is amended as follows.

(2) In subsection (1)—

- (a) after “satisfied” insert “—(a)”, and
- (b) at the end of paragraph (a) insert “; and
 - (b) if the applicant is an individual, that the applicant is not disqualified by reason of the applicant’s immigration status from operating a private hire vehicle.”

(3) After subsection (1) insert—

“(1A) In determining for the purposes of subsection (1) whether an applicant is disqualified by reason of the applicant’s immigration status from operating a private hire vehicle, the Council must have regard to any guidance issued by the Secretary of State.”

(4) In subsection (2) for “Every” substitute “Subject to section 13A, every”.

3G After section 13 insert—

“13A Operators’ licences for persons subject to immigration control

(1) Subsection (2) applies if—

- (a) a licence under section 13 is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period (“the leave period”),
- (b) the person’s leave has not been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision), and
- (c) apart from subsection (2), the period for which the licence would have been in force would have ended after the end of the leave period.

(2) The Council must specify a period in the licence as the period for which it remains in force; and that period must end at or before the end of the leave period.

(3) Subsection (4) applies if—

- (a) a licence under section 13 is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period, and
- (b) the person’s leave has been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision).

(4) The Council must specify a period in the licence as the period for which it remains in force; and that period must not exceed six months.

(5) A licence under section 13 ceases to be in force if the person to whom it was granted becomes disqualified by reason of the person’s immigration status from operating a private hire vehicle.

(6) If a licence granted in accordance with subsection (2) or (4) expires, the person to whom it was granted must, within the period of 7 days beginning with the day after that on which it expired, return the licence to the Council.

(7) If subsection (5) applies to a licence, the person to whom it was granted must, within the period of 7 days beginning with the day after the day on which the person first became disqualified, return it to the Council.

(8) A person who, without reasonable excuse, contravenes subsection (6) or (7) is guilty of an offence and liable on summary conviction—

- (a) to a fine not exceeding level 3 on the standard scale, and

(b) in the case of a continuing offence, to a fine not exceeding ten pounds for each day during which an offence continues after conviction.

(9) The Secretary of State may by regulations made by statutory instrument amend the amount for the time being specified in subsection (8)(b).

(10) Regulations under subsection (9) may make transitional, transitory or saving provision.

(11) A statutory instrument containing regulations under subsection (9) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

3H (1) Section 17 (qualification for drivers of hackney carriages) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a) after "satisfied" insert "(i)", and

(b) for the "or" at the end of paragraph (a) substitute "and (ii) that the applicant is not disqualified by reason of the applicant's immigration status from driving a hackney carriage; or".

(3) After subsection (1) insert—

"(1A) In determining for the purposes of subsection (1) whether an applicant is disqualified by reason of the applicant's immigration status from driving a hackney carriage, the Council must have regard to any guidance issued by the Secretary of State."

3I (1) Section 19 (suspension and revocation of drivers' licences) is amended as follows.

(2) In subsection (1) before the "or" at the end of paragraph (a) insert—

"(aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty;".

(3) After subsection (1) insert—

"(1A) Subsection (1)(aa) does not apply if—

(a) in a case where the driver has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, or

(b) in a case where the driver has been required to pay an immigration penalty—

(i) more than three years have elapsed since the date on which the penalty was imposed, and

(ii) the amount of the penalty has been paid in full."

(4) After subsection (2) insert—

"(2A) The requirement in subsection (2)(a) to return a driver's badge does not apply in a case where section 20A applies (but see subsection (2) of that section))."

3J (1) Section 20 (suspension and revocation of operators' licences) is amended as follows.

(2) In subsection (1) before the "or" at the end of paragraph (c) insert—

"(ca) that the operator has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty;".

(3) After subsection (1) insert—

"(1A) Subsection (1)(ca) does not apply if—

(a) in a case where the operator has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, or

(b) in a case where the operator has been required to pay an immigration penalty—

(i) more than three years have elapsed since the date on which the penalty was imposed, and

(ii) the amount of the penalty has been paid in full."

3K After section 20 insert—

"20A Return of licences suspended or revoked on immigration grounds

(1) Subsection (2) applies if—

(a) under section 19 the Council suspend, revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on the ground mentioned in subsection (1)(aa) of that section, or

(b) under section 20 the Council suspend, revoke or refuse to renew an operator's licence on the ground mentioned in subsection (1)(ca) of that section.

(2) The person to whom the licence was granted must, within the period of 7 days beginning with the relevant day, return to the Council—

(a) the licence, and

(b) in the case of a licence of a driver of a hackney carriage or a private hire vehicle, the person's driver's badge.

(3) In subsection (2) "the relevant day" means—

(a) where the licence is suspended or revoked, the day on which the suspension or revocation takes effect;

(b) where the Council refuse to renew the licence, the day on which the licence expires as a result of the failure to renew it.

(4) A person who, without reasonable excuse, contravenes subsection (2) is guilty of an offence and liable on summary conviction—

(a) to a fine not exceeding level 3 on the standard scale, and

(b) in the case of a continuing offence, to a fine not exceeding ten pounds for each day during which an offence continues after conviction.

(5) The Secretary of State may by regulations made by statutory instrument amend the amount for the time being specified in subsection (4)(b).

(6) Regulations under subsection (5) may make transitional, transitory or saving provision.

(7) A statutory instrument containing regulations under subsection (8) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.""

3L In section 37 (appeals) after subsection (2) insert—

"(3) On an appeal under this Act or an appeal under section 302 of the Act of 1936 as applied by this section, the court is not entitled to entertain any question as to whether—

(a) a person should be, or should have been, granted leave to enter or remain in the United Kingdom, or

(b) a person has, after the date of the decision being appealed against, been granted leave to enter or remain in the United Kingdom.""

Lord Bates: I beg to move.

Amendment 99A (to Amendment 99)

Moved by Baroness Hamwee

99A: Schedule 2, line 119, leave out "or before"

Baroness Hamwee: My Lords, with the leave of House, perhaps I may respond to some points made by the Minister on these amendments. I will be very quick. As to the requirement as regards private hire licensing and alcohol licensing for an applicant who did not have leave at the point when the initial decision was made but gets leave in the interim period before an appeal, it is very hard on that applicant that the licensing of the appeal court—although "appeal" may not be quite the right term for what I am trying to say—cannot entertain the consideration of that situation. The applicant will incur costs and a delay. Businesses

will be affected and third parties—employees—may be affected. Of everything I have heard, that concerns me particularly. I may be misunderstanding some of the procedures but, if I am misunderstanding them and the language is not completely clear, that could cause a problem for those who will have to operate them. I beg to move.

Lord Bates: To clarify for the noble Baroness, I understand her point. My understanding is that what we are saying is that the applicant should not be making an application for a licence that extends beyond the period in which they have leave to remain in the country. Therefore, the point we are seeking to hold is that they should have the licence for the period which relates to the legal position that they have been given to be in the UK. We are trying to tie up those two points.

Baroness Hamwee: My Lords, I think I follow that—but what if the application for leave has initially been turned down on the basis of a mistake? That would leave the applicant for a licence in a difficult position. I do not think that it will benefit us to take this discussion further now, but I have no doubt that the Minister, in his usual very helpful way, will be able to undertake discussions between Committee and Report. I will certainly look at it again and perhaps we could pursue it.

Lord Bates: I am happy to give that undertaking to the noble Baroness.

Baroness Hamwee: I beg leave to withdraw the amendment.

Amendment 99A (to Amendment 99) withdrawn.

Amendments 99B to 99D (to Amendment 99) not moved.

Amendment 99 agreed.

Amendments 100 and 101 not moved.

Amendments 102 to 104

Moved by Lord Bates

102: Schedule 2, page 70, line 12, at end insert—

“(6A) If a licence granted in accordance with subsection (2) or (4) expires, the person to whom it was granted must, within the period of 7 days beginning with the day after that on which it expired, return the licence and the person’s driver’s badge to the district council which granted the licence.”

103: Schedule 2, page 70, line 18, at end insert “(6A) or”

104: Schedule 2, page 70, line 23, at end insert—

“(9) The Secretary of State may by regulations made by statutory instrument amend the amount for the time being specified in subsection (8)(b).

(10) Regulations under subsection (9) may make transitional, transitory or saving provision.

(11) A statutory instrument containing regulations under subsection (9) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

Amendments 102 to 104 agreed.

Amendments 105 and 106 not moved.

5.45 pm

Amendments 107 to 116

Moved by Lord Bates

107: Schedule 2, page 71, line 22, at end insert—

“(5A) If a licence granted in accordance with subsection (2) or (4) expires, the person to whom it was granted must, within the period of 7 days beginning with the day after that on which it expired, return the licence to the district council which granted the licence.”

108: Schedule 2, page 71, line 27, at end insert “(5A) or”

109: Schedule 2, page 71, line 32, at end insert—

“(8) The Secretary of State may by regulations made by statutory instrument amend the amount for the time being specified in subsection (7)(b).

(9) Regulations under subsection (8) may make transitional, transitory or saving provision.

(10) A statutory instrument containing regulations under subsection (8) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

110: Schedule 2, page 71, line 45, at end insert—

“() Section 61 (suspension and revocation of driver’s licences) is amended as follows.”

111: Schedule 2, page 71, line 46, leave out from “In” to “before” and insert “subsection (1)”

112: Schedule 2, page 72, line 4, at end insert—

“() After subsection (1) insert—

“(1A) Subsection (1)(aa) does not apply if—

(a) in a case where the driver has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, or

(b) in a case where the driver has been required to pay an immigration penalty—

(i) more than three years have elapsed since the date on which the penalty was imposed, and

(ii) the amount of the penalty has been paid in full.”

() After subsection (2) insert—

“(2ZA) The requirement in subsection (2)(a) to return a driver’s badge does not apply in a case where section 62A applies (but see subsection (2) of that section).”

113: Schedule 2, page 72, line 4, at end insert—

“() Section 62 (suspension and revocation of operators’ licences) is amended as follows.”

114: Schedule 2, page 72, line 5, leave out from “In” to “before” and insert “subsection (1)”

115: Schedule 2, page 72, line 9, at end insert—

“() After subsection (1) insert—

“(1A) Subsection (1)(ca) does not apply if—

(a) in a case where the operator has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, or

(b) in a case where the operator has been required to pay an immigration penalty—

(i) more than three years have elapsed since the date on which the penalty was imposed, and

(ii) the amount of the penalty has been paid in full.”

116: Schedule 2, page 72, line 9, at end insert—

“

After section 62 insert—

“62A Return of licences suspended or revoked on immigration grounds

(1) Subsection (2) applies if—

- (a) under section 61 a district council suspend, revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on the ground mentioned in subsection (1)(aa) of that section, or
- (b) under section 62 a district council suspend, revoke or refuse to renew an operator's licence on the ground mentioned in subsection (1)(ca) of that section.

(2) The person to whom the licence was granted must, within the period of 7 days beginning with the relevant day, return to the district council—

- (a) the licence, and
- (b) in the case of a licence of a driver of a hackney carriage or a private hire vehicle, the person's driver's badge.

(3) In subsection (2) “the relevant day” means—

- (a) where the licence is suspended or revoked, the day on which the suspension or revocation takes effect;
- (b) where the district council refuse to renew the licence, the day on which the licence expires as a result of the failure to renew it.

(4) A person who, without reasonable excuse, contravenes subsection (2) is guilty of an offence and liable on summary conviction—

- (a) to a fine not exceeding level 3 on the standard scale, and
- (b) in the case of a continuing offence, to a fine not exceeding ten pounds for each day during which an offence continues after conviction.

(5) The Secretary of State may by regulations made by statutory instrument amend the amount for the time being specified in subsection (4)(b).

(6) Regulations under subsection (5) may make transitional, transitory or saving provision.

(7) A statutory instrument containing regulations under subsection (8) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

Amendments 107 to 116 agreed.

Amendment 117 not moved.

Amendment 118

Moved by Lord Bates

118: Schedule 2, page 74, line 4, at end insert—

“*Civic Government (Scotland) Act 1982 (c. 45)*

14A The Civic Government (Scotland) Act 1982 is amended as follows.

14B In section 13 (taxi and private hire car driving licences) after subsection (3) insert—

“(3A) A licensing authority shall not grant a licence to any person under this section unless the authority is satisfied that the person is not disqualified by reason of the applicant's immigration status from driving a taxi or private hire car.

(3B) Section 13A makes provision for the purposes of subsection (3A) about the circumstances in which a person is disqualified by reason of the person's immigration status from driving a taxi or private hire car.

(3C) In determining for the purposes of subsection (3A) whether a person is disqualified by reason of the person's immigration status from driving a taxi or private hire car, a licensing authority must have regard to any guidance issued by the Secretary of State.”

14C After section 13 insert—

“13A Persons disqualified by reason of immigration status

(1) For the purposes of section 13(3A) a person is disqualified by reason of the person's immigration status from driving a taxi or private hire car if the person is subject to immigration control and—

- (a) the person has not been granted leave to enter or remain in the United Kingdom, or
- (b) the person's leave to enter or remain in the United Kingdom—
 - (i) is invalid,
 - (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or
 - (iii) is subject to a condition preventing the individual from driving a taxi or private hire car.

(2) Where a person is on immigration bail within the meaning of Part 1 of Schedule 7 to the Immigration Act 2016—

- (a) the person is to be treated for the purposes of this section as if the person had been granted leave to enter the United Kingdom, but
- (b) any condition as to the person's work in the United Kingdom to which the person's immigration bail is subject is to be treated for those purposes as a condition of leave.

(3) For the purposes of this section a person is subject to immigration control if under the Immigration Act 1971 the person requires leave to enter or remain in the United Kingdom.”

14D (1) Schedule 1 (licensing - further provisions as to the general system) is amended as follows.

(2) In paragraph 8 (duration of licences) in sub-paragraph (8) after “paragraphs” insert “8A and”.

(3) After paragraph 8 insert—

“*Taxi etc driving licences for persons subject to immigration control*

8A (1) Sub-paragraph (2) applies if—

- (a) a taxi driver's licence or private hire car driver's licence is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period (“the leave period”),
- (b) the person's leave has not been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision), and
- (c) apart from sub-paragraph (2), the period for which the licence would have had effect would have ended after the end of the leave period.

(2) The licensing authority which grants the licence must specify a period in the licence as the period for which it has effect; and that period must end at or before the end of the leave period.

(3) Sub-paragraph (4) applies if—

- (a) a taxi driver's licence or private hire car driver's licence is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period, and
- (b) the person's leave has been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision).

(4) The licensing authority which grants the licence must specify a period in the licence as the period for which it has effect; and that period must not exceed six months.

(5) A taxi driver's licence or private hire car driver's licence ceases to have effect if the person to whom it was granted becomes disqualified by reason of the person's immigration status from driving a taxi or private hire car.

(6) Section 13A (persons disqualified by reason of immigration status) applies for the purposes of sub-paragraph (5) as it applies for the purposes of section 13(3A).

(7) If a licence granted in accordance with sub-paragraph (2) or (4) expires, the person to whom it was granted must, within the period of 7 days beginning with the day after that on which it expired, return the licence to the licensing authority.

(8) If sub-paragraph (5) applies to a licence, the person to whom it was granted must, within the period of 7 days beginning with the day after the day on which the person first became disqualified, return the licence to the licensing authority which granted the licence.

(9) A person who, without reasonable excuse, contravenes sub-paragraph (7) or (8) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(10) This paragraph applies in relation to the renewal of a licence as it applies in relation to the grant of a licence.”

(4) In paragraph 11 (suspension and revocation of licences) after sub-paragraph (2) insert—

“(2A) A licensing authority may order the suspension or revocation of a taxi driver’s licence or a private hire car driver’s licence if the holder of the licence has, since its grant, been convicted of an immigration offence or required to pay an immigration penalty (see paragraph 20).

(2B) Sub-paragraph (2A) does not apply if—

(a) in a case where the holder of the licence has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, or

(b) in a case where the holder of the licence has been required to pay an immigration penalty—

(i) more than three years have elapsed since the date on which the penalty was imposed, and

(ii) the amount of the penalty has been paid in full.”

(5) In paragraph 18 (appeals) after sub-paragraph (8) insert—

“(8A) On an appeal under this paragraph relating to a taxi driver’s licence or a private hire car driver’s licence, the sheriff is not entitled to entertain any question as to whether—

(a) a person should be, or should have been, granted leave to enter or remain in the United Kingdom, or

(b) a person has, after the date of the decision being appealed against, been granted leave to enter or remain in the United Kingdom.”

(6) After paragraph 19 insert—

“20 (1) In this Schedule “immigration offence” means an offence under any of the Immigration Acts.

(2) In this Schedule “immigration penalty” means a penalty under—

(a) section 15 of the Immigration, Asylum and Nationality Act 2006 (“the 2006 Act”), or

(b) section 23 of the Immigration Act 2014 (“the 2014 Act”).

(3) For the purposes of this Schedule a person to whom a penalty notice under section 15 of the 2006 Act has been given is not to be treated as having been required to pay an immigration penalty if—

(a) the person is excused payment by virtue of section 15(3) of that Act, or

(b) the penalty is cancelled by virtue of section 16 or 17 of that Act.

(4) For the purposes of this Schedule a person to whom a penalty notice under section 15 of the 2006 Act has been given is not to be treated as having been required to pay an immigration penalty until such time as—

(a) the period for giving a notice of objection under section 16 of that Act has expired and the Secretary of State has considered any notice given within that period, and

(b) if a notice of objection was given within that period, the period for appealing under section 17 of that Act has expired and any appeal brought within that period has been finally determined, abandoned or withdrawn.

(5) For the purposes of this Schedule a person to whom a penalty notice under section 23 of the 2014 Act has been given is not to be treated as having been required to pay an immigration penalty if—

(a) the person is excused payment by virtue of section 24 of that Act, or

(b) the penalty is cancelled by virtue of section 29 or 30 of that Act.

(6) For the purposes of this Schedule a person to whom a penalty notice under section 23 of the 2014 Act has been given is not to be treated as having been required to pay an immigration penalty until such time as—

(a) the period for giving a notice of objection under section 29 of that Act has expired and the Secretary of State has considered any notice given within that period, and

(b) if a notice of objection was given within that period, the period for appealing under section 30 of that Act has expired and any appeal brought within that period has been finally determined, abandoned or withdrawn.””

Amendments 118A and 118B (to Amendment 118) not moved.

Amendment 118 agreed.

Amendment 119

Moved by Lord Bates

119: Schedule 2, page 74, line 4, at end insert—

“Road Traffic Offenders (Northern Ireland) Order 1996 (SI 1996/1320 (NI 10))

(1) Part 1 of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (SI 1996/1320 (NI 10)) is amended as follows.

(2) After the entry relating to section 1(3) of the Taxis Act (Northern Ireland) 2008 insert—

“Section 2A(8)	Failing to return an operator’s licence	Summarily	Level 3 on the standard scale”.
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(3) After the entry relating to section 22(6) of the Taxis Act (Northern Ireland) 2008 insert—

“Section 23A(8)	Failing to return an operator’s licence	Summarily	Level 3 on the standard scale”.
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Amendment 119 agreed.

Amendments 120 to 122 not moved.

Amendment 123

Moved by Lord Bates

123: Schedule 2, page 75, line 18, at end insert—

“(8) The Secretary of State may by regulations amend the amount for the time being specified in subsection (7)(b).””

Amendment 123 agreed.

Amendments 124 to 126 not moved.

Amendments 127 to 130

Moved by Lord Bates

127: Schedule 2, page 76, line 21, at end insert—

“(8) The Secretary of State may by regulations amend the amount for the time being specified in subsection (7)(b).”

128: Schedule 2, page 76, line 26, at end insert—

“() After subsection (2) insert—

“(2A) Subsection (2)(aa) does not apply if—

- (a) in a case where the licence holder has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, or
- (b) in a case where the licence holder has been required to pay an immigration penalty—
 - (i) more than three years have elapsed since the date on which the penalty was imposed, and
 - (ii) the amount of the penalty has been paid in full.”

129: Schedule 2, page 76, line 30, at end insert—

“() After subsection (4) insert—

“(5) Subsection (4)(aa) does not apply if—

- (a) in a case where the licence holder has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, or
- (b) in a case where the licence holder has been required to pay an immigration penalty—
 - (i) more than three years have elapsed since the date on which the penalty was imposed, and
 - (ii) the amount of the penalty has been paid in full.”

130: Schedule 2, page 78, line 21, at end insert—

“(1) Section 32 (regulations) is amended as follows.

(2) In subsection (1) after “other than section” in the first place those words appear insert “3A(8), 13A(8) or”.

(3) After subsection (2) insert—

“(2A) The power to make regulations conferred on the Secretary of State by section 3A(8) or 13A(8) is exercisable by statutory instrument.

(2B) A statutory instrument containing regulations under either of those sections may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

(4) In subsection (4) after “made under section” insert “3A(8), 13A(8) or”.

Amendments 127 to 130 agreed.

Amendment 131

Moved by Lord Bates

131: Schedule 2, page 78, line 23, at end insert—

“*Taxis Act (Northern Ireland) 2008 (c. 4)*

25 The Taxis Act (Northern Ireland) 2008 is amended as follows.

26 (1) Section 2 (operator’s licences) is amended as follows.

(2) In subsection (4) for the “and” at the end of paragraph (a) substitute—

“(aa) if the applicant is an individual, the applicant is not disqualified by reason of the applicant’s immigration status from operating a taxi service; and”.

(3) After subsection (4) insert—

“(4A) In determining for the purposes of subsection (4) whether an applicant is disqualified by reason of the applicant’s immigration status from operating a taxi service, the Department must have regard to any guidance issued by the Secretary of State.”

(4) In subsection (7) for “An” substitute “Subject to section 2A, an”.

27 After section 2 insert—

“2A Operator’s licences for persons subject to immigration control

(1) Subsection (2) applies if—

- (a) an operator’s licence is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period (“the leave period”),
- (b) the person’s leave has not been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision), and
- (c) apart from subsection (2), the period for which the licence would have been granted would have ended after the end of the leave period.

(2) The licence must be granted for a period which ends at or before the end of the leave period.

(3) Subsection (4) applies if—

- (a) an operator’s licence is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period, and
- (b) the person’s leave has been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision).

(4) The licence must be granted for a period which does not exceed six months.

(5) An operator’s licence ceases to be in force if the person to whom it was granted becomes disqualified by reason of the person’s immigration status from operating a taxi service.

(6) If a licence granted in accordance with subsection (2) or (4) expires, the person to whom it was granted must, within the period of 7 days beginning with the day after that on which it expired, return it to the Department.

(7) If subsection (5) applies to a licence, the person to whom it was granted must, within the period of 7 days beginning with the day after the day on which the person first became disqualified, return it to the Department.

(8) A person who, without reasonable excuse, contravenes subsection (6) or (7) is guilty of an offence.”

28 (1) Section 23 (taxi driver’s licences) is amended as follows.

(2) In subsection (2) after paragraph (a) insert—

“(aa) the applicant is not disqualified by reason of the applicant’s immigration status from driving a taxi;”.

(3) After subsection (2) insert—

“(2A) In determining for the purposes of subsection (2) whether an applicant is disqualified by reason of the applicant’s immigration status from driving a taxi, the Department must have regard to any guidance issued by the Secretary of State.”

(4) In subsection (8) for “A” substitute “Subject to section 23A, a”.

29 After section 23 insert—

“23A Taxi driver’s licences for persons subject to immigration control

(1) Subsection (2) applies if—

- (a) a taxi driver’s licence is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period (“the leave period”),
- (b) the person’s leave has not been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision), and
- (c) apart from subsection (2), the period for which the licence would have been granted would have ended after the end of the leave period.

(2) The licence must be granted for a period which ends at or before the end of the leave period.

(3) Subsection (4) applies if—

- (a) a taxi driver’s licence is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period, and

(b) the person's leave has been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision).

(4) The licence must be granted for a period which does not exceed six months.

(5) A taxi driver's licence ceases to be in force if the person to whom it was granted becomes disqualified by reason of the person's immigration status from driving a taxi.

(6) If a licence granted in accordance with subsection (2) or (4) expires, the person to whom it was granted must, within the period of 7 days beginning with the day after that on which it expired, return to the Department—

- (a) the licence,
- (b) the person's driver's badge, and
- (c) any other evidence of identification which the Department has issued under section 24.

(7) If subsection (5) applies to a licence, the person to whom it was granted must, within the period of 7 days beginning with the day after the day on which the person first became disqualified, return to the Department—

- (a) the licence,
- (b) the person's driver's badge, and
- (c) any other evidence of identification which the Department has issued under section 24.

(8) A person who, without reasonable excuse, contravenes subsection (6) or (7) is guilty of an offence."

30 (1) Section 26 (power to suspend, revoke licences or curtail licences) is amended as follows.

(2) In subsection (2) before the "or" at the end of paragraph (a) insert—

"(aa) the licence holder has, since the grant of the licence, been convicted of an immigration offence or required to pay an immigration penalty;"

(3) After subsection (2) insert—

"(2A) Subsection (2)(aa) does not apply if—

- (a) in a case where the licence holder has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (SI 1978/1908 (NI 27)), or
- (b) in a case where the licence holder has been required to pay an immigration penalty—

- (i) more than three years have elapsed since the date on which the penalty was imposed, and
- (ii) the amount of the penalty has been paid in full."

(4) In subsection (6) before the "or" at the end of paragraph (a) insert—

"(aa) the licence holder has, since the grant of the licence, been convicted of an immigration offence or required to pay an immigration penalty;"

(5) After subsection (6) insert—

"(7) Subsection (6)(aa) does not apply if—

- (a) in a case where the licence holder has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (SI 1978/1908 (NI 27)), or
- (b) in a case where the licence holder has been required to pay an immigration penalty—

- (i) more than three years have elapsed since the date on which the penalty was imposed, and
- (ii) the amount of the penalty has been paid in full."

31 In section 32 (return of licences etc) after subsection (5) insert—

"(5A) Subsection (4) does not apply if the licence was granted in accordance with section 2A(2) or (4) or 23A(2) or (4) (but see sections 2A(6) and 23A(6))."

32 In section 34 (appeals) after subsection (5) insert—

"(6) On any appeal, the court is not entitled to entertain any question as to whether—

- (a) a person should be, or should have been, granted leave to enter or remain in the United Kingdom, or
- (b) a person has, after the date of the decision being appealed against, been granted leave to enter or remain in the United Kingdom."

33 After section 56 insert—

"56A Persons disqualified by reason of immigration status

(1) For the purposes of this Act a person is disqualified by reason of the person's immigration status from carrying on a licensable activity if the person is subject to immigration control and—

- (a) the person has not been granted leave to enter or remain in the United Kingdom, or
- (b) the person's leave to enter or remain in the United Kingdom—
 - (i) is invalid,
 - (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or
 - (iii) is subject to a condition preventing the individual from carrying on the licensable activity.

(2) Where a person is on immigration bail within the meaning of Part 1 of Schedule 7 to the Immigration Act 2016—

- (a) the person is to be treated for the purposes of this Part as if the person had been granted leave to enter the United Kingdom, but
- (b) any condition as to the person's work in the United Kingdom to which the person's immigration bail is subject is to be treated for those purposes as a condition of leave.

(3) For the purposes of this section a person is subject to immigration control if under the Immigration Act 1971 the person requires leave to enter or remain in the United Kingdom.

(4) For the purposes of this section a person carries on a licensable activity if the person—

- (a) operates a taxi service, or
- (b) drives a taxi.

56B Immigration offences and immigration penalties

(1) In this Act "immigration offence" means—

- (a) an offence under any of the Immigration Acts,
- (b) an offence under Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (SI 1982/1120 (NI 13)) of attempting to commit an offence within paragraph (a), or
- (c) an offence under Article 9 of that Order of conspiracy to commit an offence within paragraph (a).

(2) In this Act "immigration penalty" means a penalty under—

- (a) section 15 of the Immigration, Asylum and Nationality Act 2006 ("the 2006 Act"), or
- (b) section 23 of the Immigration Act 2014 ("the 2014 Act").

(3) For the purposes of this Act a person to whom a penalty notice under section 15 of the 2006 Act has been given is not to be treated as having been required to pay an immigration penalty if—

- (a) the person is excused payment by virtue of section 15(3) of that Act, or
- (b) the penalty is cancelled by virtue of section 16 or 17 of that Act.

(4) For the purposes of this Act a person to whom a penalty notice under section 15 of the 2006 Act has been given is not to be treated as having been required to pay an immigration penalty until such time as—

- (a) the period for giving a notice of objection under section 16 of that Act has expired and the Secretary of State has considered any notice given within that period, and
 - (b) if a notice of objection was given within that period, the period for appealing under section 17 of that Act has expired and any appeal brought within that period has been finally determined, abandoned or withdrawn.
- (5) For the purposes of this Act a person to whom a penalty notice under section 23 of the 2014 Act has been given is not to be treated as having been required to pay an immigration penalty if—
- (a) the person is excused payment by virtue of section 24 of that Act, or
 - (b) the penalty is cancelled by virtue of section 29 or 30 of that Act.
- (6) For the purposes of this Act a person to whom a penalty notice under section 23 of the 2014 Act has been given is not to be treated as having been required to pay an immigration penalty until such time as—
- (a) the period for giving a notice of objection under section 29 of that Act has expired and the Secretary of State has considered any notice given within that period, and
 - (b) if a notice of objection was given within that period, the period for appealing under section 30 of that Act has expired and any appeal brought within that period has been finally determined, abandoned or withdrawn.”

Amendments 131A and 131B (to Amendment 131) not moved.

Amendment 131 agreed.

Amendment 132

Moved by Lord Bates

132: Schedule 2, page 78, line 23, at end insert—

“Transitional provision

(1) Subject to sub-paragraph (2), an amendment made by any of paragraphs 2, 3, 3C to 3H, 5 to 10, 14B, 14D(2) and (3), 17 to 20 and 25 to 28 does not apply in relation to an application for a licence made before the coming into force of that paragraph or a licence granted in response to such an application.

(2) Sub-paragraph (1) does not prevent an amendment made by any of those paragraphs from applying in relation to—

- (a) an application for the renewal of a licence where that licence was granted before the coming into force of that paragraph, or
- (b) a licence renewed in response to such an application.

(1) Subject to sub-paragraphs (2) and (3), an amendment made by any of paragraphs 3I, 3J, 11, 12, 14D(4), 21 and 29 applies in relation to a licence granted before or after the coming into force of that paragraph.

(2) An amendment made by any of those paragraphs applies in relation to a conviction for an immigration offence only if the person in question has been convicted of that offence after the coming into force of that paragraph in respect of the person's conduct after that time.

(3) An amendment made by any of those paragraphs applies in relation to a requirement to pay an immigration penalty only if the person in question has been required to pay the penalty after the coming into force of that paragraph in respect of the person's conduct after that time.

(1) Section 19(1) of the Plymouth City Council Act 1975 has effect in relation to the licence of a driver of a hackney carriage or private hire vehicle granted before the coming into force of paragraph 3I as if before the “or” at the end of paragraph (a) there were inserted—

- “(ab) in the case of a refusal to renew a licence, that he is disqualified by reason of his immigration status from driving a hackney carriage or a private hire vehicle;”.

(2) Section 20A(1)(a) of that Act has effect in relation to such a licence as if after “subsection (1)(aa)” there were inserted “or (ab)”.

(3) Section 20(1) of that Act has effect in relation to an operator's licence granted before the coming into force of paragraph 3J as if before the “or” at the end of paragraph (c) there were inserted—

- “(cb) in the case of a refusal to renew a licence, that the operator is disqualified by reason of the operator's immigration status from operating a private hire vehicle;”.

(4) Section 20A(1)(b) of that Act has effect in relation to such a licence as if after “subsection (1)(ca)” there were inserted “or (cb)”.

(5) Section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976 has effect in relation to the licence of a driver of a hackney carriage or private hire vehicle granted before the coming into force of paragraph 11 as if before the “or” at the end of paragraph (a) there were inserted—

- “(ab) in the case of a refusal to renew a licence, that he is disqualified by reason of his immigration status from driving a hackney carriage or a private hire vehicle;”.

(6) Section 62A(1)(a) of that Act has effect in relation to such a licence as if after “subsection (1)(aa)” there were inserted “or (ab)”.

(7) Section 62(1) of that Act has effect in relation to an operator's licence granted before the coming into force of paragraph 12 as if before the “or” at the end of paragraph (c) there were inserted—

- “(cb) in the case of a refusal to renew a licence, that the operator is disqualified by reason of the operator's immigration status from operating a private hire vehicle;”.

(8) Section 62A(1)(b) of that Act has effect in relation to such a licence as if after “subsection (1)(ca)” there were inserted “or (cb)”.

(9) Subsections (3A) to (3C) of section 13 of the Civic Government (Scotland) Act 1982 apply in relation to an application for the renewal of a taxi driver's or private hire car driver's licence granted before the coming into force of paragraph 14B as they apply in relation to an application for the grant of such a licence made after that time.”

Amendment 132 agreed.

Schedule 2, as amended, agreed.

Clause 12: Illegal working closure notices and illegal working compliance orders

Debate on whether Clause 12 should stand part of the Bill.

Baroness Hamwee: My Lords, my noble friend Lord Paddick and I do not wish to see Clause 12 stand part of the Bill. We have other amendments in the group, and we intend to oppose the question that Schedule 3 be the third schedule to the Bill. I have some amendments to Schedule 3 as I am not entirely confident that the Minister will instantly accede to our amendments to and arguments on the schedule.

These provisions are about closing premises if it is thought that illegal working is taking place, followed by the possibility of compliance orders. It seems to us that these are something of a sledgehammer set of provisions. If anyone should be allowed to wield a sledgehammer, it should be the courts, not the Executive. A lot of this Bill—as we have said before and, I dare say, will say again—is about sending messages, which we do not think is the purpose of legislation.

The Bill would give immigration officers powers to close an employer's premises for up to 48 hours when they are satisfied on reasonable grounds that the employer

is employing an illegal worker. He might, of course, not necessarily actually be an illegal worker, but someone that the immigration officer has reasonable cause to believe is not entitled to work. I accept the phrase “reasonable cause” but, by definition, “reasonable cause” is not fact. A closure notice can lead on a pretty fast track to a compliance order being imposed for up to two years, which is a matter for the court. It seems to me that any closure, including the initial closure, should be a matter for the court. What happens when there are mistakes, poor decisions or bad judgment on the part of an immigration officer? The consequences for an employer can be considerable to both his reputation and financially, as they can be for the employees legally working for a business and, indeed, for other separate businesses operating from the same premises. Why is this measure required, given the criminal sanctions proposed for illegally employing someone? What safeguards are provided to ensure that this power is not used oppressively? What records will be made of the decision-making process and will they be disclosed to the owner of the premises?

As I said, I have tabled specific amendments to Schedule 3. Paragraph 1(12) requires an immigration officer to consult anyone he thinks is appropriate before issuing a closure notice. Amendment 135 would require consultation—which, of course, in this context would mean discussion before issuing the notice—with, as a minimum, the employer, people who live on the premises and anyone who has an interest in the premises.

Amendment 146 was tabled following debate in the Commons on paragraph 15(3)(d) of Schedule 3, which is about the possibility of compensation for loss being ordered by the court if, having regard to all the circumstances, the court is satisfied that it is appropriate. The discussion was around whether other criteria must also be satisfied. The Government consider that the word “and” should be included at the end of the relevant provision, not “or”. This is clearly an important point. The ability to order compensation for an employer is restricted, as are the circumstances in which compensation can be paid to third parties—the sort of third parties I have mentioned—who would be adversely affected. Therefore, I am not happy with the Government’s amendment, but at least it will bring clarity.

If the Secretary of State has presented inaccurate information to the court which has led the court to make an order which it would not otherwise have made, or the Secretary of State has acted in an oppressive manner or otherwise wrongfully, will the court have the power to order the payment of compensation or damages without having to start separate proceedings? And if not, why not? The government amendments remove all possibility of compensation for losses incurred as a result of an illegal working closure notice if that notice has been cancelled. It seems likely that where a notice has been issued wrongly, the Home Office should move to cancel it. I ask these questions to seek clarification on these provisions.

Lord Ashton of Hyde (Con): My Lords, it might be helpful for noble Lords if I speak now to the government amendments to explain them and come to the noble Baroness’s amendments and the stand part debate at the end.

Government Amendments 136 to 145 and 147 have been tabled in respect of illegal working closure notices and compliance orders. They are technical matters, although they also clarify the circumstances in which a person may apply to the courts for compensation where they allege they have suffered financial loss as a consequence of an illegal working closure notice.

Amendment 136 clarifies that an immigration officer may cancel a closure notice only if either the employer operating at the premises is not employing any illegal workers, or the employer does not have an unspent conviction for the offence of knowingly employing an illegal worker, or has not received a civil penalty for employing an illegal worker which is less than three years old or which remains unpaid. This is because these are the circumstances in which a closure notice may be served, according to Schedule 3, paragraph 1(3) and (6).

Amendment 137 corrects an incorrect cross-reference. Amendment 139 excludes compensation from being available where a notice has been cancelled due to the employer being able to evidence compliance with right-to-work checks only after the notice has been issued. This is to ensure that any deliberate delay by the employer is not incentivised in the knowledge that they could still claim compensation. Amendments 140, 141 and 142 simply delete unnecessary references.

Amendments 143 and 144 make it clear that a compensation order may be made only when there has been a mistake of fact as to the conditions in paragraph 1(3) or 1(6) being satisfied. Employers will be given an opportunity to demonstrate that they have conducted right-to-work checks in relation to any illegal workers found before there is any decision to serve a closure notice. The court has discretion to award compensation where these specified conditions have not been satisfied and the claimant has suffered financial loss in consequence of a closure notice.

Following debate in the other place, Amendment 145 simply confirms that the relevant paragraph has a conjunctive construction. In case some noble Lords do not understand that, it means that we add an “and” to the penultimate sub-paragraph, which means that all the conditions must be satisfied.

Amendments 138 and 147 omit paragraph 15(4) as it was felt this contributed to the ambiguity raised in debate in the other place. By preventing compensation for financial loss in relation to a person’s work, it could have been read to prevent all compensation for financial loss in relation to a closure notice, such as the earnings of illegal and legal workers. I can assure the Committee that that is not the Government’s intention. Therefore, the government amendments clarify that the compensation mechanism will apply in cases of mistake on specified grounds. I beg to move.

The Deputy Chairman of Committees (Baroness Fookes) (Con): My Lords, at the risk of being a pedant, I point out that, strictly, these amendments are not moved; they are spoken to at this time. They are moved only in the order in which they appear in the Marshalled List.

Lord Ashton of Hyde: I apologise. I speak to the amendments.

Baroness Ludford (LD): My Lords, I react with as much puzzlement to the Minister calling the government amendments “technical matters” as my noble friend Lady Hamwee did when the noble Lord, Lord Kennedy, called her Amendments 78 to 91 on licensing, “technical amendments”. These are about people’s livelihoods, whether it is a licence or closing premises. It seems an extraordinary use of Executive power for an immigration officer to be able to close premises—a shop or other place of work—under the conditions that have been cited. I cannot see how this complies with the rule of law. There is going to be no transparency in this process.

6 pm

My noble friend Lady Hamwee asked about what records would be kept of the decision-making process by an immigration officer and whether these records would be available. The whole point of a court process is that there is, as far as possible, transparency in how the decision is made. It simply does not meet the test of adequate due process if the Government, through an immigration officer, can close someone’s place of work for two days. There would then be a certain momentum for the illegal working compliance order. If the immigration officer, or chief immigration officer, has said that there is employment of an illegal worker—although, as my noble friend pointed out, the immigration officer could be wrong; he only has to have reasonable suspicion that an illegal worker is there—there would surely be a certain momentum before the magistrates’ court that would make it very hard to overturn or oppose an illegal working compliance order closing a premises for two years.

I utterly support my noble friends Lady Hamwee and Lord Paddick in opposing that Clause 12 and Schedule 3 stand part of the Bill, and their other amendments in that group.

Lord Ashton of Hyde: My Lords, I thank the two noble Baronesses who have spoken. I start by making the general point that these powers will be used only for repeat offenders. They will not be used widely; they are for the most egregious offenders. As well as employing illegal workers, they must already have had illegal working penalties or convictions.

Clause 12, which gives effect to Schedule 3, sets out the regime for illegal working closure notices and illegal working compliance orders. The clause and schedule provide new powers to deal with businesses that repeatedly flout the law by employing illegal workers. The intention is to use them in the most serious cases, as I have just indicated, where civil penalties or previous convictions have failed to change employer behaviour. Such employers may also be exploiting their workers, including legal workers, by not paying the minimum wage or by breaking health and safety legislation. When immigration officers conduct an enforcement visit under existing powers to an employer’s premises, any illegal workers identified may be arrested and the employer may be liable to pay a civil penalty or to prosecution for an offence. Despite this, the employer may continue to use illegal workers who are not apprehended at the time of the visit or who are recruited subsequently. Furthermore, some businesses dissolve to evade sanctions and then reopen

in a new name and continue their non-compliance as before. My notes tell me that this is often referred to as “phoenixism” and that may be so. The provisions are designed to break this cycle of non-compliant business behaviour.

The provisions create a new power for immigration officers to close premises for up to 48 hours in certain cases, where the employer or a connected person in relation to the employer has previously faced sanctions for employing illegal workers. An application must be made to a court for an illegal working compliance order, unless the closure notice is cancelled. This compliance order may extend the closure of the premises or make any order the court decides is appropriate to prevent an employer operating at the premises from employing an illegal worker. This might include ordering the business to perform right-to-work checks to ensure that illegal workers are not employed, or to permit immigration officers to enter the premises to ensure that the employer is complying with illegal working rules.

These provisions are loosely modelled on the power to close premises associated with nuisance or disorder, which is in Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014. Let me reassure the House that this power will be subject to appropriate safeguards and its use will not be considered lightly. It is designed to be used as a last resort in the most serious cases, where established methods of securing compliance have been unsuccessful, by limiting the duration of the closure notice that may be served by immigration officers; by making the courts responsible for determining whether a compliance order should be imposed; by providing a right of appeal against a compliance order; and by providing a mechanism to apply for compensation, should mistakes be made, we believe that Schedule 3 provides appropriate judicial oversight of the use of these powers and sufficient safeguards and remedies for those who feel that they have been treated unfairly.

The noble Baronesses, Lady Hamwee and Lady Ludford, talked about what records will be kept and the noble Baroness, Lady Ludford, talked about the transparency in the process. Guidance may be published under paragraph 16 of Schedule 3, after appropriate consultation, which would provide for guidance for immigration officers in respect of how their immigration powers should be exercised and recorded. We will ensure that immigration officers make operational records in their pocket notebooks, as is standard practice, and that this is supported by guidance issued under paragraph 16. The Home Office will monitor compliance as a matter of course.

On the question from the noble Baroness, Lady Hamwee, the compensation mechanism in paragraph 15 does not apply where the court has made an order, since an adversely affected party should, in this case, appeal the order. The court, on hearing an appeal, may make any order it considers appropriate under paragraph 9(5) and this might include the award of compensation. The noble Baroness also asked whether compensation should be payable when inaccurate information is presented to a court by an immigration officer. If a court considers that the conditions for issuing the notice under paragraph 1(3) or paragraph 1(6) were not satisfied, the court may award compensation to a

claimant who has suffered financial loss, if it considers it is appropriate. The compensation mechanism in paragraph 15(3), as I have just said, does not apply when the court has made an order, since the adversely affected party should appeal the order. Compensation may be payable at the discretion of the court if the immigration officer supplied inaccurate information to the court as to whether any illegal workers were present at the property or if the employer had not previously been convicted of an immigration offence or received an immigration penalty. Compensation may also be payable when the immigration officer has not used reasonable efforts to notify people who live at or have an interest in the property.

As to the point that the initial closure order should be issued by a court and not an immigration officer, the Government respectfully disagree. We think that the immediacy of the present approach is designed to serve as a deterrent to employers who have repeatedly flouted illegal working rules. The present approach allows for the trigger conditions to be applied to a particular moment in time. Imposing a requirement for an initial court order would give the employer an opportunity to hide their illegal working, including through dissolving the company.

The noble Baroness, Lady Ludford, mentioned that she thought the powers were oppressive and contrary to the rule of law. I point out that the closure of a business premises by law enforcement officers is not unprecedented and the proposal in this Bill, including the safeguards, is modelled on the approach taken in the Anti-social Behaviour, Crime and Policing Act 2014. As a result of those remarks, I hope that in due course the noble Baroness will accept that Clause 12 and Schedule 3, to which it gives effect, should remain part of the Bill.

Turning to the amendments tabled by the noble Baroness, Lady Hamwee, Amendment 135 would require the immigration officer to consult the employer,

“people who live on the premises ... and ... any person who has an interest in the premises”.

The officer will already be required by Schedule 3 to consult any person they think appropriate before issuing a closure notice, and this may include many of those interested parties. In addition, immigration officers are already required to make reasonable efforts to inform any person who lives on the premises and any person who has an interest in the premises that the notice is going to be issued. A requirement to also consult such people—who, I remind noble Lords, have already committed an illegal working offence—seems an unnecessary additional requirement. Also, paragraph 1 makes it clear that a closure notice cannot prohibit access to premises to any person who habitually lives on the premises.

The amendment also requires the employer to be consulted. I can reassure noble Lords that employers will be given an opportunity to demonstrate that they have complied with the law in this area. The decision to serve a closure notice will not be taken lightly. If the employer can produce evidence that right-to-work checks have been undertaken, Schedule 3 makes it clear that the notice must not be issued, or if such evidence is produced after the notice has been issued, the notice may be cancelled. The whole purpose of

serving the closure notice is because the business has repeatedly flouted the law in this area. It will be a serious case where the established civil penalty scheme or previous convictions have not prevented continued illegal behaviour.

Amendment 146 would have the effect of always giving the court the discretion to award compensation, even where immigration officers have acted lawfully and the claimant was responsible for illegal working on the premises. This would frustrate the objective of the proposed scheme of closure notices, which is to strengthen our ability to deal with repeat offenders involved in the use of illegal workers. It would be inappropriate to provide the facility for such persons to obtain compensation for financial loss where the immigration authorities have acted correctly in closing their premises.

In the light of my explanation of these provisions, I hope that the noble Baroness will feel able not to press her amendments.

Lord Lucas (Con): My Lords, perhaps I might ask my noble friend a couple of questions. He said several times that this is to deal with people who are repeat offenders—the most serious offenders—but paragraph 1(6) requires only one offence. As with certain members of the Government who make mistakes in employing illegal workers from time to time, as do many people, it seems unfair to lump them in with people who are deliberately flouting immigration rules. It sounds very much from what my noble friend is saying that the guidance would require many more offences to have been committed than just the one in the previous three years. I would be comforted if he could reinforce that that is the case and say why paragraph 1(6) says only once.

The other thing that I wanted to raise with him is the conjunction between paragraph 1(3) and 1(11). Surely if the person who is employing gets even a few moments' prior notice that this procedure is about to be activated, he has a “Lord Sugar” defence—all he has to say is, “You’re fired”, and he is no longer employing anyone.

Lord Ashton of Hyde: My Lords, in answer to the first question, the whole point is that it is not just sub-paragraph (6) that has to be taken into account before a closure notice is provided; it is in combination with sub-paragraph (3). The condition is that an employer is employing someone illegally and, in sub-paragraph (6), they have to have previously been convicted of an offence. If an immigration officer suspects that illegal working is going on, they can apply for the closure notice if, and only if, sub-paragraph (6) also applies where they have previous convictions in respect of illegal working.

On my noble friend's second point about giving notice, that is precisely why for the first 24 hours, which may be extended to 48 hours, we feel that an immediate closure notice can be served, before the court is applied to, to prevent employers doing things which would enable them to continue employing illegal workers. The fact that we can do it immediately, albeit for only up to 48 hours, is an important factor in clamping down on this offence.

6.15 pm

Lord Lucas: My Lords, when paragraph 1(11) says,

“An illegal working closure notice may be issued only if reasonable efforts have been made to inform”,

that surely says that the person who is running the premises has to be told beforehand that a notice is to be issued and therefore there is a small space of time in which people can be unemployed. I agree that a company could not be closed. I understand how sub-paragraphs (3) and (6) work together, but sub-paragraph (6) is the bit that covers the previous convictions and, in my opinion, it does not match the words of my noble friend that this is for the most serious offences and the really rogue offenders. This catches anyone who has made one mistake beforehand. If we are giving the Executive this power, which I do not disapprove of in extreme cases, we should restrict it to extreme cases and not include a person who makes a second mistake within three years, which in the retail industry is not hard to do.

Lord Ashton of Hyde: My Lords, we are talking about illegal working by illegal immigrants. It is just a question of what you define as serious. In our view, with employers who have previously been convicted of illegal working offences and who are suspected of employing illegal workers, we regard that as serious. I think it is a question of definition whether you have to have had one, two or three convictions before it applies. At the moment that is where we consider it should be and we consider that serious.

With regard to my noble friend's earlier point, sub-paragraph (11) says that there is a duty to inform, “people who live on the premises”—

not necessarily the employer—but we think it is reasonable that people who live on a premises should be informed that a premises might be closed.

Baroness Hamwee: My Lords, that is exactly the point about the written words matching the oral words which has been concerning me about paragraph 1(6). I do not know whether the Minister can answer this question now. If there has been a conviction, leaving aside for the moment how many offences there have been, and it is a spent conviction under the Rehabilitation of Offenders Act, it does not apply. But if there has been at any time a requirement to pay a penalty following an illegal working closure notice, and failure to pay that penalty, does that fall within the reference to the Rehabilitation of Offenders Act? I suspect it does not. In other words, although there might be a spent conviction, the non-payment of a penalty notice could blight your business for ever. I am not suggesting that penalty notices should not be paid.

Lord Ashton of Hyde: I think that the noble Baroness has made my point for me. If there is a civil penalty and businesses do not pay it, they are not the sort of business which we would necessarily feel that this clause should not apply to. On the concern that the printed words do not match the oral words, I am very happy to write to the noble Baroness to confirm that what I said is correct—and we are of course happy to discuss this at any time afterwards. But in the mean time, I would be grateful if she would withdraw her opposition to the clause standing part.

Baroness Hamwee: My Lords, I am not suggesting that the Minister is misrepresenting the Government's intention. I want to see the intention reproduced on paper. A civil penalty should, at the very least for this purpose, be on all fours with a conviction. After all, it is lighter than a conviction. For it to bite for ever and ever, and come up to bite you in 15 years' time or whatever, seems inappropriate.

Lord Ashton of Hyde: Is the noble Baroness saying that if you do not pay a civil penalty for 15 years, you should get away with it?

Baroness Hamwee: My Lords, if you can—in the Minister's words—get away with a conviction because of the Rehabilitation of Offenders Act, which is well-respected legislation, then you should be able to get away with not paying a penalty in the terms in which we are discussing them. I am not advocating law-breaking or the non-payment of penalties; I am sure that the Minister really understands that.

Lord Ashton of Hyde: I do understand, and it might be appropriate to continue this discussion between ourselves later, outside the Chamber.

Baroness Hamwee: My Lords, I do not wish to continue that bit of the discussion, but perhaps I might put into a future discussion a question on payment of compensation. The Minister referred to the court being able to pay compensation. Under paragraph 9, it can make any order it regards as appropriate—but a separate paragraph 15, on compensation, requires an application to be made. I think he said that guidance would be given under paragraph 9(5) but I am not sure how paragraphs 9 and 15 work together. I do not expect an answer now; that would not be fair. But I would be grateful if I could have some clarity—others may understand it perfectly—as to how those two paragraphs work together.

I will not test the patience of the Committee by responding to other points. No doubt the Question on Clause 12 is about to be put. We will not at this moment object to it.

Clause 12 agreed.

Amendment 133

Moved by Lord Rosser

133: After Clause 12, insert the following new Clause—
“Protection from slavery for overseas domestic workers

All overseas domestic workers in the United Kingdom, including those working for staff of diplomatic missions, shall be entitled to—

- (a) change their employer (but not work sector) while in the United Kingdom;
- (b) renew their domestic worker or diplomatic domestic worker visa, each such renewal being for a period not exceeding twelve months, as long as they remain in employment and are able to support themselves without recourse to public funds;
- (c) a three month temporary visa permitting them to live in the United Kingdom for the purposes of seeking alternative employment as an overseas domestic worker where there is evidence that the worker has been a victim of modern slavery.”

Lord Rosser: My Lords, there are two amendments in this group, one in my name and in the names of my noble friend Lord Kennedy of Southwark, the noble Lord, Lord Alton of Liverpool, and the noble Baroness, Lady Hamwee. There is a second amendment in the name of the noble Lord, Lord Hylton, within the group. I intend to be relatively brief because I imagine that a number of others may wish to speak in this debate.

The amendment to which I wish to speak seeks to reverse the 2012 visa changes for overseas domestic workers by allowing them to change their employer and renew their visa for a period of 12 months,

“as long as they remain in employment and are able to support themselves without recourse to public funds”.

It would also provide for overseas domestic workers to be entitled to a temporary visa, permitting them to live in this country for the purposes of seeking alternative employment when there is evidence that they have been a victim of modern slavery.

A similar amendment was pursued during the passage of the Modern Slavery Bill, when the Government declined to go down the proposed road as they were having an independent review undertaken of the overseas domestic worker visa, including those for diplomatic overseas domestic workers. That independent review by James Ewins was, I believe, presented to the Home Secretary on 6 November last year and published on 17 December, when the Commons Minister said that the Government’s response would be announced in due course.

In his review, Mr Ewins considered as his fundamental question,

“whether the current arrangements for the overseas domestic workers visa are sufficient to protect overseas domestic workers from abuse of their fundamental rights while they are working in the UK, which includes protecting them from abuse that amounts to modern slavery and human trafficking”.

His review concludes that,

“the existence of a tie to a specific employer and the absence of a universal right to change employer and apply for extensions of the visa are incompatible with the reasonable protection of overseas domestic workers while in the UK”.

In the light of this finding, he recommends in his review as the minimum required to address the problem which he has identified that,

“all overseas domestic workers be granted the right to change employer ... and apply for annual extensions, provided they are in work as domestic workers in a private home ... that such extensions do not need to be indefinite, and that overseas domestic workers should not have a right to apply for settlement in the UK in order to be adequately protected”,

and that,

“after extensions totalling up to 2 ½ years, overseas domestic workers are required to leave the UK”,

with this extension being, as I said, the minimum required to give effective protection to those overseas domestic workers who are being abused in the UK.

Mr Ewins also stated in his review that the rights that he is proposing should be granted to all overseas domestic workers, with no different treatment between,

“seriously abused, mildly abused and non-abused workers”,

and that,

“overseas domestic workers must be given a real opportunity to receive information, advice and support concerning their rights while at work in the UK”,

if the essential changes that he has proposed to the terms of the visa are to be of practical help to such workers. He also comments that implementation of his recommendations,

“will provide data, information and intelligence which will enable the police, Immigration Enforcement or the proposed Director of Labour Market Enforcement, to take intelligence-led steps to investigate and pursue those who abuse overseas domestic workers with criminal, civil or immigration sanctions”.

There are many other important recommendations and points in Mr Ewins’s review to which I have not referred.

During debate on the then Modern Slavery Bill about the overseas domestic worker visa issue and the Government’s decision to have an independent review, the Minister in the Commons said that the Government looked forward to the recommendations of the review. She went on to say that while she could not commit a future Government, the intention was that whoever was in government would “implement the review’s recommendations”.

I do not wish to go over the ground again on the arguments in favour of the terms of the amendment I am moving, as they were spelled out during the passage of what is now the Modern Slavery Act. Since then, the recommendations from the independent review which the Government set up have been published and, in essence, they confirm the validity of the concerns expressed during the passage of that Act, including on the tie to an individual employer. I invite the Minister to say what the Government’s response is to the recommendations in the independent review and what actions they now intend to take, since we need to resolve the issues surrounding the overseas domestic worker visa as part of our consideration of the terms of this Bill. I beg to move.

6.30 pm

Lord Hylton (CB): My Lords, I will speak to Amendment 134B, which is in my name. Last year, on what became the Modern Slavery Act, we made progress even on the long-vexed question of foreign—that is, non-EU—domestic workers coming to this country on the tied, short-term visa or working for diplomats here in London.

The Government appointed Mr James Ewins QC to do an independent review of the effects, in practice, of the restrictive visa. He took evidence and considered whether there was sufficient protection from abuse of those workers’ fundamental rights, such as would amount to modern slavery and human trafficking. In November last year, as has been mentioned, on the balance of the evidence, he found that the tie to a specific employer without the right to change or to apply for a visa extension was incompatible—I repeat, incompatible—with reasonable protection, as was mentioned previously by the noble Lord, Lord Rosser. Today, his Amendment 133 goes a long way to meeting the Ewins recommendations. I believe that it repeats the wording of my previous amendment from last year, which was approved by your Lordships on a Division during the progress of the Modern Slavery Bill.

[LORD HYLTON]

However, I wish to go just a little further and be a little clearer on the instructions to the Secretary of State. My amendment would implement the improvements by changes to the Immigration Rules, making them variable but without recourse to new primary legislation. Proposed new paragraphs (a), (c) and (f) in my amendment are the same as those in Amendment 133. My paragraph (b) provides for an,

“information session within one month of the commencement of their visa”.

This would allow the workers to be fully informed of their rights. Checks could be made at that time that they had contracts of employment and understood them, that they had access to their passports—a point which has been mentioned very often in previous debates—and that they knew how to raise complaints.

My proposed new paragraph (d) would probably not apply to workers on a six-month visa unless the employers themselves obtained extensions of stay, as does in fact quite often happen. It would also be helpful for diplomatic employees and in some irregular situations where time had passed by but there were strong grounds for allowing settlement. It would, furthermore, make possible applications in this country without the applicant having to return to another country and therefore apply from outside the United Kingdom.

My proposed new paragraph (e) would not apply automatically but would helpfully assist family reunion and parental ties—for example, in cases where small children had been left behind in the country of origin. This is obviously a very hard choice but one into which mothers may be forced by extreme poverty. With these explanations, I trust Amendment 134B will commend itself to your Lordships and provide the Government with satisfactory guidance on how to implement the Ewins recommendations. This protection for highly vulnerable people is urgently needed, and further delays would be quite unacceptable.

Lord Alton of Liverpool (CB): My Lords, I wish to support Amendment 133, moved by the noble Lord, Lord Rosser, and to say a word in support of my noble friend Lord Hylton's Amendment 134B. In March last year, at the last gasp of the then Modern Slavery Bill, your Lordships voted down the amendment that my noble friend has referred to, which would of course have provided greater protection for domestic migrant labour in the way that the noble Lord, Lord Rosser, described. My noble friend Lord Hylton has of course persistently championed this cause, and this new legislation gives us an opportunity to rectify what is a long-standing injustice.

In March, those of us who divided the House pressed for the most basic of protections: first, the right to change employer but remain restricted to domestic work in one household; secondly, if in full-time work as a migrant domestic worker in a private household, the option to apply to renew the visa; and thirdly, in instances of slavery, a three-month visa to allow the workers to look for decent work. We argued that without these sorts of provisions, we would leave in place a system found repeatedly over the previous three years to facilitate exploitation, including trafficking of migrant domestic workers.

One of the foremost charities working with these groups, Kalayaan, described how such workers have literally sacrificed themselves to the well-being of their wider families. They do not self-protect in the way that someone with more choices would expect. Many explain that they are prepared to put up with any amount of mistreatment if they can provide for their children and ensure that the same will not happen to them. Kalayaan reports that 65% of the 120 domestic workers on the new visa who they saw between 6 April 2012 and 6 April 2014 did not even have their own rooms but shared children's rooms or slept on the floor of communal areas, while 53% worked more than 16 hours a day and 60% were paid less than £50 a week.

In 2009, the Home Affairs Select Committee, quoting Kalayaan, said in its inquiry into trafficking that the visa issue was,

“‘the single most important issue’ in preventing the forced labour and trafficking of such workers”.

I recognise that the wholly unacceptable exploitation of domestic workers will not be entirely abolished by the acceptance of these amendments, but it would certainly be an improvement on the current situation.

In reply to the debate last March, the Minister—the noble Lord, Lord Bates—urged Members of your Lordships' House to resist our amendment and to await the outcome of the review of James Ewins, which the noble Lord, Lord Rosser, has mentioned. The Minister said:

“Most crucially, the amendment is defective because a serious and considered piece of work is currently going through its process under the widely respected James Ewins. Our argument is that that should be allowed to take its course”.—[*Official Report*, 25/3/15; col. 1448.]

In the review, which followed the debate, Mr Ewins takes as his fundamental question,

“whether the current arrangements for the overseas domestic workers visa are sufficient to protect overseas domestic workers from abuse of their fundamental rights while they are working in the UK, which includes protecting them from abuse that amounts to modern slavery and human trafficking”.

We now have the result of that review, and Mr Ewins has recommended removing the visa tie:

“On the balance of the evidence currently available, this review finds that the existence of a tie to a specific employer and the absence of a universal right to change employer and apply for extensions of the visa are incompatible with the reasonable protection of overseas domestic workers while in the UK”.

He goes on to say:

“The review recommends that all overseas domestic workers be granted the right to change employer ... and apply for annual extensions, provided they are in work as domestic workers in a private home”.

Who are the kind of people we are talking about? The Anti Trafficking and Labour Exploitation Unit provides a number of examples, of which I will give only one, relating to the plight of an African national caught up in the cat's-cradle of domestic labour exploitation. She entered the UK as a domestic worker under the rules in place before April 2012. Her visa has been extended a number of times and she has continued domestic work. She worked for an employer for over three years and was mistreated: she was paid less than promised, shouted at and rarely allowed to leave the house, and her passport was taken by her

employers on arrival—the key point. She of course felt very scared. She managed to gain their agreement to a short holiday after the three years, and when she got her passport back, she changed employers. She was advised about the protection available under the national referral mechanism but has been reluctant to pursue this as she fears she will be sent home to her country of origin by the Home Office. The study shows that a common form of control is retention of documents, psychological abuse and restriction of movement.

However, domestic workers who are allowed to change employer can solve problems that arise with one employer by changing employment and moving away from the problem. The case also shows that the NRM will not be the right fit for everyone, even with advice. Individuals can be frightened of being perceived to cause trouble for others and of repercussions from that.

Although Amendment 133 has provided this welcome opportunity to debate what provision should be made for overseas domestic workers, this can all be achieved simply by amendments to the Immigration Rules, so the full range of options is open to the Government. Either way, Mr Ewins's recommendations, which he identifies as the minimum necessary to protect overseas workers, should be implemented without delay as an essential first step towards comprehensive protection.

As my noble friend Lord Hylton said, he would go slightly further in Amendment 134B. Maybe these two ideas, which are not in conflict, could be taken together before Report. What is abundantly clear is that the Government must get on with resolving this issue and providing reasonable and basic protection to those caught up in a tangle of exploitation and coercion.

Baroness Hamwee: My Lords, I have my name to the first of this pair of amendments, but I congratulate the noble Lord, Lord Hylton, on picking up some specifics from the report and spelling them out in his Amendment 134B. We must all thank James Ewins, who was promoted in my speech at Second Reading, according to the *Official Report*, to coming from the UN rather than Ewins—not an inappropriate promotion. We must also thank the organisations which gave evidence, which have worked so hard for so long and provided so much support to this group of workers.

I was not entirely clear from the speech of the noble Lord, Lord Rosser, whether he and his party are behind the Ewins recommendations. His tone was certainly warm and supportive, but it may be that when I read his speech I will detect whether they would like them implemented in whole or in part. The Liberal Democrats regard the report and its recommendations as clear, considered, compassionate and to be implemented.

I will not repeat the arguments that have been made, with which I agree very much, but it is telling that Mr Ewins says that,

“this review has not taken such previous proposals as a starting point”,
but,

“has deliberately gone back to first principles and applied those principles to the evidence currently available. The fact that the conclusions accord to a considerable extent”—
not completely—

“with previous recommendations adds further weight to the argument in favour of the changes proposed”.

I, too, look forward to hearing how the changes he proposes are to be implemented.

Lord Green of Deddington (CB): My Lords, I share the condemnation of domestic slavery, which I am sure is shared by all Members of this House, and I strongly support those organisations that seek to help such workers. In doing so, I speak with some experience on the ground. I was the consul in Abu Dhabi and the consul-general in Saudi Arabia, which is where 50% of these applications come from.

Let me start, then, by welcoming the Modern Slavery Act, which seeks to tackle the worst cases of abuse, providing advice and support for those who seek to escape. However, what is now proposed goes well beyond that. The independent reviewer seems to be suggesting that any domestic servant who is not satisfied with his or her conditions will be able to change employer and then remain in the UK working legally for, I think he says, two years—others say without time limit. At the end of that period, he supposes, I think, that they would simply pack up and go home to their impoverished home country. That seems a very unlikely outcome. It is far more likely that they will continue to work here—illegally, if necessary—so that they can continue to send money home. In many respects, that is understandable, but we must recognise that if that situation were to develop, word would spread very quickly among domestic workers in a number of source countries and it would not be very long before we had a significant loophole in the immigration system.

6.45 pm

I read the independent report rather carefully, because it is a difficult issue for all of us. Obviously, none of us wants a system that leaves domestic workers in the kind of difficult conditions to which the noble Lord, Lord Alton, referred. However, the reviewer claimed in paragraph 174 of his report that,

“this is not a migration issue, and should not be characterised as one”.

I do not agree with that. There is a balance to be struck here between what we can try to do to reduce the risk to domestic workers and, on the other hand, avoiding a very large loophole in our immigration system which would grow and grow.

Mr Ewins based his claim that it was not an immigration issue on the number of grants of indefinite leave to remain made in 2013 to those who had arrived in this country as domestic servants. That number is about 1,500, including dependants. That, he said, was trivial compared to the present scale of immigration. Well it is, but that is not the right number to look at. It says nothing whatever about how many of the 80,000 people who were admitted on domestic service visas over the past five years stayed on illegally. By definition, we do not know what that number is. We know that a balance must be struck between the need to reduce the scale of immigration, legal and otherwise, against concern about domestic workers.

While on the subject of numbers, the report referred to 33 cases of abuse. The noble Lord, Lord Alton, cited a much larger number—I am not sure on what

[LORD GREEN OF DEDDINGTON]

basis—but 33 was the number in the report. It was not clear whether they had all arrived in the same year, but let us assume that they did. Thirty-three in 17,000 is about two in every thousand. The author notes that that could be just the tip of an iceberg. Let us assume, therefore, that the number is 10 times larger than the 33 cases that he came across. Even then, we are only at 2%. The proposal in his report is significantly to increase the rate of overstaying by 17,000 people a year or more to improve conditions for domestic servants in the UK beyond what we now have under the Modern Slavery Act.

I am not sure that numbers are entirely the answer to this, but we need to keep an idea of proportion when we consider this quite difficult balance. We also need to consider the effect of the change proposed in the amendments on the rogue employers about whom we are concerned. Would not the knowledge that their servants were in effect being encouraged to escape cause them to tighten still further their grip on these unfortunate women and, sometimes, men? Could there be consequences for perfectly good employers? Such employers in the region frequently complain that when they come to the UK, they lose their servants, even under present conditions. Indeed, some servants choose employers who they know are coming to the UK in order that when they come here in the summer they can leave their employment. So the result might be—and we have to consider it as a possibility at least—that some of those employers will go to other destinations where the risk of losing their servants is much lower. If that were to happen, it would negate the whole purpose of these domestic servant visas.

In conclusion, the report itself has been quoted by a number of noble Lords. In paragraph 20, it acknowledges the,

“distinct lack of cogent or robust data and evidence as to the extent of such abuse”.

It also acknowledges, in paragraph 14, that there is,

“no empirical ... data available to show whether the rate of abuse ... has increased or decreased since the imposition of the visa tie in 2012”.

Mr Ewins also goes on, rightly, to acknowledge that there will shortly be data from exit controls, which will cast light on whether there is a serious problem here. It will cast light on whether there is a problem of overstaying; of course, it will not cast light on how individuals are treated. So I put it to noble Lords that surely the obvious solution is to wait until we have such evidence before taking a view on whether there is a valid case for changing the visa regime.

Lord Alton of Liverpool: First, I shall clarify the figure that the noble Lord asked about. It is the figure quoted in the Kalayaan report of people that it had interviewed over the course of two years—120 people. The case that I have advanced today is based not entirely on what I regard as the excellent report of James Ewins. I wonder whether the noble Lord has had a chance to read the recommendation of the Joint Committee on the draft Modern Slavery Bill, which looked at this issue and concluded:

“In the case of the domestic worker’s visa, policy changes have unintentionally strengthened the hand of the slave master against the victim of slavery. The moral case for revisiting this issue is urgent and overwhelming”.

It recommended that the Home Office reverse the changes to the overseas domestic workers visa. That was also a view that the Joint Committee on Human Rights took; in 2014, it said:

“We regard the removal of the right of an Overseas Domestic Worker to change employer as a backward step”,

and urged its reversal. So this is not just Mr Ewins—there is a substantial amount of evidence from highly regarded committees of this House and Joint Committees, which have looked at this matter in detail and come to the same conclusions as Mr Ewins.

Lord Green of Deddington: Yes, I quite see that. I would expect the people whom the noble Lord quoted to say what they said. There is clearly some force in that, and there clearly is a problem. We are not in doubt that there is a problem over the treatment of domestic servants who are brought to the UK; that is entirely understood and not in question. What is in question is the balance between trying to ensure that that problem is alleviated—it will never be removed; we will always have rogue employers—and the needs of the immigration system, which would be considerable because these numbers would go up very fast indeed. If people knew that they had only to get here with one employer and they were here for ever, of course they would come in their thousands. So there must be a balance. That is really my point.

Lord Hylton: But does the noble Lord agree that they cannot come without visas?

Lord Green of Deddington: I do not think that I understand the noble Lord’s point.

Baroness Hamwee: My Lords, I think that my question to the noble Lord may be the same as that asked by the noble Lord, Lord Hylton. The noble Lord said that he knows that currently employers bring in domestic servants but lose them because they go on to other employment. If they come in on a tied visa, how can that be?

Lord Green of Deddington: Well, they come in on a tied visa and then they do a runner and go and work for somebody else. The employer then goes back to his home country and puts in a visa next year for a new servant; he will claim, no doubt, that the servant has been working for a year, because that is one of the requirements, and come with his next servant. So the numbers will certainly increase. If you produce a loophole in these matters, they will increase very fast.

Baroness Lister of Burtersett (Lab): My Lords, I hope that we are not moving from waiting for Ewins to looking for loopholes. I was a member of the Joint Committee on Human Rights at the time of the legislative scrutiny of the 2014 Bill. As the noble Lord, Lord Alton said, this is a matter of human rights. Not only did we say that the removal of the right of overseas domestic workers was a backwards step but we noted that the 2012 regime had been cited internationally as good practice.

I am not going to make a great speech, because I think the case has already been made admirably by other noble Lords. But my noble friend Lord Rosser pointed out that the Minister in the Commons towards the end of the last Government, but a member of today's governing party, said as a statement of intent that whoever was in government would implement the review's recommendations. I simply do not understand why this very important report, which we were all waiting for and for which everything had to be suspended to see what it said, was presented to the Government nearly three months ago with a sense of urgency to it, yet we do not yet have the Government's response to it, even though we have started Committee stage of this highly relevant Bill. Why do we not yet know the Government's response and how quickly will we know it—and will it be in the spirit of the statement made by Karen Bradley in the Commons last March?

The Earl of Sandwich (CB): I add one more voice from these Benches in support of the amendment. My noble friend Lord Hylton has already reminded us that the amendments in some form have already been won in this House. The Minister will already understand the strength of feeling on these Benches—with, obviously, some notable exceptions. The Ewins recommendations have sharpened them up, recommending the three-month temporary visa. I tend to support my noble friend's wider amendment. The evidence being already on the record from Kalayaan and others, I shall not repeat any of that, but has the Minister seen the evidence from Justice for Domestic Workers, in its survey of last August, I think, in relation to the ILO convention 189? I shall give some brief illustrations: 72% of these—mainly—women feel that they have been required to work while they are unwell, while 94% say that they are injured while they are at work, by falling over and so on. One has to appreciate the depth of the suffering of these individuals—but I shall not go on about that. Case studies show how vulnerable they are and how wary they are of seeking help from any authorities, including consulting the NRM, where they should be going. I suspect that the Home Office, like my noble friend Lord Green, sees these amendment as holes in the dyke, carrying risk. But we have to give these domestic workers a way out of their situation in such a way that it will not open the gates to more migration. That is where the Ewins recommendations come in: the workers have to pass the test of exploitation. I see no reason why their case cannot be singled out from the rest.

Lord Bates: My Lords, I am grateful to the noble Lords, Lord Rosser and Lord Hylton, for tabling these amendments. It is entirely right that we discuss this important issue; it is something on which, as the noble Earl, Lord Sandwich, mentioned, I and the Government are in no doubt whatever about the strength of feeling in your Lordships' House. What is more, we are in no doubt that there is a problem that needs to be addressed; that is not in question at all. Were it not so, we would not have wasted taxpayers' money, as it were, on the Ewins review in the first place, nor would we have introduced the measures that we did in the Modern Slavery Act, which sought to address some of these issues.

Let me be clear at the beginning about what I intend to do at this stage—and I hope that noble Lords will bear with me. My proposal is to set out some of the initial response to the report and address some of the comments that have been made in the debate. I would then be immensely grateful if noble Lords who have an interest in this area might have the opportunity to meet Home Office officials and myself—and possibly Karen Bradley if her diary permits—to go over what we propose to do.

7 pm

Following that discussion, and in the light of reflecting on the report and the contributions which have been made today and at that meeting, we will bring proposals forward on Report to set out what the Government intend to do. I frame things in that way so that we do not have to go through the pain of wondering whether on page 4 I am going to come to a crescendo and announce the position. Rather than a announcing a policy or a position, I am announcing a process which I think will be helpful to us and, I hope, to noble Lords in arriving at the right solution.

The Government acknowledge the need to address the particular vulnerability of those who are admitted to the United Kingdom as domestic workers. The Modern Slavery Act included new protections for this group of workers. It is also why we commissioned James Ewins to review the overseas domestic worker visa to assess whether such workers are sufficiently protected. His findings were published on 17 December. While the Government have not so far commented on his recommendations, we take them extremely seriously. The arguments are finely balanced. We want to ensure that our approach to the issue is right. We are continuing to work on our response, but I will take this opportunity to outline our broad view of the issues.

Ewins's key recommendation is that overseas domestic workers should be able to change employers, irrespective of whether they have been the victim of abuse, and obtain an extension of stay for that purpose; in other words, he recommends the removal of the employer, or visa, tie. That, of course, is also the chief purpose of these amendments, as the noble Lord, Lord Alton, acknowledged. The amendments go further than Mr Ewins's recommendation, which is that overseas domestic workers who seek alternative employment should be able to extend their stay for a further two years. By contrast, these amendments would provide for those in this position to extend their stay indefinitely, effectively going back to the situation which existed pre-2012 when overseas domestic workers could come in, change employer as frequently as they wished, apply for indefinite leave to remain after a period of five years and bring in their dependants. We introduced the change.

In addition, both amendments provide for granting a three-month visa to a victim of slavery. Section 53 of the Modern Slavery Act already provides for a six-month extension of stay where a domestic worker is the subject of a positive conclusive grounds decision under the national referral mechanism. This provision was implemented through changes to the Immigration Rules in October last year.

[LORD BATES]

Mr Ewins has set out the case for removal of the employer tie. His report brings two key issues into sharp relief. First, it highlights the dearth of hard, quantitative evidence which can be brought to bear on policy-making in this area. Of course it is not in dispute that abuse takes place but, on whether the 2012 changes to the Immigration Rules have made overseas domestic workers more vulnerable to abuse, Mr Ewins concludes that no data exist to demonstrate either positively or negatively that the risk of abuse has increased or to confirm its prevalence. I am aware that other organisations referred to by noble Lords have supplied evidence, but that was James Ewins's position. That is not to say that there is no evidence to support his prescriptions, but I can only agree with his view that the Government must,

"make serious inroads into the data deficit".

We will do so. We can now use exit data, to which the noble Lord, Lord Green, referred, to obtain a better picture of how long overseas domestic workers remain here and how many overstay their leave. We will also continue to monitor national referral mechanism outcomes and the take-up of the measures introduced under Section 53 of the Modern Slavery Act to assess how well existing protections are working.

The second, and fundamental, issue that Mr Ewins's report compels us to confront is how best we protect overseas domestic workers from abuse. Mr Ewins makes the case that if a worker is in an abusive employment relationship, removing the visa tie will make it easier for them to escape the abuse. However—and this comes to the key point potentially of difference between us, but I hope it is not an insurmountable barrier—it is not enough simply to provide an escape route for victims; we also need to avoid creating a revolving door of abuse which allows perpetrators liberty to bring other domestic workers to the United Kingdom who may face similar consequences.

Mr Ewins makes other recommendations in addition to removing the visa tie which could assist with this. Principal among them is a recommendation for compulsory information and advice meetings to be provided to overseas domestic workers who remain in the UK for more than 42 days, funded through an increased visa fee. The amendment tabled by the noble Lord, Lord Hylton, would implement this recommendation. Such meetings would go to the crux of the issue by providing a safe place for domestic workers to come forward so that action can be taken against the perpetrators. We are looking carefully at how implementation could take place.

At this stage, I should say that the Independent Anti-slavery Commissioner, Kevin Hyland, observed that mistreatment occurred before the rule was introduced. He suggested that a system for checking the welfare of domestic workers could have more success in preventing abuse than a simple right to change employer. The Director of Labour Market Enforcement will in future have as part of the broad scope of their remit looking at abuse in the labour market, to which this area is particularly pertinent.

We should not deceive ourselves that the removal of the employer tie would be a panacea. It is undisputed that abuse took place before it was introduced.

In considering Mr Ewins's recommendations, we need to assure ourselves that the measures we put in place assist us both to protect victims and to bring perpetrators to justice. We will continue to look at this important issue ahead of Report.

It is deeply concerning that Mr Ewins suggests that overseas domestic workers may have a negative perception of the national referral mechanism, a point made by the noble Lord, Lord Alton. It is incumbent upon us all to encourage potential victims to engage with the national referral mechanism. The Government have already implemented Section 53 of the Modern Slavery Act to provide domestic workers who may be victims of abuse with a period during which no enforcement action will be taken against them and to grant a six-month extension of stay where they are found to be the victim of slavery or human trafficking. If we need to go further, then we will do so.

At this stage, it is worth placing on record that victim support services are provided to individuals when they are referred into the national referral mechanism. Not only do we get a record of employers who are serial abusers but through the contract, which is delivered by the Salvation Army, individuals have access to safe accommodation, emergency medical treatment, material assistance, a complaints service, translation and interpretation services, information and sign-posting, advocacy for specialist services including counselling, assistance at appropriate stages of criminal proceedings against offenders, access to education for dependent school-age minors, and transport services. If victims of abuse are removed from one employer to another without touching the national referral mechanism, we need to make clear to them that they are missing out on a substantial amount of care—care given not by official bodies, which I understand they may be distrustful of, but by a highly respected charity in the UK.

In the light of those remarks and the pledge that we would appreciate the opportunity to discuss these matters further with officials and get views and data before coming forward with proposals for consideration on Report by noble Lords in response to the Ewins report, which we welcome and appreciate, I hope the noble Lord will feel able to withdraw his amendment.

Lord Alton of Liverpool: Before the Minister sits down, I would be grateful if he would clarify the nature of the process that he has just referred to. It would be very useful to Members of your Lordships' House if, for instance, Mr Ewins could also be invited to whatever discussions take place. When we looked at the previous legislation on modern slavery, the Minister was good enough to invite organisations such as Kalayaan to come and give first-hand evidence. Although that may not be appropriate at a joint meeting with Members of the House, nevertheless there ought to be some input from that organisation as well. I hope the Minister might give an undertaking.

Lord Bates: I will certainly give an undertaking to go away and reflect on the point that the noble Lord makes. I understand what he is saying. I am conscious that we met with Kalayaan on many occasions in the

course of the Modern Slavery Act. It does very valuable work on this and its position is very clear regarding what it wishes to do. More particularly, I was hoping we could outline in a bit more detail than perhaps is possible at this stage where the Government's mind is on this, and genuinely enter into a discussion about the best way forward.

As to whether it would be appropriate that the authors of the report should be there, I hear very much what the noble Lord says. That may be useful, but he will understand that in the nature of the way that government works, I have, as it were, secured a certain amount of leeway from my colleagues in the course of responding to your Lordships' concerns, and it would be courteous of me to go back to them and seek their approval for that suggestion. I shall give an undertaking to do just that.

Lord Rosser: Before I respond to the suggestion that the Minister has made, I take it from what he has said that the Government do not actually accept the key part of Mr Ewins's recommendation, which was that,

"the existence of a tie to a specific employer and the absence of a universal right to change employer and apply for extensions of the visa are incompatible with the reasonable protection of overseas domestic workers while in the UK".

I take it from what the Minister has said that the Government do not actually accept that fundamental part of his recommendations.

Lord Bates: Were it the case that we did not accept that there was any correlation with the visa tie, we would of course not have made the change that we did in the Modern Slavery Act to say that when people enter the national referral mechanism, and there are reasonable and conclusive grounds, they will have the ability to change employers. I do not think it is possible to draw from that that it is something we are not prepared to move on; we have already moved some way on that in previous legislation.

Lord Rosser: I thank the Minister for that response. I also sense from his comments that the Independent Anti-slavery Commissioner, Mr Hyland, is also not necessarily fully supportive of the recommendations of Mr Ewins. I thought I had picked up the comment that he thought there might be as much mileage from taking other action as from loosening the tie, which is the key part of Mr Ewins' recommendation.

Lord Bates: The anti-slavery commissioner, Kevin Hyland, is independent, and thoroughly and robustly defends his independence. I would simply quote a remark that he made: he felt that a system, which may be included as part of James Ewins's recommendations, of checks and periodic meetings to ensure that people were aware of their rights and to check on their safety may have more effect in providing a safeguard of the position.

Lord Rosser: I think there will be a degree of disappointment at the response we have had from the Minister today, although I appreciate the offer that he

has made, along with the reply that he has given and the detail that he has gone into in order to explain the Government's position. I also appreciate the contributions that we have had to the debate.

Bearing in mind that the Minister has offered to have the meeting between Home Office officials, himself and interested Peers—as I understand it, I think he said that he would consider whether Mr Ewins might also be there—and that the Government have said they will bring forward proposals in response to the Ewins report on Report of the Bill, I certainly have no intention of declining the offer that he has made. I thank him for making that offer and for giving the detailed explanation of where the Government now stand, and I can only sincerely express the hope that we are able to get to the point where the proposals that the Government bring forward on Report meet the wishes of the House and of those who have been campaigning so hard on this issue.

7.15 pm

I repeated, as did my noble friend Lady Lister, the comment made by the government Minister that, while she could not commit a future Government, the intention was that whoever was in government would implement the review's recommendations. I hope we are not going to find ourselves in a position where that proves to be a statement of hope rather than a statement of fact. I beg leave to withdraw the amendment.

Amendment 133 withdrawn.

Amendment 134

Moved by Lord Kennedy of Southwark

134: After Clause 12, insert the following new Clause—

"Asylum seekers: permission to work after six months

(1) The Immigration Act 1971 is amended as follows.

(2) After section 3(9) (general provisions for regulation and control) insert—

"(10) In making rules under subsection (2), the Secretary of State must provide for persons seeking asylum, within the meaning of the rules, to apply to the Secretary of State for permission to take up employment, including self-employment and voluntary work.

(11) Permission to work for persons seeking asylum must be granted if—

(a) a decision has not been taken on the applicant's asylum application within six months of the date on which it was recorded, or

(b) an individual makes further submissions which raise asylum grounds and a decision on that new claim or to refuse to treat such further submissions as a new claim has not been taken within six months of the date on which the submissions were recorded.

(12) Permission for a person seeking asylum to take up employment shall be on terms no less favourable than those upon which permission is granted to a person recognised as a refugee to take up employment."

Lord Kennedy of Southwark: My Lords, Amendment 134 in my name and those of my noble friend Lord Rosser, the noble Baroness, Lady Hamwee, and the noble Lord, Lord Alton of Liverpool, would allow those asylum applicants who have been waiting for longer

[LORD KENNEDY OF SOUTHWARK]

than six months for a decision on their asylum application to be allowed to work. The latest immigration statistics show that about 3,600 applicants have been without an initial decision for longer than six months. The only exception that they are presently allowed is that after 12 months an asylum seeker can apply for permission to work, but only in national shortage occupations.

When this is compared to other countries in the EU, we are certainly not generous. All EU member states, with the exception of the UK and Ireland, permit applicants to work after nine months, and some have gone further: Belgium and Denmark permit work after six months, and in Germany it is after three months. For many asylum seekers, not being allowed to work means that they are unable to develop and maintain skills, and for professional people this can have a very difficult effect on their future employment prospects in this country, if in due course they are granted asylum status and allowed to work, or return to their country of origin or move elsewhere. Allowing asylum seekers to work after six months would also cut the cost to the taxpayer, as those who found work would no longer need to be supported by the taxpayer.

Amendment 134A, in the names of the noble Baroness, Lady Hamwee, and the noble Lord, Lord Paddick, would make a small but important change, allowing asylum seekers to work after 12 months as a matter of right without having to apply for permission. I support the aims of that amendment as well. I beg to move.

Baroness Hamwee: My Lords, as the noble Lord has said, my name is to this amendment. I am particularly delighted that it has been moved from the Labour Front Bench since this was not something on which they felt able to support us during the last Parliament. This is something that we sought to achieve then even though we were part of the coalition Government. We have tabled this amendment to the Bill in these terms in the Commons. I am sure that my noble friend Lord Roberts of Llandudno will have a good deal to say on it, as he has had a Private Member's Bill on the subject and argued for this proposition many times.

I will not take long, but I do not apologise for the fact that the arguments are not novel. According to the latest immigration statistics, I am told by the Refugee Council, over 3,600 applications for asylum have been without an initial decision for longer than six months. As the Refugee Council comments, when you take into account their dependants, that is nearly 5,000 people living on little over £5 a day in asylum support who are unable to work. It seems to us that applications should not drag on and, as the noble Lord said, six months, which is the Home Office target, is not overly ambitious. In any event, what is to be gained by a restriction that continues up to the 12-month point?

It seems that a lot is to be lost: contribution to the economy through work and taxation; savings for the state on asylum support; and, as for the individuals, the impact on their self-esteem, mental health, possible—probably likely—loss of skills, and the ability to find employment when the period comes to an end. It also seems that this restriction reinforces exclusion. For those

who stay, their community integration is important and we should not delay it, because more than half of the asylum seekers who come here stay.

This is a very topical point, as a colleague, Suzanne Fletcher, who was a councillor in the north-east and who is still a very active Liberal Democrat, has been all over the media today on the issue of the red doors, on which the *Times* has reported—doors that were painted red so that the occupants could easily be identified as immigrants. Of course the Minister, James Brokenshire, immediately criticised that, and I believe that the Government are taking steps there. However, from the emails I have seen on this subject today, it has taken years of campaigning to bring this to attention. That shows what power the media have, because Suzanne had taken that matter to the National Audit Office and to one of the Select Committees in the other place.

Would relaxing the current restrictions be a pull factor? Is there evidence of that? I suspect not. If your reasons for coming here are economic rather than to seek asylum, I would have thought that six months would be quite a deterrent in itself.

Our Amendment 134A deals, as the noble Lord has said, with the 12-month period. Currently, if you are here for more than 12 months, although you may be able to work, your work is confined to the “shortage occupations” as designated by the Home Office—for the same reasons, of course, that could be applied to the six months. In addition, however, the list of shortage occupations, which I had a look at over the weekend, seems to be made up almost entirely of technical or professional occupations and often requires references from previous employers, which I suspect are by definition unavailable, or requires UK qualifications. Therefore, asylum seekers would not be likely to get such jobs, because the period of their stay is uncertain, even if they were qualified to do them. They are more likely to get low-skilled jobs that British citizens, frankly, are often unwilling to undertake.

Lord Alton of Liverpool: My Lords, in supporting the amendment moved by the noble Lord, Lord Kennedy of Southwark, and supported by the noble Baroness, Lady Hamwee, may I first put in a request to the Minister, almost in parenthesis, for when he comes to reply? This relates to an issue that was raised on day one, which is the role of people who are involved in voluntary work and what the legal position is, because contradictory positions were expressed on day one. I was looking at some of the briefing material for today's debate, particularly about a project called the Brushstrokes Community project in Smethwick in Birmingham, which has been providing services for refugees and asylum seekers for over 15 years. Brushstrokes described one asylum seeker who volunteered with the project for over a year before she received refugee status, and who continues to volunteer to this day. Last year she won an award as volunteer of the year in Sandwell. Another woman volunteered as a teaching assistant for around six months while awaiting the outcome of her application. She has now been granted refugee status and is on the path to fulfilling her aspiration of becoming a teacher in the United Kingdom. What is the legal situation of people who work in a voluntary capacity?

There are five substantial reasons why the arguments expressed so well by the noble Baroness, Lady Hamwee, and the noble Lord, Lord Kennedy, should commend themselves to your Lordships' House. First, these amendments would provide asylum seekers with a route out of poverty. More than 3,600 asylum seekers have currently been waiting more than six months for an initial decision on their case, surviving on just £5 a day.

Secondly, it reduces the burden on the taxpayer, as asylum seekers who are able to work will not need to be supported for extended periods and will instead be able to contribute to the economy through increased tax revenues and consumer spending. It also safeguards their health and prevents them having to resort to irregular work in what some describe as the black economy.

Thirdly, it avoids the negative consequences of prolonged economic exclusion and forced inactivity. During my 18 years as a Member of another place representing an inner-city neighbourhood in Liverpool I often saw that kind of grinding poverty first hand: the detrimental impact on mental health and self-esteem, the break-up of marriages and families—many Members of your Lordships' House are very familiar with these kinds of arguments. The dignity that work gives should never be underestimated.

Fourthly, what is the experience elsewhere in other European Union countries? With the exception of the United Kingdom, Denmark and Ireland, other European countries allow asylum seekers to work after nine months and 11 of them grant permission to work after six months or less if a decision has not been made on their asylum application. That has not been a bad experience—it works very well and has not been a pull factor, as the noble Baroness, Lady Hamwee, was right to remind us.

Fifthly, for those asylum seekers who are eventually given permission to stay, avoiding an extended period outside the labour market is key to ensuring their long-term integration into UK society and encouraging them to be self-sufficient. Therefore, alleviating destitution amongst asylum seekers is a prerequisite if we believe in the upholding of a person's human dignity. The right to work is fundamental to this and it also relieves the state of having to provide financial support.

In 2014, the noble Earl, Lord Attlee, set out the defence of the Government's policy when he said that asylum seekers are,

"provided with support and accommodation while we determine whether they need our protection and until they have exhausted the right of appeal".—[*Official Report*, 17/3/14; col. 30.]

However, the reality is that £5 a day to meet their essential living needs of food, clothing, toiletries and transport and to pursue their asylum application—housing and utility bills are paid for separately for those who need it—is wholly inadequate. Which of us could survive on that kind of paltry sum? Therefore the asylum seeker loses, but so does the state. We must give asylum seekers a route out of poverty and help them not to become part of a dependency culture.

At the end of June 2015, more than 3,500 asylum seekers had been waiting more than six months for an initial decision. The Minister arranged an all-Peers meeting, which I was able to attend, and Mr James

Brokenshire, the Minister, was also there. He of course said that the Government's aim is to ensure that there are no people waiting for longer than six months. Can the Minister tell us just how many people are waiting for longer than six months and how long it will be before that objective is met?

I am told that an asylum seeker spends an average of around 18 months on Section 95 support. Asylum seekers who have to survive solely on this level of support for extended periods of time will suffer a negative impact on their mental and physical health.

While a Member of the Commons, Sarah Teather chaired a cross-party parliamentary inquiry into asylum support for children and young people. In January 2013 it found that,

"asylum seeking parents are prevented from working, leaving families dependent on state support. This means that parents are left powerless and lose their skills"—

a point to which the noble Baroness alluded—

"while children are left without positive role models. The government's own research has highlighted that this can lead to high levels of unemployment and underemployment once a family gains refugee status".

That inquiry took evidence from over 200 individuals and organisations, including local authorities and safeguarding boards, and specifically recommended that asylum seeking parents and young adults should be given permission to work if their claim for asylum had not been concluded in six months—the point of these amendments.

Let us be clear: by keeping them out of work, many experienced and professional asylum seekers are deskilled, and the time spent not working hinders the opportunity to develop a career. It prejudices the chance to get references for future employment, and it denies people the chance to gain experience. Mr Brokenshire said that this provision would,

"blur the distinction between economic migration and asylum".—[*Official Report*, Commons, Immigration Bill Committee, 10/11/15; col. 461.]

But this amendment addresses that concern, because permission to work would apply only when the delay was not due to action taken by the applicant. I therefore hope that this amendment commends itself to the House.

7.30 pm

The Lord Bishop of Southwark: My Lords, Amendment 134, which I wish to support, is simple, just and proportionate in its aims. I accept that Home Office officials must, in the discharge of their duties in this area, deal with barriers of language, emotional distress, the fear of authority, the complexity of people's lives and, on occasion, deceit. All this takes time. However, it is far from unknown for applicants for asylum to wait months or even years for a substantive decision in their case. This subjects them to a fearful limbo, with limited means of support and the background anxiety of not knowing for a very prolonged period what the outcome will be. Furthermore, we know from the experience of our own citizens the deleterious effects of prolonged inactivity on their emotional and physical well-being, and how this can erode an individual's skill base.

The European Union's reception conditions directive, which came into force last July, recognises this and requires of all EU countries—except Ireland, Denmark

[THE LORD BISHOP OF SOUTHWARK]

and the UK, as the noble Lord, Lord Alton, was saying—that asylum seekers waiting nine months for a decision may work. Germany has responded, interestingly, by legislating for a three-month threshold.

It is the policy of the Church of England, by resolution at its General Synod in February 2009, that all asylum seekers should be granted permission to seek employment. If the Government brought forward their own amendment with a threshold of nine months rather than six, as here, I could accept that. What is manifestly unfair is excluding such individuals from the world of work for an indefinite period, as at present. This amendment, with its threshold of six months, is not an invitation for migrants to enter the UK job market by an easy route. It could not be, with that sort of threshold. It is a measured and fair response to a manifestly unfair and damaging exclusion. I support the amendment in the name of the noble Lord, Lord Kennedy of Southwark, and others.

Baroness Lister of Burtersett (Lab): My Lords, I am pleased to be able to speak in support of the amendment tabled by my noble friends on the Front Bench. Indeed, I, too, am delighted that this is now my party's official policy.

The right to work—or, perhaps more accurately, the right to be allowed to undertake paid work—is a human right enshrined in the Universal Declaration of Human Rights and incorporated into human rights law as part of the International Covenant on Economic, Social and Cultural Rights, which recognises, “the right of everyone to the opportunity to gain his living by work”.

After the Second World War, TH Marshall wrote that in the economic field, the basic civil right is the right to work. More recently, in 2007—long before I came to this place—the Joint Committee on Human Rights described the denial of the right to work as part of a deliberate policy of destitution, in breach of asylum seekers' human rights.

The all-party parliamentary inquiry into asylum support, mentioned by the noble Lord, Lord Alton—of which I was a member—talked about how asylum seekers who are not able to undertake paid work lose skills and are unable to provide a role model for their children, and about the impact on their self-esteem, self-confidence and mental health. All this has a damaging effect on their children. A Freedom from Torture report on poverty among torture survivors states:

“Many questionnaire respondents, and most participants in client focus groups, highlighted the importance to them of having permission to work while their asylum claim is decided as a means of supporting themselves and being self-reliant. Indeed, the lack of permission to work for asylum seekers was a major theme of discussion and the key change that focus group respondents called for, although they also recognised that many torture survivors”, may not be “well enough to work”.

A letter to the *Independent* at the end of last year asked why asylum seekers are not allowed to work in the UK. It pointed out:

“We have skills to contribute: some of us are doctors, nurses, carers, teachers, builders. But these skills are wasted and deteriorate while we wait for a decision on our asylum applications. We want to contribute to the UK economy and to be part of this society”.

Much of government social policy, whichever party is in power, is premised on the principle that paid work is the primary responsibility and the most important contribution that people make to society, summed up in the rather tired mantra of “hard-working families”. Why should asylum seekers be denied the opportunity for a whole year of joining the happy ranks of hard-working families in the labour market—and even then joining only on very restrictive terms? The evidence shows that this impedes integration. The Home Office's own research shows that delayed entry into the labour market can cause problems even when refugee status is then granted, leading to high levels of unemployment and underemployment.

We have already heard about what happens in other European countries. My understanding is that most of these countries have fewer applications for asylum than are received in the UK, which does not support the argument that providing the right to work acts as a pull factor. The lack of impact on the number of applicants is confirmed by a study of OECD countries. Indeed, after our last debate on the issue, the then Minister acknowledged the paucity of hard evidence to support the Government's case. Moreover, as Still Human Still Here argues, it is not very likely that economic migrants would draw themselves to the attention of the authorities by making an asylum claim, so that they might be able to apply for permission to work in a whole six months' time.

The danger is that asylum seekers will end up in the shadow labour market, facing the kind of exploitation we discussed earlier in the context of undocumented migrants. Indeed, can the Minister say whether, if they do take paid work, they could be caught by Clause 8—criminalised for working illegally even though they are legally in the UK awaiting a decision on their asylum claim?

I fear that Governments are often timid with regard to the rights of asylum seekers, for fear of public opinion. However, surveys by the IPPR, and the British Social Attitudes survey, show that there is public support for allowing asylum seekers the right to work. The Joseph Rowntree Charitable Trust, in an inquiry into destitution among asylum seekers a few years ago, said:

“Overwhelmingly, giving asylum seekers the right to work was the favoured solution identified”, by those who gave evidence.

As has been said, we have debated this issue a number of times in your Lordships' House, even in just the five years that I have been here. Since the previous time we debated it, the financial position of asylum-seeking families has worsened because of the savage cut in asylum support for children. So the cost to them of not being able to undertake paid work is all the greater now, with damaging implications for their mental and physical health and that of their families. I urge the Minister to take this amendment away and think about whether the time has not now come to concede this most basic of human rights.

Baroness Ludford: I, too, welcome the support of the Labour Party and its conversion to this cause. It is hugely important and significant. All the considerable benefits of a change in policy have been cited, and I do

not need to enumerate them. They are so powerful, and there are only benefits—there are no costs, quite honestly, associated with this policy, except possibly a political one. That is no doubt what the Government fear. So I want to propose a rebranding exercise: to position this not so much as the right to work as the obligation to work—a requirement to work, except for asylum seekers who, for reasons of age or health, cannot do so. We could reframe it in those terms, as we do in the field of welfare. Indeed, a Liberal Democrat policy document from two years ago did exactly that. Why not talk about an obligation on fit asylum seekers to use their skills to benefit themselves, this country and the taxpayer? I think that you would also see a different approach and a different perception from the public, as well as, one hopes, from the Government, if that rebranding were to take place.

Lord Roberts of Llandudno (LD): My Lords, first, I welcome all those who now support so vigorously and enthusiastically the right of asylum seekers to work after, say, six months. They have such potential. I know they are not asylum seekers but a third of the doctors and consultants in the hospitals and half the nurses in north Wales are not of Welsh extraction; they are from overseas. We rely on each other. If you go to the hospitals in Liverpool, the same story is told. We work together; we are one world. We have a responsibility towards each other—a responsibility, I suggest, to help everybody, wherever they are from, to reach their potential and to contribute as much as they can to the well-being of the whole community.

I am not going to speak at great length—I would be very unpopular if I did. In any case, everybody else has said what I wanted to say. It is wonderful that we are in an atmosphere of wanting this policy to succeed.

I will say just one thing. Last night I was at a meeting where we spoke of the children in the camps at Calais and Dunkirk. At Dunkirk there are no facilities, and we have all seen the pictures of the children tramping in the mud, which in places is a foot deep. One contributor last night said, “You know, they haven’t had any education for 12 months. They haven’t had any schooling. They are missing out”. Many of those of Arab extraction who are coming to the UK—people who speak the languages of other nations—could become the teachers who help this new generation, and in helping that new generation I am sure we will be doing something to build the kind of world that Lloyd George talked about. He once said that he wanted to build a country fit for heroes to live in. Let us build a world fit for children to live in. We can do it in this Bill by adopting amendments such as the one that is proposed here.

The Earl of Sandwich: My Lords, I am always heartened by the words of the noble Lord, Lord Roberts. I remember one rather lonely evening when he moved a version of this amendment and there were not so many friends present as there are today. I see already that he is heartened by the voices from all around the Committee.

I am strongly in favour of extending the time available to migrants and asylum seekers because it is realistic. It recognises and legalises a situation that is already

happening. As my noble friend said, the issue of permission to work is linked to concerns about destitution, which we will come to in Part 5 when we discuss Section 95 support. As Sir Keir Starmer said about Clause 8 in the Commons, the most vulnerable will become even more so if we do not pass this amendment. For example, making it a specific crime to work without leave drives the exploited and enslaved further underground.

There is one more point which needs to be underlined. The Immigration Minister said during Committee in the Commons that asylum seekers could frustrate the process of application in order to qualify for the permission, and I expect that the Minister has this argument in mind this evening. But the amendment addresses this point—and the Refugee Council makes this clear—because permission would be granted only where the delay was in the process and not due to any action taken by the asylum seeker.

Lord Ramsbotham (CB): My Lords, until seven years ago, I thought that Red Cross food parcels were handed out only to British prisoners of war in Germany. However, when I was a commissioner in the Independent Asylum Commission, I saw Red Cross food parcels being handed out on the streets of Manchester to destitute asylum seekers who had been refused permission to work.

One of the things that has distressed me most about what has been said tonight relates to remarks that I made at Second Reading about the quality of Home Office casework. Listening to the noble Baroness, Lady Hamwee, and my noble friend Lord Alton, I could not help reflecting that a great deal of this unnecessary destitution is caused by poor casework in the Home Office. I wonder whether the Minister can say what steps are being taken to improve that situation and speed up the processing of these applications.

7.45 pm

Lord Green of Deddington: My Lords, I think that I may find myself in a small minority in this Committee, although, I have to say, certainly not in the country. The first point to make is a very general one: it is a mistake to generalise about asylum seekers. Roughly 50% of them claim only when they are discovered. Therefore, it would appear that they come, at least initially, as economic migrants. Of those who then do claim, half are refused, but only half of those who are refused are removed. That is why I suggest that we need to be a bit more discerning about people who are referred to simply as asylum seekers.

As for the amendment, the Committee will be aware—indeed, it has already been mentioned—that the most recent EU directive, No. 33 of 2013, requires that asylum seekers should have access to the labour market after nine months if the asylum claim is still pending. The UK, Ireland and Denmark have, of course, opted out. Nevertheless, the amendment proposes a time limit of six months. It would also remove the current requirement for the job to be on the shortage occupation list, despite the fact that the EU directive provides for such provisions. Therefore, in these two respects, the

[LORD GREEN OF DEDDINGTON]

amendment goes beyond the minimum standards now required by the EU directive, from which we have, as I said, opted out.

Let us be clear that the effect of the amendment would be to make the UK not the most but one of the more generous countries in Europe in terms of access to the labour market, and there is no doubt that that would act as a pull factor for both asylum seekers and economic migrants. The extreme case is Sweden, which until recently allowed asylum seekers to work on arrival. Of course, the numbers went up and up and now it has had to close its borders. So it is absolutely clear that the ability to work is, in that case and more generally, an incentive to people when they choose a country in which to seek asylum.

It is also worth pointing out that people are queuing up in their thousands in Calais—in a country which is perfectly safe. They have every right to seek asylum in France—they would have a slightly less good chance of getting it—but they do not. They want to come here despite the fact that they cannot work for 12 months. I hope that it is the general nature of our society that attracts people, and let us be proud of that, but I come back to the point about balance when it comes to setting up an immigration and asylum system. There has to be a balance between reasonable treatment of people, half of whom are in serious need, and the need not to attract those who may well not be genuine asylum seekers. For goodness' sake, anyone who has read the newspapers in the last three months will surely understand the need to be very careful on that front.

Lord Kennedy of Southwark: The noble Lord referred to the position in most of the European Union where people have to wait for nine months before they can work. Is he saying that he would support a time period of nine months?

Lord Green of Deddington: No. I am saying that we should keep it at 12 months in order that we are not more attractive than other countries on that point.

Lord Kennedy of Southwark: Amendment 134A in the names of the noble Baroness, Lady Hamwee, and the noble Lord, Lord Paddick, says that asylum seekers should get permission to work after 12 months as a right. Would the noble Lord support that amendment?

Lord Green of Deddington: The short answer is no. We have an asylum system which does not work as fast as people would like, but let us improve the system. The obvious answer is to process the claims more quickly and then this question would not arise. However, I would go back to the original, existing system.

Lord Ashton of Hyde: My Lords, this is an emotive issue. As the noble Baroness, Lady Hamwee, said, these are not new arguments. In fact, I think they were had on the last Immigration Act and possibly in immigration Bills before that. Of course, it is an emotive issue and everyone has sympathy with the

plight of some of the people whom we are talking about. It is a difficult line to draw and we have to draw a balance.

I have listened carefully to the arguments in favour of allowing permission to work where an asylum claim is still outstanding after six months, removing the caveat that any delay must not be of the asylum seeker's own making, and lifting restrictions on the types of employment available. The amendments would radically change existing permission-to-work arrangements for asylum seekers and the Government are not convinced that that is sensible. As a general rule, the Government believe that it is not appropriate to allow asylum seekers to work. It is important that we protect the resident labour market for those lawfully present in the UK.

Lord Roberts of Llandudno: Did the Minister listen to the employment statistics announced by one of our Ministers three weeks ago? She said that there were 200,000 job vacancies in the UK.

Lord Ashton of Hyde: I am not aware of those statistics, but I will take a look at them.

Lord Green of Deddington: There are about 600,000 vacancies in the UK, and there always are. It is frictional unemployment. The only way that you can take another job is if a job is vacant.

Lord Roberts of Llandudno: Thank you.

Lord Ashton of Hyde: We will come to employment in a moment.

It is important that we protect the resident labour market for those lawfully present in the UK and discourage those not in need of protection from claiming asylum for economic reasons. There are provisions in the Immigration Rules to allow non-EEA nationals to come to the UK to take up employment where there are no suitable resident workers available, and which give priority to those coming to fill roles included on the list of shortage occupations published by the Home Office. These arrangements are subject to numerical limits. This ensures that the employment meets our needs for skilled labour and benefits the UK economy. This approach prioritises access to employment and business opportunities for those lawfully in the UK, including recognised refugees. It will undermine this approach if non-EEA nationals can bypass employment restrictions by claiming asylum, particularly where that claim is clearly without merit.

There has been much comment, including tonight from the noble Lords, Lord Alton and Lord Ramsbotham, and the noble Baroness, Lady Hamwee, about historic delays in decision-making in the Home Office, but this has been brought under control. The Home Office met its public commitment to decide straightforward asylum claims lodged before April 2014 by 31 March 2015, and to decide all straightforward claims lodged from 1 April 2014 within six months. About 85% of cases are straightforward. This means that the vast majority of asylum claims are decided quickly. While awaiting

a decision, asylum seekers are provided with free accommodation and a cash allowance to cover essential living needs—I will come on to the detail of that in response to the noble Lord, Lord Alton—if they would otherwise be destitute. They can also undertake volunteering activities while their claim is outstanding. I am not relying on volunteering as a primary argument, and it will not be financially beneficial, but it will help with integration, making friends, learning the language, maintaining skills and so forth. I will also deal with the noble Lord's question about volunteering in a moment.

The Government believe that the current policy strikes the right balance. If a claim remains undecided after 12 months, for reasons outside their control, the person can apply for permission to work. That is a fair and reasonable policy and is consistent with our obligations under EU law. It also assists genuine refugees. It is common knowledge that some people make unfounded asylum claims. The reasons why can be difficult to establish, but it is reasonable to assume that some do so because of the benefits, real or perceived, that they think they will gain. Earlier access to employment risks making asylum more attractive for those who are otherwise not eligible to work in the UK.

Providing more generous employment opportunities for those who claim asylum therefore creates a risk of more unfounded claims. An increase in the number of such claims would slow down the processing of genuine claims and undermine our progress towards a fair and efficient asylum system. The Government do not believe that that is a risk worth taking.

I said that I would address the question asked by the noble Lord, Lord Alton, about voluntary work and volunteering. Asylum seekers can undertake voluntary activity, but it must not amount to unpaid work. They cannot be paid for it and it cannot be undertaken on a contractual basis. The noble Baroness, Lady Lister, asked a straightforward question about whether asylum seekers would be caught by Clause 8 and the offence of illegal working. The right to work is a different question from whether you are in the UK lawfully and it is better if I write to the noble Baroness and send copies to interested Peers to confirm how Clause 8 will affect asylum seekers.

The noble Baronesses, Lady Lister and Lady Hamwee, talked about other countries that allow asylum seekers to work that had fewer asylum claims and whether reducing the period would act as a pull factor for asylum seekers. Germany, which was mentioned by the right reverend Prelate, the noble Lord, Lord Kennedy, and others, allows asylum seekers to work after three months and the highest number of applicants were registered in Germany in 2015, including thousands of migrants from the western Balkans who are economic migrants and rarely qualify for asylum. Germany has the highest asylum intake in the EU.

The noble Baroness, Lady Hamwee, asked about the permission to work, which is limited to the shortage occupation list. The list is based on expert advice from the independent Migration Advisory Committee. It comprises skilled jobs where there is an identified national shortage that it is sensible to fill, at least in part, through immigration. The restriction ensures that the employment meets our needs for skilled labour and benefits the UK economy. Under EU law, we are

entitled to prioritise access to work for UK and EEA citizens over asylum seekers. Limiting access for those granted permission to work to employment on the shortage occupation list is an effective mechanism for achieving that. However, those granted refugee status have unrestricted access to the labour market.

The noble Baroness also mentioned the recent news about red doors. As the Immigration Minister told the other place today, we have commissioned an urgent review and officials will be travelling to Middlesbrough tomorrow to begin that.

The noble Lords, Lord Ramsbotham and Lord Alton, talked about the support package that is made available to asylum seekers. Nobody is pretending that they will live in anything like the lap of luxury, but it is not a random amount. The £36.95 per week is in addition to free furnished accommodation, with utility bills and council tax paid; and the weekly cash allowance is designed to meet essential living needs. It is reviewed every year using evidence-based methodology and we are satisfied that we provide enough to meet essential needs. The current level is for each person in the household—the asylum seeker and any dependant—and of course they have access to NHS healthcare and all minor children are legally entitled to free primary and secondary education.

The noble Baroness, Lady Hamwee, asked how many asylum seekers had been awaiting a decision for at least six months. There are around 3,500. As I have said, the delays that have happened before have been brought under control and we have met our public commitments.

The noble Lord, Lord Ramsbotham, talked about Red Cross food parcels. The British Red Cross has produced a report on the problems of destitution faced by asylum seekers which is based on 56 cases, but for the most part these were not asylum seekers. Some 46 of the 56 were failed asylum seekers, people the courts agreed did not need our protection.

As I said at the beginning, this is an emotive issue. The Government do not believe that the risk entailed in reducing the period is worth it. In light of the points I have made, I respectfully ask the noble Lord to agree to withdraw his amendment.

8 pm

Lord Kennedy of Southwark: My Lords, in response to the comments made by the noble Lord, Lord Alton of Liverpool, the Minister referred to the nature of voluntary work. I think we may need a little more detail on that, and perhaps it would be a good idea if he wrote to noble Lords. It is an important point because voluntary organisations and the people who work for them need to be very clear about their position on this matter.

Lord Ashton of Hyde: I completely agree that it is an important point and I will be happy to write to the noble Lord and others who have spoken on this after our session in Committee today.

Lord Alton of Liverpool: I am grateful to the Minister for his response to the noble Lord, Lord Kennedy. Can he be clear in that response on the distinction that is being made between voluntary activity and voluntary work, which I found very difficult to understand, and

[LORD ALTON OF LIVERPOOL]

I am sure that many in the field will find it perplexing too. Their worry will be that either they as organisations or some of those asylum seekers who are involved in voluntary activities could find themselves prejudiced against or even prosecuted. These are significant issues that need to be addressed in some detail.

Lord Ashton of Hyde: I take the point from the noble Lord, and that is why it would be better if our response was written down once we had had a chance to think about it carefully and get our definitions right. I will circulate the response and put a copy in the Library of the House so that voluntary organisations know where they are.

Lord Kennedy of Southwark: My Lords, I thank all noble Lords who have spoken in the debate. When applications for asylum take longer than six months, being allowed to work is a reasonable objective. I thank the noble Lord for his response and I look forward to the letter on the points we have just discussed. Some powerful speeches have been made, particularly by the noble Lord, Lord Alton of Liverpool, and many others. Surviving on £5 a day is an impossible hardship and it has to be endured for many months. As my noble friend Lady Lister said, the risk is that these people will be driven into the illegal work market where the risk of exploitation is even greater.

The noble Baroness, Lady Hamwee, mentioned the issue of the red doors in Middlesbrough. It is unbelievable and I hope that the Government will take very firm action, but let us make sure that we do not end up just painting all the doors blue next time. I make that point because this has to be dealt with properly. It is a scandal and an absolute disgrace. With that, and with my thanks for other comments made by the noble Lord, I beg leave to withdraw the amendment.

Amendment 134 withdrawn.

Amendment 134A not moved.

Amendment 134B

Tabled by Lord Hylton

134B: After Clause 12, insert the following new Clause—
“Protection from slavery for overseas domestic workers

Rules made by the Secretary of State under section 3 of the Immigration Act 1971 shall make provision for overseas domestic workers in the United Kingdom, including domestic workers employed in diplomatic households, to—

- (a) change their employer;
- (b) be required to attend a group information session within one month of the commencement of their visa;
- (c) be able to renew their visa as long as they remain in employment and are able to support themselves without recourse to public funds;
- (d) be able to apply for settlement;
- (e) be able to apply to be joined in the United Kingdom by their dependants;
- (f) be entitled to a three month temporary visa permitting them to live in the United Kingdom for the purposes of seeking alternative employment as an overseas domestic worker, where there is evidence that the worker has been a victim of exploitation.”

Lord Hylton: My Lords, I rise to confirm that I only spoke to my amendment and did not move it, but in doing so perhaps I may thank those who spoke in favour of the fullest possible implementation of the Ewins recommendations, and I welcome what the Minister said as regards his intention to make progress between now and the Report stage.

Amendment 134B not moved.

Schedule 3: Illegal working closure notices and illegal working compliance orders

Amendment 135 not moved.

Amendments 136 to 145

Moved by Lord Bates

136: Schedule 3, page 81, line 8, after “if” insert “—

(a) the immigration officer considers that the condition in paragraph 1(3) or (6) is not met, or

(b) ”

137: Schedule 3, page 85, line 10, leave out “5(1)” and insert “10”

138: Schedule 3, page 86, line 34, leave out “Subject to sub-paragraph (4),”

139: Schedule 3, page 86, line 35, after “notice” insert “, other than one cancelled under paragraph 3(1)(b),”

140: Schedule 3, page 86, line 35, leave out “or an illegal working compliance order”

141: Schedule 3, page 86, line 39, leave out “or order”

142: Schedule 3, page 86, line 42, leave out paragraphs (a) and (b)

143: Schedule 3, page 86, line 42, at beginning insert—

“() that at the time the notice was issued, the condition in paragraph 1(3) or (6) was not met,”

144: Schedule 3, page 87, line 4, leave out “or order”

145: Schedule 3, page 87, line 4, at end insert “and”

Amendments 136 to 145 agreed.

Amendment 146 not moved.

Amendment 147

Moved by Lord Bates

147: Schedule 3, page 87, line 7, leave out sub-paragraph (4)

Amendment 147 agreed.

Schedule 3, as amended, agreed.

House resumed. Committee to begin again not before 9.05 pm.

Health: Cancer

Question for Short Debate

8.05 pm

Asked by Baroness Walmsley

To ask Her Majesty’s Government what assessment they have made of the factors contributing to cancer survival rates in the United Kingdom.

Baroness Walmsley (LD): My Lords, my reason for asking for this debate is to highlight the fact that, despite much good work, cancer patients in the UK

have poorer survival chances than those in comparable countries. We rank 20th out of 24 developed countries for cancer survival in breast, cervical and colorectal cancers. For a Government that seek a world-class health service, this is not good enough. I want to look at the reasons and ask what the Government plan to do about it, in particular the implementation of the five-year cancer strategy.

Anyone who has had a diagnosis of cancer will know the naked fear that the news generates. At that moment, it is hard to remember the great strides we have made in cancer survival, with half of all cancer patients now surviving for 10 years or more compared with a quarter 40 years ago. Some cancers such as breast cancer have seen remarkable improvements in survival rates, particularly because of the excellent screening programme, for which I am most grateful. But others such as pancreatic cancer have seen very little improvement. Some cancers related to lifestyle or environmental factors, such as skin cancers or the various bowel cancers, have become more common. But many more people are living with cancer for a long time and we need to consider how we look after their needs.

So what needs to change? We need to invest in prevention through information and help for people to reduce their risk and earlier, more accurate diagnosis. We need better training and resources to enable GPs to refer quickly and a realistic approach to consultant utilisation and shortages, along with that of specialist nurses. We need better data collection and transparency and earlier access to innovative treatments. To show public support, I hope that all noble Lords will celebrate World Cancer Day on 4 February by sporting a unity band to celebrate survival, show solidarity with those in treatment and remember loved ones.

Let us look at some figures. According to Public Health England, four in 10 cancers are preventable. Cancer cases are increasing, partly it is believed because we are living longer and partly due to lifestyle, so more people are living with cancer. One in two people will develop cancer at some point in their lives. But according to Eurocare-5, the UK's survival performance rates are below the European average. According to the *Lancet* in 2011, Norway, Canada, Sweden and Australia do a lot better than us, while recent studies have shown that the gap is not being closed. As we do better, other countries are doing even better. That is why we need excellent data and accountability. Experts tell us that the one-year survival rate is a very good indicator of success or failure, so it is important that this information is collected efficiently and made available transparently.

This week, we have had some very worrying headlines. Cancer services have missed key targets. The six-week target for diagnostic tests to be done was missed and it is now two years since it was last met. One of the key cancer targets, the 62-day target for treatment to start from urgent GP referral, was missed. Those missed targets mean that nearly 2,000 people—not targets—had to wait longer than they should have. Wales was the worst, with only 71.9% of patients starting treatment within that time in Swansea and 62.9% in Cardiff and Vale. In Wales overall, the target has not been met since 2008. In England, just under 8,000 people with suspected cancer did not see a consultant within two weeks of an

urgent referral by their GP and 536 patients had to wait more than a month to have their first treatment for cancer. We need to be cautious about targets. There is no point in setting higher and tighter targets for tests if hospitals do not have enough consultants to deal with the patients diagnosed as positive.

What is the Government's answer? The independent cancer strategy, which reported last July, made six key recommendations: a radical upgrade in prevention and public health, including national plans on reducing smoking and obesity; earlier diagnosis with 95% of patients referred by a GP being diagnosed or given the all-clear within four weeks; patient experience on a par with clinical effectiveness and safety through access to test results and a clinical nurse specialist or other key worker; transformation in support for people living with and beyond cancer, and appropriate end-of-life care; investment to deliver a modern high-quality service, including upgrading radiotherapy machines, reviewing the Cancer Drugs Fund and better molecular diagnostics for more personal treatment; and a big effort to address the shortage in the cancer workforce. It also called for overhauled processes for commissioning, accountability and provision with a regional network of care alliances and a national cancer team to oversee delivery of the strategy.

The Government have accepted the recommendations and the latest NHS five-year mandate asks for: early diagnosis to be a priority; more work to tackle smoking, alcohol and physical inactivity; reduced impact of ill-health and disability; and support for research and innovation to enable new treatments to reach patients more quickly. So there was a recognition of the role of speedy diagnosis in improving cancer survival rates, but nothing about better training or diagnostic tools for GPs. Molecular diagnostics have made enormous strides in recent years for monitoring the effectiveness of treatments as well as diagnosing the disease and enabling more effective personalised treatments. The strategy asks for a national commissioning framework for this. Will the Minister ensure that that happens? It is vital for equal access for patients, particularly for rare cancers.

The mandate recognised the need for prevention, but then we had cuts in public health budgets. When will the Government accept the common sense and economic benefit of prevention and put their money where their mouth is, and save money and lives at the same time? The mandate mentions support for research and innovative new treatments, but many in the service are not convinced that appropriate pathways exist. The mere existence of the accelerated access review recognises that the UK is very poor at getting innovative new treatments to patients, and that needs to change.

In the first year, among other things, the Government are reviewing the operating model of the Cancer Drugs Fund within its existing budget. This is currently being consulted on, but patients, clinicians and pharma companies have serious concerns that the outcome will not achieve what it should. Does the Minister agree that any new methodology should guarantee increased access to innovative medicines, as proposed in the cancer strategy? We do not want the UK to

[BARONESS WALMSLEY]

become a “late-launch market”, meaning that UK patients would have poor access to innovative drugs compared to others worldwide.

Nothing should be done to deter pharma companies from doing R&D and clinical trials in the UK, since this both adds to total UK life sciences and covers the costs of treating patients which would otherwise be borne by the NHS. Indeed, we need an about-turn in relation to research. Every patient, every doctor and every health worker could be involved in medical research, but there are currently threats to the collection of data. I would encourage all patients, with suitable assurances, to allow their anonymised data to be used for medical research to save future lives. Without complete data, the researchers are working blindfold and we cannot hold CCGs, hospitals and the Government to account.

NICE must look again at its methodology for evaluating cancer drugs, especially those focused on rare cancers. But there are no proposals for NICE to change the criteria or thresholds and no recognition of unmet need, such as for cancers with very poor prognoses, such as pancreatic cancer.

It is instructive to look at some specific cancers to see where the problems lie. Despite being the 10th most common cancer, pancreatic cancer is the fifth biggest killer. Yet it only gets a tiny research spend. Survival rates are shockingly low. Only 4% survive five years from diagnosis and this has not improved in 40 years, indicating a desperate need for earlier diagnosis and more research. Around four in five patients are diagnosed at a very advanced stage and may have made up to seven visits to their GP with symptoms. All that suggests a need for better GP training and better access to diagnostic tools so that patients can have surgery before it is no longer an option. Other specialties such as skin cancer have a shortage of consultants and the ones there are spend far too much of their time seeing patients whose GP could have diagnosed the lesion as benign if they had had better training. This is another area where public awareness of symptoms needs to improve.

I have not been able to cover all the ground in 10 minutes, but I hope that other speakers will. I thank all those who are about to take part in this debate and hope that the Minister can answer the many questions that will be raised.

8.16 pm

Lord Colwyn (Con): My Lords, I congratulate the noble Baroness, Lady Walmsley, on securing time for this debate. Her excellent speech enables me to bring the dental profession to your Lordships’ attention—again. A speaking slot of four minutes is always very restrictive but I am pleased to be able to make reference to dental professionals, most of whom play an important role in the detection, diagnosis and treatment of many forms of oral cancer.

As we all know well, cancer remains one of the biggest killers and burdens on our health service. In turn, tobacco is by far the biggest preventable cause of cancer, with more than one-quarter of all cancer deaths in the UK being linked to it. Cancers of the head

and neck are among the ones most directly linked to smoking, second only to lung cancer. Two-thirds of all cases are as a direct result of tobacco use and as many as nine in 10 cases could be prevented. Oral cancer is also one of the fastest-increasing types of cancer, with cases up by almost 40% in the last decade alone. With almost 7,000 patients diagnosed every year, it now kills more people in the UK than cervical and testicular cancers combined.

With tobacco cessation and early diagnosis being the keys to reducing the incidence and improving the survival rates of this particular kind of cancer, we cannot overlook the important contribution dentists can make in the fight against this terrible disease. Dental professionals are on the front line in the fight against mouth cancer. Dentists are uniquely placed to diagnose oral cancers very early, before the patient notices any symptoms and seeks help. This is crucial, as mouth cancer patients have a 90% chance of survival if the condition is detected early, but this plummets to just 50% if their diagnosis is delayed. The British Dental Association and Cancer Research UK have recently jointly launched a very useful new scheme called the Oral Cancer Toolkit, which improves dentists’ knowledge of how to prevent and detect oral cancer. This is something that could and should be built on.

Being the only health professionals who regularly see healthy patients, members of the dental team are also in an ideal position to help prevent future cases of oral and other cancers by becoming involved in tobacco cessation. They update the patient’s medical history form, which includes questions on tobacco, during every visit and can often see visual evidence of smoking or chewing tobacco during a check-up or treatment. Trials have revealed that dentists with the right support and access to information on tobacco counselling can contribute significantly to tobacco control measures in the community. It is important that the dental profession is involved in the development and delivery of the new tobacco control strategy, as it is a potential resource we truly cannot afford not to harness in the fight against cancer.

8.19 pm

Lord Wood of Anfield (Lab): My Lords, I, too, thank the noble Baroness, Lady Walmsley, for securing this debate. I shall focus on childhood cancers, which present challenges that are often distinct from more common adult cancers. I declare an interest as a father of a boy who has been treated for brain cancer and take this opportunity to declare my thanks for the extraordinary joined-up care he continues to receive.

Childhood cancer is the most common cause of death in children aged one to 14 and the most common medical cause of death for 15 to 25 year-olds. Death from cancer at any age is, of course, tragic and traumatic for those left behind, but childhood deaths from cancer are especially so, and the years of life lost are considerably higher.

Paediatric cancers are rare and histologically diverse, which provides challenges for both diagnosis and attracting research funding. For many cancers, such as non-Hodgkin lymphoma and bone tumours, survival rates for 15 to 25 year-olds are worse than for adults, and childhood

cancer treatments have particular hazards because they take place while bodies are still in the early stages of development and often involve lifelong consequences for those affected. But there is good news: survival rates have steadily increased for more than 20 years, from under 70% in 1990 to more than 80% in 2010. We are in the top third of high-income countries for childhood cancer survival rates, which is encouraging—but we know what more needs to be done to improve further, as the noble Baroness, Lady Walmsley, talked about.

There are four challenges in particular. The first is diagnosis. Nearly a third of teenage and young adult cancers are diagnosed through emergency presentation at A&E—much higher than the average for all other cancers in the adult population. About a third of this young age group have to visit the GP three times with symptoms before getting a referral—delays that make it more likely that a cancer will advance and that make the treatment much more complex. I know a number of parents of child cancer sufferers who very sadly feel that their GP acted as though rationing entry into the diagnostic system. I am keen to hear what more the Minister thinks can be done to raise awareness among GPs of warning symptoms.

The second challenge is education. Surveys show that teenagers have less understanding of cancer than older age groups, yet we know that many of the major risk factors for developing cancer in adulthood are initiated in adolescence. The Independent Cancer Taskforce recommended that a cancer education programme should be instituted for all secondary schools to raise awareness of healthy lifestyles and cancer symptoms. Will the Minister say whether the Government plan to endorse this proposal?

Thirdly, there is the issue of clinical trials. Half of young children with cancer enter trials for common cancer types. Among 15 to 19 year-olds just under a third do, and for 20 to 24 year-olds the figure is only 14%. That is why the Teenage Cancer Trust is calling for NHS England to set an expectation that at least half of teenagers and young adults with cancer be recruited to cancer trials over the next decade. Will the Minister comment on that ambition and say whether the Government intend to support it?

Lastly, perhaps the most important issue is funding for research. From 2010 to 2012, paediatric cancer research funding fell by 25%. What is as worrying as this dramatic fall is that it is wholly due to a reduction in government-funded research, which fell from nearly 40% of all research spend in 2011 to just 12% in 2014—so in 2014 the Government spent on paediatric cancer research one-third of what was being spent by the Government in 2009. We live in straitened times that force us to focus on priorities—we all know that—but I suggest that public funding of research into childhood cancer has to be, as for any generation, one of those priorities.

8.23 pm

Lord Sharkey (LD): My Lords, I declare an interest as chair of the Association of Medical Research Charities, via whose members the British public contribute £1.3 billion annually to medical research, the largest part of which is spent on cancer research.

My noble friend Lady Walmsley noted that our cancer survival rates are significantly worse than in many comparable countries. People in the UK are dying of cancer quite unnecessarily. I know that the Government are acutely aware of that and that they recognise the need for urgent progress. The very impressive report of the Independent Cancer Taskforce, led by Sir Harpal Kumar of Cancer Research UK, shows us how to make that progress, and I am glad that the NHS has endorsed its recommendations.

Not surprisingly, a key recommendation of the report is an improvement in early diagnosis. I am myself a beneficiary of a very early diagnosis five years ago of lung cancer. Without that early diagnosis, I would not now be alive. To improve early diagnosis we need better training of GPs, better symptom awareness among patients, and better and quicker access to scanning. In this context, I am very disturbed to read reports of CCGs offering financial incentives to GP surgeries not to refer patients for further tests or specialist advice. Will the Minister tell us how widespread this practice is and what is being done to stop it?

The UK has a world-class record in medical research—a vital tool in improving cancer survival rates—and the mandate for NHS England requires publication of a plan for research. But we do not have that plan for 2016-17; in fact, we never got it for 2015-16. I know that some charities have had sight of a draft plan and that Cancer Research UK, for example, considers it to be limited in its vision of the NHS as research-active. Will the Minister say when we can all see the plan?

To date, the NHS has been slow to engage with the research community and to act on its recommendations. More effort is needed from NHS England to ensure that research funders can help them effectively meet their ambition to support and promote research. For example, as things stand, despite the pledge in the NHS constitution and the wishes of the Prime Minister, only 31% of cancer patients said that taking part in research had been discussed with them. This is despite the fact, too, that there is very good evidence that research-active trusts deliver better health outcomes.

Then there is the issue of money. The Government deserve congratulations for the science funding settlement in the spending review, but there are some important outstanding issues. The plan for a national fund to be held by NHS England for payment of excess treatment costs for cancer radiotherapy trials—a recommendation of the independent task force endorsed by NHS England—has not yet been published. Will the Minister say when we will see this?

Then there is the issue of excess treatment costs in general. We now have the guidance on this, but no published timetable for implementation. Delay in implementation prevents the full benefits of the HRA's new single-approval system being fully realised, which is critical to the much-needed streamlining of research approvals. Will the Minister say when we might see the excess treatment costs implementation plan?

Finally, there is the question of the Charity Research Support Fund. The Minister will know that this fund is critical to universities seeking charitable funds for basic research, the largest part of which is on cancer.

[LORD SHARKEY]

He will know how successful this fund has been: in 2013, the Government's £198 million leveraged £883 million in charitable investment. We need this fund to continue. We need to protect it in real terms and to increase it in line with charitable investment.

8.27 pm

Lord Freyberg (CB): My Lords, I begin my speech with a startling fact: rare cancers accounted for 43% of cases in 2010, but 59% of cancer deaths. Let me repeat that: these less common cancers affect roughly four in 10 of new patients, but make up six in 10 of deaths. If we want to improve survival overall we have to improve our performance in these cancers, and our performance in caring for them is poor relative to international peers. Broadly speaking, in every case there is a 5% to 15% gap in the UK's one year performance. In stark numbers, we kill one patient more for every 10 we treat. This cannot go on.

So what can we do to improve care in these cancers? First, we should publish risk-adjusted hospital survival by cancer so that patients have informed choice. These do not need to be put into the NHS dashboard if that will delay things. Patient advocacy groups can pick up the data and take them to their constituents.

Secondly, we should measure other important care quality outcomes, such as incontinence in prostate cancer. To give noble Lords a sense of the power of measurement, Germany recently introduced metrics in incontinence and impotence after prostatectomy. On average, about 50% of German patients are left incontinent, except in Hamburg, where the Martini-Klinik has been tracking its outcomes to drive internal performance improvements. Its rates are 6.5%—in other words, a national average of one in two men in diapers for the rest of their lives, versus one in 20.

Thirdly, we should streamline diagnosis and better connect primary and secondary care. The Government should be commended for putting one-year survival rates and emergency presentation data into the CCG dashboards, and these will drive local behaviours in this area.

Fourthly, we should centralise more services, especially specialist surgery. As an example, my sister's cancer was in the chest cavity. Getting access for such thoracic surgery is highly complex and risky. General surgeons doing these sorts of procedures get worse outcomes than those who do them more often. It is like playing the piano; the more you practise, the better you get, yet we run shy of the necessary service reconfigurations to achieve this; and, without the data on hospital performance, one can see why. Patients can judge only convenience.

Fifthly, we should introduce national molecular testing for those cancers where there is no service incumbency, such as cancers of the upper digestive system or of the female reproductive system. We should use that patient volume to catalyse precision medicine trials in these diseases. They share the same genetic mutations as common cancer, and so, if pharma can recruit to trial, they will prove whether their drugs for common cancers work for these less common ones.

Sixthly, we must continue to collect rich clinical data on all patients with cancer out of routine care. This is essential in the emerging era of personalised molecular medicine. England has at the moment the largest and best cancer registration data collection service anywhere in the world. It is this rich clinical data linked to the molecular and genomic analysis that will allow us to understand both rare and common types of cancer. However, if we allow large numbers of individuals to opt out of the registries, then our hopes for improving care quality and finding treatments and cures for rare cancers will be lost for ever.

While some of these measures will cost money, some are cost-free. Public Health England, in the form of the National Cancer Intelligence Network, has hospital survival data, but we just do not publish them on. The Government have made a commitment to open data. This is an area where data can save lives. We must unlock Public Health England's vaults and give the information to patients and doctors.

8.32 pm

Baroness Hodgson of Abinger (Con): My Lords, I thank the noble Baroness, Lady Walmsley, for bringing forward this important debate. Most of us have had someone close who has been diagnosed with cancer, so this subject is personal to me, as it is no doubt to many other noble Lords here this evening.

Every two minutes, someone in the UK is diagnosed with cancer. It is now estimated that one in every two people born after 1960 will be diagnosed with some form of cancer during their lifetime. Cancer can be both physically and psychologically distressing given its unpredictable nature, the potential for spreading, and the often intensive and damaging treatment required to treat it. Then there is the uncertainty about whether the disease has truly gone, and the lurking fear about whether it will return.

In the wider and longer-term context, results are improving. Awareness and understanding, through to diagnosis, treatment and, ultimately, survival, have improved enormously in recent decades. Overall, rates of cancer survival have doubled in the last 40 years. However, these rates still remain around 10% lower than the European average. As we have already heard, as with all health matters, prevention is key. While cancer is indiscriminate, we are able to influence our likelihood of falling prey to it. Alongside medical advances, we must examine what we as individuals can do to lessen our risk. We also need to focus very heavily on the most prevalent cancers, as, between them, lung, prostate, breast and bowel cancer account for more than half of all cases. Public awareness campaigns play an important role in educating people about the risks they face should they make certain lifestyle choices.

Early diagnosis is critical. Regular tests and screening for cancers is where government support and personal responsibility can go hand in hand. However, given that cancer is most common in older people, with a third of cases being diagnosed in people aged 75 and over, I am slightly concerned that this is not reflected in the age brackets where regular screening is standard. For example, women over the age of 70 cease receiving invitations for breast screening, and instead must self-refer.

However, the fact is that around one in three women diagnosed with breast cancer, and more than half of those who die from it, are over 70. Given that we know early diagnosis is the best way of stopping cancer in its tracks, and with an ageing population, surely we should allocate proper resources to ensure comprehensive awareness and monitoring among this older age group.

Cervical cancer is most common in women aged 30 to 45, and after this time screening invitations are sent only once every five years, and cease to be sent once a woman reaches the age of 65. However, an academic study last year found that one in five new cases of cervical cancer are in fact diagnosed in women 65 and over. Half of cervical cancer deaths are now also in this older age group. The charity, Jo's Cervical Cancer Trust, has called for further research into a self-administered urine test, which women can carry out at home to check for signs of cervical cancer. I suggest that this is exactly the sort of measure that we should be looking into.

I also encourage greater uptake of the PSA blood test for prostate cancer, and to consider introducing the CA125 blood test for ovarian cancer, as this is often discovered all too late. Once cancer has been diagnosed, follow-up appointments and treatment need to happen speedily.

Government must ensure that their policies are shaped by science and statistics, using resources where they are needed the most. In turn, we must all be proactive in taking responsibility for our health and choosing to live healthier lifestyles. This will ultimately save public money and, more importantly, lives.

8.36 pm

Baroness Masham of Ilton (CB): My Lords, I thank the noble Baroness, Lady Walmsley, for securing this short but very important debate. I declare an interest as a member of the All-Party Group on Cancer. On many occasions, I have been to presentations of cancer survival rates in Europe and it is alarming to see the UK near the bottom. I ask the Minister, why is this? Whatever happens, we must get better. Early diagnostics are vital.

On Monday evening, I attended a reception for the Lymphoma Association. I met a young scientist who told me the story of her brother. He was aged 26 and had just taken his exam for a pilot's licence. He had swellings, excessive night sweats, weight loss and tiredness. He went to his GP three times but was told that he was suffering from stress from taking his pilot's exam. Family members then took him to a private doctor and insisted that he had blood tests. The results came back and he was sent directly to St Thomas' Hospital and told that he had cancer. Because it was a late diagnosis he had to have strong chemotherapy, which gave him many problems including depression. His career was in ruins and he is now a stay-at-home father.

Lymphoma is cancer of the lymphatic system, which is part of the body's immune system. It is the fifth most commonly diagnosed form of cancer. Without consistent and reliable data, further opportunities to improve the diagnosis, treatment and aftercare for lymphoma will be missed.

The Minister knows my concern about the patchy provision of vital healthcare across the country. The vision of the British In Vitro Diagnostics Association is to have robust, fair and sustainable access to and provision of molecular diagnostics across England. Rapid advances in medical science and technology are transforming the way health problems are identified, prevented and treated. However, in the area of molecular diagnostics, further reform is needed to ensure that patients can realise the benefits of these tests and have equity across the country. I hope that NHS England will take note.

Proton beam therapy came to the public's notice when the parents of a young boy with a brain tumour went to the Czech Republic for treatment. This showed that the UK was lagging behind other countries in targeted methods of treatment. The treatment allows high-energy protons to be targeted directly at the tumour, reducing the dose to surrounding tissues and organs. Can the Minister give us a progress report on the availability of this treatment in the UK? If London and Manchester are to be the chosen centres for this treatment, patients from all over England should be able to use it and should have help with travelling and accommodation.

8.40 pm

Baroness Redfern (Con): My Lords, I, too, thank the noble Baroness, Lady Walmsley, for introducing this debate this evening. Unfortunately and as we all know, cancer touches us all. Every year, more than 250,000 people in England are diagnosed with cancer and, sadly, around 130,000 of these die as a result of the disease.

However, more people are now surviving cancer and I take this opportunity to pay tribute to all those healthcare professionals and volunteers—and dentists—who dedicate their lives to finding cures and caring for patients. The sad fact remains though, that our survival rates are still worse than those for other countries that are as wealthy as us. If we want the best for cancer patients, we have to invest in treatment but our priority also needs to be prevention through early diagnosis, as we have heard from earlier speakers.

I welcomed the Government's strategy on cancer in 2011 and efforts to raise awareness of symptoms, with £750 million allocated to support this. If we take bowel cancer, for example, which is the fourth most common cancer in the UK and where survival rates are closely associated with the stage at diagnosis, it is estimated that up to nine in 10 people could survive if they were diagnosed in the earliest stages of that cancer. There is a huge variation in survival between cancer types and we have the staggering statistic that one in five cancers is not spotted until A&E.

This Government made a manifesto commitment to continue to support tackling cancer through campaigns such as Be Clear on Cancer. Many noble Lords will be familiar with radio and television advertising that encourages people with possible symptoms or concerns to visit their GP and get them checked out. I, for one, would welcome increased media attention, with a possible monthly "focus on cancer" to promote awareness of the symptoms of a different cancer each time and what to look for.

[BARONESS REDFERN]

Alongside diagnosis, access to appointments is vital. In May last year, the Prime Minister reiterated a commitment to seven-day general practice and hospital services by 2020. One initiative that I think has been particularly effective is the free NHS “midlife MOTs” for those aged 40 to 74 who do not have a pre-existing condition, which we have delivered in north Lincolnshire with GP support. These health checks mean that residents will be better prepared for the future and able to take steps to maintain or improve their health. However, we still have a stigma attached to seeking advice on health, particularly with older residents and especially men. I would welcome the Minister considering this point and explaining what further assistance may be available to local authorities to increase contact with these target groups to improve survival rates. We also need to look at lifestyles to reduce the risk of cancer, with around a third of cancers being linked to smoking, diet, alcohol and obesity. By running screening programmes, we have the chance to get an earlier diagnosis so that treatment is more likely to work.

We face a massive challenge ahead to do the best we can against the seemingly endless toll that cancer has on people's lives. I am positive that more can be done to support those with cancer and identify the risks sooner, but at the same time I acknowledge the huge strides that have already been made.

8.44 pm

Lord Aberdare (CB): My Lords, I congratulate the noble Baroness, Lady Walmsley, on securing this debate and on making a number of points in her excellent speech—as indeed did other noble Lords—of such merit that I plan to repeat them.

It is good news that cancer death rates have fallen steadily in the past 20 years and that half of adult cancer patients are now expected to survive for 10 years or more. As a cancer survivor myself, I hope to reinforce those figures. However, this is not a uniform picture, and I shall speak about one of the cancers with the worst survival rates of all. I declare my interest as a vice-chair of the All-Party Group on Pancreatic Cancer.

As we have heard, pancreatic cancer is the 10th most prevalent of the top 21 cancers but the fifth biggest killer, causing some 8,700 deaths a year. UK five-year survival rates are just over 5%. Shockingly, these have hardly changed in 40 years. Average survival after diagnosis is a mere two to six months; 80% of patients are diagnosed too late to be operated on; and 45% are diagnosed only as a result of emergency admission to hospital, with only a 9% chance of surviving for one year, as opposed to 26% for GP referrals. I could go on but I will end with just one more dismal fact: the UK is near the bottom of the European league table in its pancreatic cancer outcomes, with a one-year survival rate that is only half that of Belgium—21% versus 40%—and well below the average of 30%.

What are the factors contributing to pancreatic cancer survival rates—or, more accurately, non-survival rates—in the UK and what might be done to improve them? I will make five suggestions, based on the findings of two inquiries carried out by the all-party group in 2013 and 2014. If the Minister has not seen them, I would be glad to send him copies.

The first requirement is for more research. Pancreatic cancer accounts for 5.2% of UK cancer deaths but only 1.4% of research spending. Of course, the experience of other cancers shows a clear link between research and improved survival rates. The second is earlier diagnosis. The all-party group reports have highlighted ways to achieve this, including better training and diagnostic support tools for GP practices; new referral pathways, giving GPs direct access to CT scans; and multidisciplinary centres to avoid patients being shuttled back and forth between their GP and various investigative routes before a correct diagnosis is made.

Thirdly, a specific strategy is needed for tackling pancreatic cancer and other so-called cancers of unmet need whose outcomes are lagging behind. These are not adequately addressed in the current national strategy for England. Fourthly, as we have heard, the public should be made more aware of pancreatic cancer. A 2015 poll found that 71% of people in England could not name a single symptom of pancreatic cancer unprompted. An awareness campaign is needed, if not for pancreatic cancer on its own, then perhaps for the whole group of gastrointestinal cancers, including pancreatic.

Finally, it is deeply troubling that the only new treatment for pancreatic cancer in some 20 years, providing a real, albeit small, extension of life for patients, has been removed from the cancer drugs fund and rejected by NICE for use in the NHS, although it remains available in both Scotland and Wales. This only exacerbates the finding of the 2014 national *Cancer Patient Experience Survey* that pancreatic cancer patients report a lower standard of care than others; for example, in terms of the information provided, the availability of cancer nurse specialists with specific pancreatic cancer skills, and access to specialist dieticians.

I have outlined five ways in which the Minister could set about improving cancer survival rates, particularly for pancreatic cancer sufferers, for whom the need is so dire. Perhaps he might borrow from President Obama's cancer “moonshot” idea in his recent State of the Union address and bring to the battle against cancer the sort of energy, innovation, commitment and resources that led to America putting a man on the moon—or at least enable us to catch up with other leading countries.

8.48 pm

Lord Hunt of Kings Heath (Lab): My Lords, I, too, thank the noble Baroness, Lady Walmsley, for instituting this debate. Clearly, we have made progress over the past 10 to 15 years but much more needs to be done. International comparisons show that to be the case. I also acknowledge briefings from many different organisations for this debate, including Macmillan Cancer Support, Cancer Research UK and the Teenage Cancer Trust. Of course, my noble friend Lord Wood has already spoken very eloquently about the devastating impact of cancer on young people.

I have a number of questions for the Minister. First, can he clear up the status of the Cancer Taskforce report? A number of noble Lords referred to this being accepted. I would like to know what that means. Does it mean that, in essence, NHS England

is committed to implementing all its recommendations or is it a broad-brush acceptance of the philosophy behind the report? I believe that there is some confusion here.

Secondly, I move on to early diagnosis. A number of noble Lords mentioned GPs. There are any number of conditions where issues are raised about GPs and diagnosis. I am not one who rushes to blame GPs but there is now a general issue about how you get the benefits of general practice, which are many, and then ensure that diagnosis is better than before. It is a very difficult question. At the very least, are the Government working with the profession on this?

Thirdly, there was the question about screening and the age limits. Why, for instance, is the screening for bowel cancer stopped at the age of 74? I have tabled Written Questions about this and I am not convinced that there is an answer. I am not at all sure whether the National Screening Committee is keeping up to date with the demographics in this country. Also on screening, there is the recommendation from the NSC about making changes to both bowel and cervical cancer screening programmes to make them more effective. What has happened to those recommendations? One of the tests is called FIT; the other is for HPV in relation to cytology tests. I would be grateful if the Minister could at least write to me on that.

A lot of charities have expressed concerns that we do not have enough diagnostic capacity. I know from the latest OECD survey that, in the UK, we have less access to new equipment than in many other countries. What is going to happen in relation to that?

I would like to ask the Minister about drugs. A number of noble Lords, in particular the noble Baroness, Lady Walmsley, mentioned the fact that we have an appalling record in getting innovative new drugs to our patients. We have an accelerated access review. The question that I keep asking the Minister is: where is NHS England's commitment to this? I sense that there is no commitment and that it sees drugs as a burden and a cost, rather than a huge advance for patients. It is essential that the philosophy of the NHS is changed in terms of the accelerated access review.

The noble Lord, Lord Freyberg, raised very important points. The Minister is very generous with his time, but I wonder whether he would be prepared to meet him to discuss the points that he raised about data and huge variations. The noble Lord referred to Germany but he could of course have referred to the UK in those terms.

Finally, the noble Lord, Lord Aberdare, raised a lack of co-ordination. Will the Minister agree to bring back cancer networks locally? They were brilliant and it was a pity that they were dissolved. They should be brought back.

8.53 pm

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, I join everybody else in thanking the noble Baroness, Lady Walmsley, for bringing this very important debate to the House. It really is a shame that we have only an hour. So much has been said that I cannot do it all justice. The noble Baroness kindly gave me a hint of what she might say this evening, so I hope that I will

cover that in my main speech. I would like to come back to her on the two-week target. Maybe I could write to her on that.

My noble friend Lord Colwyn raised the importance of the dental profession, which again is all part of the common theme of early diagnosis. The importance of clinical trials was raised by the noble Lord, Lord Wood, particularly in relation to teenagers and children. They are clearly very important. I would like to come back to the noble Lord, Lord Sharkey, about his comment that CCGs were putting in incentives to GPs for not referring suspected cases of cancer. Perhaps I might investigate and come back to him on that important issue.

The noble Lord, Lord Freyberg, mentioned powerfully the power of transparency. The example he gave which stuck with me was that of prostate cancer and the differing rates of incontinence as a result of that. I think that it was in Hamburg that the results were particularly good. In answer to the noble Lord, Lord Hunt, I have already agreed to meet the noble Lord, Lord Freyberg. Transparency about survival rates will not solve all the issues but could be very powerful.

Both my noble friend Lady Hodgson and the noble Lord, Lord Hunt, raised the issue of screening for elderly people. I will write to them on that issue, as I cannot give them an answer this evening. The noble Baroness, Lady Masham, raised the issue of proton beam therapy. Again, I will write a progress report to her on that. As she knows, we are proceeding with two centres, one in Manchester and one at UCLH in London. I believe that both of them have started and are on target, but I will revert to her on that if I can.

My noble friend Lady Redfern asked whether we could look at increasing public awareness and referred to the Be Clear on Cancer campaign. That is important. The noble Lord, Lord Aberdare, raised the issue of pancreatic cancer. I was not aware that the survival rate after a year was 5%. That is terribly low, and I would like to research that more. The noble Lord, Lord Hunt, raised lots of important questions, but in answer to a particularly important one, NHS England has, as I understand it, accepted the recommendations of the Harpal Kumar report and will be implementing them over the next four years.

I hope that I will answer most of the questions in my speech. It is worth noting that we have made huge progress over the last 15 years, even though the kernel of the debate this evening is that we have got a lot further to go to catch up with our European neighbours. Activity has increased dramatically. In the last five years, 645,000 more patients with suspected cancers were seen, an increase of 71%. Almost 40,000 more patients were treated for cancer, an increase of 17%.

The proportion of cancers diagnosed as a result of emergency presentation—an issue raised by a number of noble Lords—has decreased significantly. At the same time, the proportion of cancers diagnosed through urgent GP referral following a suspicion of cancer has increased. In 2006, almost 25% of all cancers were diagnosed as an emergency. In 2013, this figure had fallen to 20%, or one in five. That is a considerable reduction, but there is still a long way to go. To help diagnose cancer earlier, we have invested over £22 million in our Be Clear on Cancer campaigns and we continue

[LORD PRIOR OF BRAMPTON]

to expand and modernise our cancer screening programmes. Nationally, 37% of radiotherapy treatments are now being delivered with more precise intensity-modulated radiation therapy—IMRT—ahead of the 24% target.

Since October 2010, the Cancer Drugs Fund has helped more than 84,000 cancer patients in England, and £1 billion has now been made available to support that fund. We are committed to the fund, although we are out for consultation at the moment as to how we should progress it forward for next year. It is worth noting that in this current year some £340 million has been spent in that fund. Some of these new cancer drugs are extremely expensive.

We know that cancer survival in England has historically lagged behind the best-performing countries in Europe and the world, but none of these international comparisons of cancer include patients more recently diagnosed than 2009. As a result, we should be careful about using these comparisons as a measure of the current performance of the system, although they can be useful as a long-term benchmark. Although we will have improved considerably since that time, I suspect that other countries will also have improved, so the question is whether that gap has closed. Although our survival rates are at a record high and continue to improve, as shown by the new figures published by the ONS in November, we know that we must do better. The gap between England and the better-performing countries is narrowing for some cancers, but for others it remains.

That is why, in January last year, NHS England announced a new Independent Cancer Taskforce to develop a five-year strategy for cancer. A report was published in July 2015, which I think was well received by most interested parties. It recommends improvements across the cancer pathway with the aim of improving survival rates. I thank Sir Harpal Kumar and his colleagues for that report.

In terms of delivery, NHS England has recently appointed Cally Palmer, whom some of you will know, as she is also chief executive of the Royal Marsden, as the NHS National Cancer Director. She will lead on implementation, as well as new cancer vanguards to redesign care and patient experience. She is currently setting up a new Cancer Transformation Board to lead the rollout of the recommendations of the new strategy, and a Cancer Advisory Group, chaired by Sir Harpal Kumar, will oversee and scrutinise its work. I hope that that will go some way to addressing the concerns of the noble Lord, Lord Hunt, about the networks that used to be there. We hope that they will put in place something similar, if not the same.

Although this is a five-year strategy and an implementation plan is being developed, good progress has already been made on many of the key recommendations. The task force recognised the importance of early and faster diagnosis to improve outcomes and experience. It is essential that we make sure that cancer is diagnosed as early as possible, so we will adopt the task force's ambitious new waiting times target for the NHS. From 2020, patients will be given a definitive cancer diagnosis or the all-clear within 28 days of being referred by a GP. This will mean that the period of uncertainty will be as short as possible.

We are backing this with an expected investment of up to £300 million a year by 2020, along with a national training programme for an additional 200 staff with the skills and expertise to carry out endoscopy tests by 2018. This is an area of shortage at the moment. We have also confirmed a commitment from NHS England to implement the Independent Cancer Taskforce's recommendations on molecular diagnostics. This will mean that about 25,000 additional people a year will have their cancers genetically tested to identify the most effective treatments. I noted the comments of the noble Baroness, Lady Masham, about fairness in access to molecular diagnostic tests.

To monitor the impact of the new strategy, we are also introducing two new outcome metrics: the proportion of cancers diagnosed at stages 1 and 2 and the proportion of cancers diagnosed through an emergency route. These will be published quarterly at CCG level from May 2016. From April 2016, the new cancer dashboard will enable every CCG to see its data and benchmark itself against other CCGs and England as a whole. It will measure progress with a focus on incidence, survival rates, patient experience and quality of life for patients.

In conclusion, I congratulate your Lordships' House on the quality of this debate. Some fascinating issues have been raised. The personal experience of many noble Lords has been particularly illuminating. I hope that I have been able to set out our commitment to delivering the Independent Cancer Taskforce's new strategy, the good progress that has already been made, and NHS England's robust plans to turn the recommendations into reality.

If the NHS is successful in implementing its initiatives and ambitions, an additional 30,000 patients a year will survive cancer for 10 years or more by 2020, 11,000 through early diagnosis. There will also be a closing of the gap in survival rates between England and the best countries in the world, which is something that we all want to see.

We have some progress to report. It is never enough. It will take time to build up both the diagnosis and treatment resources so that we can close that gap with other European countries completely, but with Sir Harpal Kumar's task force report, we have a very clear way to do that.

Lord Aberdare: My Lords, before the noble Lord sits down, I hope that I did not misspeak, but the figure I cited of 5% for pancreatic survival was for five years, not one. I apologise if I misled the Minister.

Immigration Bill

Committee (2nd Day) (Continued)

9.04 pm

Clause 13: Offence of leasing premises

Amendment 148

Moved by Baroness Hamwee

148: Clause 13, page 8, line 32, at end insert—

“() In section 33(1)(a), for “race” substitute “a protected characteristic as defined in Chapter 1 of Part 2 of that Act”.”

Baroness Hamwee (LD): My Lords, this group of amendments takes us to the provisions in the Bill on the right to rent. The debate and many briefings around the evaluation of the restrictions applied in the West Midlands under the scheme instigated by the 2014 Act, particularly references to discrimination, prompted me to look at that Act. Section 33 requires a code of practice from the Secretary of State specifying what a landlord or agent should do to avoid,

“contravening ... the Equality Act 2010, so far as relating to race”.

I confess that I cannot remember why only race is mentioned in that section, not the other so-called protected characteristics, which include age, disability, gender reassignment, marriage and civil partnership, religion and belief, and sex and sexual orientation. I accept that some of these may be unlikely to influence a landlord's or agent's attitude, but it can be difficult for some people to distinguish discrimination on the basis of race and religion in practice. So my question to the Minister is: why did we confine this to race? I am implicated in this, after all, as I took part in debating that Bill. In any event, is the matter not due for review?

The other amendments in this group are on the evaluation of the right-to-rent scheme. My Amendment 159 was tabled to come before Clause 13, but it does not matter. I have added my name to Amendment 151, which is about applying criminal sanctions to the provisions in the 2014 Act, making non-compliance into a criminal offence. That obviously requires an evaluation of how the 2014 provisions are going. Amendment 159 would provide that there would be no rollout of those provisions from the West Midlands until the evaluation to which I referred in the amendment. Since then, the Government have laid a statutory instrument to roll out those provisions. I have also tabled a Motion to annul that—quite separately, of course, from today. For a number of reasons, I was very sorry that that was laid, obviously because of the substance of the matter but also because I was really rather proud of this amendment, which, somewhat to my surprise, did not get altered in its passage from my head on to the Marshalled List. The evaluation which Amendment 159 would require would be an independent one by a representative sample of landlords, agents and tenants, looking at the impact both on the lettings market and on the wider local community, as well as on whether the aims of the legislation were achieved. I would give until the West Midlands scheme was in effect for long enough to undertake a good evaluation. I have said five years, but I appreciate that that may be contentious—and I apologise to the West Midlands for continuing to inflict this there. These are all issues that have been identified by those who work in the sector, both the landlords and agents and the various groups which have concerns for immigrants.

The Home Office evaluation of the West Midlands scheme acknowledges that the sample sizes were small—I would say they were very small—and that the findings are indicative rather than definitive. The sample does not claim to be representative. My comments are not intended to be any criticism of those who were tasked with the evaluation. The majority of the tenants surveyed were students, who are clearly not representative of

families, older people and people who are in work. It is particularly easy to check on a student's right to rent, so in that way they are less representative as well. I understand that they were specifically targeted by an information campaign in the area. The majority of tenants did not move property, so there is no experience there. The pointers to discrimination in the period that the scheme was running may have been few, but they are significant in the context. You certainly cannot say that the evaluation shows that discrimination was not an issue. In fact, the evidence showed discrimination.

The aims of the right-to-rent scheme are to reduce the availability of accommodation for people who are illegally in the UK, to discourage those who stay illegally—in other words, to encourage them to leave—by making it more difficult to establish a settled life here and to reinforce action against rogue landlords. I do not believe that the report demonstrates that those aims were met.

I congratulate the Joint Council for the Welfare of Immigrants on the work it did. I shall not quote a great deal from its report as I hope that I have made the points fairly succinctly, but it points out from an independent evaluation it commissioned that 42% of landlords said that the right-to-rent requirements have made them less likely to consider someone who does not have a British passport and more than one-quarter said that they would no longer engage with those with foreign accents or names; at Second Reading, I said that I thought that with my slightly odd name I might find it hard to find rented accommodation. The council also said that 50% of respondents who had been refused a tenancy felt that discrimination was a factor in the landlord's decision and—I am so naive that I found this shocking—landlords and agents have charged fees in order to undertake the right-to-rent checks. In addition, unscrupulous landlords have passed the potential cost of a fine on to the tenant in the form of increased rent or deposits.

I have also heard from Crisis, as other noble Lords will have done, which comments on the problems arising from the scheme for homeless people, whose documents often get lost or stolen. It says that replacing missing documents is expensive, probably prohibitively expensive, and when the lettings market is very high pressured and fast moving, as we know it is, landlords are not prepared to wait for tenants to produce documents. They will rent to somebody who can provide the evidence immediately and thus provide them with rent immediately.

Crisis also comments on the right-to-rent scheme applying to live-in landlords who take in lodgers and is concerned that it will act as a disincentive to people letting out rooms in their homes given the housing pressures we are experiencing.

I end by quoting from a letter that I received yesterday from the Residential Landlords Association, which says:

“Given that the little data available is at best contradictory and at worst shows that the Right to Rent scheme is ... not achieving what the Government wants; and ... is leading to discrimination against those unable to clearly identify their nationality, we believe it premature to roll out the scheme across the country ... To proceed at this stage runs the very real

[BARONESS HAMWEE]

risk of causing considerable harm to the relationships between landlords and tenants which are so crucial to the smooth operation of the private rented sector”.

I thought it important to include that because it comes from the perspective of landlords, not that of many others from whom we have received briefings.

My name is on the third amendment in this group, but I beg to move Amendment 148.

9.15 pm

Lord Kennedy of Southwark (Lab): My Lords, the amendment in this group in my name and that of my noble friend Lord Rosser would require the Secretary of State to lay before Parliament an evaluation of the national rollout of the 2014 right-to-rent scheme before the offences listed in the clause came into force. Again, this issue was raised at Second Reading, and there is considerable concern about this position. Landlords can find themselves in some difficulties as they are not immigration officers and do not have the expertise to make determinations. The penalties for offences committed under new Sections 33A and 33B are severe: on conviction on indictment, a penalty of up to five years' imprisonment, a fine, or both; and on summary conviction, a prison term of up to 12 months, a fine, or both.

The amendments in the names of the noble Baroness, Lady Hamwee, and the noble Lord, Lord Paddick, have considerable merits. Amendment 159 would stop any orders coming into force other than in the pilot area until the Secretary of State had published an independent evaluation of these sections of the Immigration Act. The noble Baroness, Lady Hamwee, was right to say that we do not have a very long period in which to make a proper evaluation. She also made a valid point about the protected characteristics in Amendment 148.

I hope that the Minister will be in a position either to accept these amendments or at the very least to reflect on them before coming back to this issue on Report. As I have said, the Bill is in a bit of a mess and, unlike the Modern Slavery Act, we have not had the pre-legislative scrutiny required. That is why we are having all these difficulties as we go through Committee.

Will the Minister think about the effect on the rental sector and the injustice that can be done not only to landlords and people who rent out to lodgers but to prospective tenants who may be unable to rent easily just because they are foreign, have an accent or dress differently, or their documents are not understood by lay people because they are in a foreign language? They will suffer unfairly due to the Government's proposals here not being properly thought through, as the noble Baroness, Lady Hamwee, referred to.

Earl Cathcart (Con): My Lords, I support the amendment about delaying the rollout of the pilot scheme. This seems to focus on the likelihood of landlords potentially asking all those with foreign names or accents for evidence of their right to rent. I thought that the whole point of a pilot scheme was to ensure that what was being put forward was actually working as intended. However, as mentioned by the noble Baroness, Lady Hamwee, the Joint Council for

the Welfare of Immigrants found that two-thirds of landlords had not fully understood the code of practice on preventing illegal immigration or indeed the code of practice on avoiding discrimination, and that 50% of those who had been refused a tenancy felt discriminated against, while 40% of tenants in the pilot area had not been asked for any identity documents. That is hardly a resounding success for the pilot scheme, yet the Government want to roll out this contentious scheme across the country next month. That cannot be the right answer.

Baroness Lister of Burtersett (Lab): My Lords, I will speak in support of Amendment 151 in particular. The pilot scheme has done nothing to allay all the fears that have been voiced by many organisations that the policy will have unintended, discriminatory consequences, for the reasons given by the noble Earl, Lord Cathcart, and the noble Baroness, Lady Hamwee.

The noble Baroness, Lady Hamwee, referred to the JCWI's independent evaluation. I would be interested if the Minister could tell us what view the Government take of its evaluation alongside the pilot that they have prayed in aid to suggest that everything is fine.

At Second Reading I made brief reference to concerns raised by the charity Rights of Women about the possible implications for women fleeing domestic abuse. I will quote more extensively from the briefing it sent, because it is important. Rights of Women, as noble Lords may know, is a charity which specialises in supporting women who are experiencing or are at risk of experiencing, gender-based violence, including domestic and sexual violence. It says it is,

“deeply concerned that the ‘right to rent’ scheme will place already vulnerable migrant women who have experienced domestic violence at further risk of harm as a result of a scheme that creates barriers to accessing private ... accommodation ... Many women, including British citizens, experiencing violence in their relationships will have been deprived of access to important documents, such as passports and biometric residence permits, necessary to prove their right to rent and therefore these provisions will have a disproportionate effect on women fleeing abusive partners or other perpetrators of abuse regardless of their nationality.

Furthermore, women with limited leave to remain in the UK on the basis of their relationship with a British or settled person are dependent on that relationship subsisting for the continuation of their leave; when the relationship ends their immigration leave is at risk and women need to take steps to regularise their status in another category. Women who have fled abusive partners often need time to recover from their trauma before starting to address matters such as regularising their immigration status. It is not uncommon for a woman to find out much later after the breakdown of a relationship due to violence that unbeknownst to her the Home Office has curtailed her leave after her abusive partner informed them of the relationship ending. Without receiving notice of a Home Office curtailment decision, a woman can find herself without leave in the UK, unable to work or access housing.

Many of the vulnerable migrant women we advise on our telephone legal advice line have left or are trying to leave abusive relationships. Of these women a significant proportion are presently undocumented though either have an existing right to reside in the UK under European law or have a strong basis on which they can submit an application to the Home Office for leave to remain. The ‘right to rent’ scheme places these already vulnerable women at further risk by preventing them from accessing their own safe private rented accommodation due to a lack of documentation”.

These women will then be,

“at risk of homelessness, renting from exploitative landlords, returning to abusive partners or being forced into entering exploitative relationships”.

The charity gives a couple of case studies which illustrate the very likely problems that could occur, which I will not cite now given the lateness of the hour. However, I will ask: how does this fit in with the Government's laudable strategy to end violence against women and girls?

Baroness Sheehan (LD): My Lords, I lend my support to the remarks made from all sides of the Chamber in support of Amendments 151 and 159, which would provide for a proper evaluation of the right-to-rent scheme before we roll it out nationwide.

I have spent a fair amount of time volunteering with a local charity for homeless people in Wimbledon called Faith in Action. On one occasion I was asked to help a person whose documents had been stolen—an occupational hazard when you are a rough sleeper. It was a lengthy and frustrating morning and afternoon—and quite expensive to boot—and I was not successful in tracing the documents on that occasion. I say this because it is clear to me that homeless people, foreign nationals and those from a black and ethnic minority background who have a right to rent but are not in a position readily to produce the necessary documents will be excluded from the rental market as landlords inevitably become more risk-averse in the face of the harsh penalties that could be incurred.

A number of people have talked about the many different organisations that have put forward their case strongly and well. Crisis—a national charity for single homeless people and a member of the Home Office panel—is one of them. It states that, according to an evaluation of the Immigration Act 2014 in Birmingham, which other noble Lords have mentioned, six of the local charities surveyed said that people they represent have become homeless as a result of the scheme, while interviews with landlords found “potential” for discrimination. They, of course, are not alone in those findings. The Law Society raises similar concerns, as does Liberty. To that list I can add Shelter, St Mungo's and the JCWI. In fact, any charity that works on the ground with homeless people or supports immigrants' welfare will say the same.

So I can do no less than lend my support to Amendments 151 and 159. Surely it makes sense to delay implementation of the offences contained in this Bill and the rollout of the right-to-rent scheme until independent evaluations of the associated risks have been carried out.

Lord Deben (Con): My Lords, I find myself in a very difficult position. I have to say to my noble friend that there are three elements to this aspect of the Bill, which the amendments address, which seem to me incomprehensible. The first is that, if one is running a private business and is going to make a major change in the way it is run, one has a pilot scheme that one evaluates—preferably independently—and then decides whether or not it has worked. I do not understand how a Conservative Government who believe in private enterprise have not learned this from the private sector. It seems to me that you do not behave like this. You have a pilot scheme, you have it independently assessed, you announce the results and then you discuss what those answers mean.

So I have a problem of comprehension to start with. It is an important problem, because the second difficulty I have is that I find it pretty unacceptable in this country that people should have to prove that they are suitable for renting a flat before they are allowed to do so. I do not find that very attractive. I am one of those who have always believed in identity cards, which I think would be convenient for everyone. But this Government do not believe in identity cards and have tried to argue all the time that they are not necessary. However, we are now creating a sector, a section of the community, which in fact has to have an identity card. I object in principle to the concept that some should have it and others should not.

Central to that is the issue that, however one likes to dress it up, it is likely that landlords will be more suspicious of people of an ethnic minority or with a foreign accent than they will be of those who speak correct English with the crystal accents heard in this House. I do not think that many of us who have spoken today, even those with self-confessed “odd” surnames, would be refused rented accommodation, because landlords would not expect us to be unable to prove our suitability for that flat.

9.30 pm

The third thing that I find pretty incomprehensible is that we are supposed to be trying to increase the amount of accommodation in Britain. We are short of accommodation. When I was a Minister with responsibility in this area, I was the first to try to encourage people to let rooms in their homes. I believe that one of the most unacceptable things to have happened recently, if I may say so, is the way in which the Opposition have espoused the cause of people with extra rooms being charged for them without remembering all those who are excluded from housing because people are living in underoccupied premises. I take the view that large families should have a first call on housing and I am pleased that the Government have done something about that. Paying the spare room subsidy should certainly be continued, because I care about the provision of housing, particularly for families.

Historically, a lot of single people would have lived in someone else's house. That used to happen very widely, even in my young manhood. When you came down from university, you had a room in someone else's house if your own home was not in the area where you worked. That arrangement largely disappeared and we have tried to find ways of encouraging people to use the spare rooms in their homes.

I can think of no greater discouragement than the provisions in the Bill. I do not understand how, on the one hand, we can exempt people from a significant amount of taxation to encourage them to let rooms in their house and, on the other, have a system in which people worry, even more than they do already, about letting a room in their house.

Those are the three reasons why I find what is proposed incomprehensible. There is another reason which is not about incomprehensibility, because I understand it. I do not like having a society that lays this kind of responsibility on landlords or, indeed, on anyone else. I want a society which is not about sneaking on one's neighbour. Unless there is a really

[LORD DEBEN]

strong case for doing so, proved by a pilot scheme and independently assessed, I do not believe that it is acceptable to ask people to carry out this kind of investigation. I say that because, having represented constituencies for many years, I know that racism is endemic, and it is very easy to make it more widespread. It is very simple to make people suspicious of those of a different colour. Therefore, we should be leaning in the opposite direction from the way in which this legislation seems to lean.

I hope that my noble friend will realise that, as he has heard from these Benches, it is not just the Opposition or the Cross Benches, or those with a particular connection to this issue, such as Liberty, who are concerned; there is a fundamental concern about this legislation and a proper test is required. I say to the Minister that if there is a pilot scheme which is independently evaluated and is shown to have a real effect on illegal immigration, I will go along with it because it will be a worthwhile step. However, until we can prove that, it seems to me that the disadvantages and the things that make it incomprehensible to me demand that we look at this issue again. We must make this pilot scheme work before we roll it out.

Lord Best (CB): My Lords, I disagree with an awful lot of what the noble Lord, Lord Deben, said, and in particular his comments on the so-called bedroom tax. But we will not go into that at this hour of the night.

During the passage of the Immigration Bill 2014 through the House of Lords, the noble Lord, Lord Taylor of Holbeach, made some important concessions from the original drafting. One of those was to set up the pilot scheme that turned out to be in the West Midlands. I was subsequently asked to chair the consultative group that would follow the pilot scheme and see whether all was well or everything fell apart as a result of this measure. I jointly chair this with the Immigration Minister, James Brokenshire, and we have been meeting monthly or bi-monthly for the past year or so following the story as it has unfolded.

This has not been a trivial exercise. I assumed when I was joint chair with the Minister that he would come in at the beginning of the meeting, shake everyone's hand and then clear off. It has not happened like that at all. The Minister has attended every meeting from beginning to end. My role has been very subservient to that, but it has given me an insight into how this pilot has worked out. I have also been to the West Midlands, met various landlords and talked to them about how they worry about these things. From that perspective, let me therefore report back on the pilot and the things have been going on in the Home Office.

There has been quite a considerable investment in this. A YouGov survey was carried out in the fairly early stages of the pilot. It was not awfully large, but then none of the surveys has been very large. It definitely indicated that landlords were saying how reluctant they were to get involved, that it was a nuisance, a bureaucratic nightmare and how they were more likely to turn people away if they suspected something from their accent or whatever. They said all those things. "Grumpy landlords" was the message coming back.

To take an important ingredient of that, discrimination, the pilot set up by the Home Office looked at the area of the West Midlands where the right to rent was being implemented and also looked at a comparison area elsewhere. I am not meant to say where the other area was. We kept it a secret so that the people there did not know they were being looked at in this particular way. But we had a series of mystery shopping exercises in which people phoned with funny accents or with the Oxford English referred to by the noble Lord, Lord Deben, and saw how they compared. In the comparison area, the discrimination existed as well as in the right-to-rent area. I am afraid that this does indeed prove that people—landlords and agents—take discriminatory attitudes towards the people whom they might accept as tenants. But it did not show that where right to rent had been introduced, the landlords behaved any differently than in the comparator area.

We did discover that some of the documentation that could prove that you were indeed entitled to be in this country was hard for landlords to understand and get their heads around. At the end of the process—and we only just have the final version—we developed a right-to-rent guide with pictures showing how documents relating to various aspects of identity from different countries looked for real. You would have to be pretty stupid not to be able to find in the guide the document that you are checking, if it exists. If landlords doubt whether the documentation is indeed genuine, they should—it would be unwise not to—phone the Home Office helpline.

We have asked Home Office officials what kind of resources are going into this helpline and how real it is. They have been extremely fast about answering calls, often within minutes. But if the scheme goes national, is the Home Office going to be able to fulfil the commitment that if a landlord or agent has not had a definitive response within 48 hours, the answer will have to be, "Yes, you can go ahead"? The Home Office is given 48 hours to say whether a particular person is here legally or not. If it does not get around to giving that answer because it is too busy, after 48 hours a landlord is absolutely in the clear to let to that individual. We wanted to make sure that the staffing was up to muster and that the helpline was properly serviced—and it is.

The steering group includes representatives from the landlord organisations who have been on both the main group and on sub-groups which have been looking at the discriminatory code and our code of conduct as well as at the evaluation exercise. We have had people from the Residential Landlords Association, the National Landlords Association and bodies that represent tenants' interests. Shelter has joined, while Crisis has been there since the beginning. We have the GLA and the four local authorities in the West Midlands. These have been big and articulate meetings where people have been able to make the case and say the things they wanted to say.

We have been concerned throughout that the message would not get through. We need to communicate the fact that there is a right to rent and that both landlords and tenants have got to expect this little process to happen, as indeed it does for employers. Let us remember that this is only a parallel to employers being required

to check the status of people who come to them for a job. We wanted to know that the communications exercise has been undertaken seriously. There has been a respectable budget for this work. A pretty good website has been set up so that people can see pictures of all the documents they need. There is social media networking using the landlords associations and showing the codes of conduct. Here I declare my interest as chairman of the Property Ombudsman. We have changed our code and we are publicising that. We have to get it out through the landlord networks, which have been co-operative.

From the beginning to the end, absolutely no one, either landlords or tenants, has welcomed this scheme. It is an imposition on them. But it has been an imposition since the passing of the 2014 Act and people are getting used to the idea that it is part of what you do before you undertake a letting. Landlords already need to take references because they want to know that people are going to be able to pay the rent into the indefinite future. They want to know that people really are who they say they are. Passports are regularly required by letting agents, so someone would already not get much further without one. The extra documentation may make life a bit easier for people now that it is clear what designates an individual as being in this country legally or illegally.

When we get to the penalties for offences, I am again interested because rogue landlords are a major problem in all of our big cities. There are people who exploit the tenants who come to them, and in particular they can exploit those who are not here legally. So far, these landlords have not been deterred from doing all kinds of horrendous things, so I welcome the Home Office having joined in and taking an interest as a major additional enforcement agency when it comes to knocking on the doors of landlords who are letting appalling properties at high rents and definitely exploiting the occupiers of those properties. The Home Office has been joining in with local authority enforcement officers, who have often felt rather bereft of the powers they need. They have found that landlords who have been behaving very badly come away from the magistrates' court having been fined £500 and writing that off as a business expense because they are taking £5,000 a month for a house that is grossly overcrowded and where people are being treated abysmally.

Having the Home Office there adds another dimension to this. It is a powerful extra ally for those of us who are very much opposed to rogue landlords up and down the country, and I welcome its presence. This partnership between the Home Office and local authorities is now a hallmark. When people from the different local authorities in the West Midlands were asked how they felt the exercise had gone at the end of our last meeting, the comment was that there is now a new kind of partnership between the Home Office and local authorities at the local level in areas where they have been targeting rogue landlords.

9.45 pm

Yes, no one wanted extra bureaucracy to have to go through, and this is another hoop and it is not convenient. I opposed it the first time around but we have to learn to live with this additional measure. The Government

got their legislation through, and the right to rent is part of the legal system. The evaluation that has gone on in the West Midlands is quite difficult to make definitive from beginning to end—we have not had many months in which to do this, as Governments always go faster than one would like, and one would like a pilot with even more expenditure on it—but I can say, from having watched this on the inside, that this has been taken extremely seriously. Yes, another few months of seeing whether we could learn more might have been good, but there have been significant changes in the way in which we have packaged the arrangements, including the codes, the publicity and the documentation. Along the way, the requirements have changed. As far as I can tell, landlords who did not like it when the YouGov survey, sponsored by Shelter, came out in the early days now understand that this is what they are going to have to do and that it is not so bad after all.

In terms of big fines and going to prison, it is absolutely clear that no one who makes an innocent mistake is going to be hounded. The Minister has said that. The Minister in this House said earlier that rogue landlords who are serial offenders, and who persistently break the law and could not care less about the legislative framework in which they operate, will now have the Government coming down on them like a ton of bricks. This is not about people doing their best and making a mistake. We had a meeting at which we discussed fraudulent and very beautifully and carefully prepared documents. Some people may think, “Aha, we can fool the landlord”. If they should not really be there, was the landlord at fault? No one is thinking that that is what the law is about. It is about the big-time criminal elements within the landlord sector.

Without ever thinking that this was a great piece of legislation and that it was a burden on everyone concerned, I have to say that the Government have taken it very seriously. Having sat through all the meetings on the pilot, I am satisfied that, for better or worse, we can live with this.

The Minister of State, Home Office (Lord Bates)
(Con): After the remarks made by the noble Lord, Lord Best, I am tempted to say that I invite the noble Baroness to consider withdrawing her amendment at this stage. The noble Lord gave an authoritative and insightful perspective on the process. As this is the first time that we have come to residential tenancies, for the benefit of the Committee I should put on the record that my wife owns properties that are rented in the private sector. It is not something that is required to be listed in the register but, out of courtesy to the Committee, I make your Lordships aware of that.

Amendment 148 would extend the existing requirement on the Secretary of State to issue a code of practice that specifies what a landlord or agent should or should not do to avoid contravening the Equality Act 2010. It would then relate to all protected characteristics set out in the Equality Act. Amendment 151 would require that, before the offences of leasing premises in this Bill are commenced, the Government should lay before Parliament a report of the impacts of the restrictions on illegal migrants accessing the private rented sector which were introduced in the Immigration

[LORD BATES]

Act 2014 in relation to discrimination and the ability of those lawfully residing in the UK to access rented accommodation where they have neither a passport nor a driver's licence.

Amendment 159 would require an evaluation to be made of the effect of the measures in the first phase area. This would have the effect of delaying any extension of the right-to-rent measures in the Immigration Act 2014 from the first phase area in the West Midlands until at least 1 December 2019. The Government take their duties to have due regard to the need to eliminate all forms of discrimination very seriously. The Government have published the policy equality statement and the evaluation of the right-to-rent scheme. The evaluation found no hard evidence of discrimination where the right-to-rent scheme had been commenced, or, indeed, when that area was compared against others, as the noble Lord, Lord Best, outlined. The evaluation also found no evidence that people who lacked a passport or driver's licence suffered additional barriers.

The Government have given the fullest consideration to the findings of the evaluation and worked with the landlords consultative panel to ensure that the rollout is taken forward, bearing in mind the lessons learned. There is a list of acceptable documents for the right-to-rent checks, which sets out a broad and comprehensive set of options. This can be used by prospective tenants who do not possess a passport or driving licence to provide evidence of their right to rent. It has recently been revised further in consultation with bodies representing landlords, agents, local authorities and the housing charities Crisis and Shelter.

The code of practice that has been published addresses the concerns raised when the Immigration Act 2014 was passed that the right-to-rent scheme might inadvertently result in increased discrimination on the grounds of race. It provides guidance to landlords and agents in avoiding such discrimination. The Government do not believe that there is potential for the right-to-rent scheme to result in increased discrimination on other equality grounds.

Amendment 159 is at variance with the Government's concerns that the measures should be implemented across the country with the minimum of delay. The Government are already committed to extending the scheme across England on 1 February and the order extending the scheme from that date has already been laid before Parliament.

In implementing the scheme, the Government have engaged with a panel of experts comprising representatives of landlords' and agents' associations, homelessness groups and the Equality and Human Rights Commission, as well as local authorities in the areas concerned. We are confident that we have designed measures that will meet the intended objectives.

Having put those remarks on the record, I come to the points raised in the course of the debate.

Baroness Sheehan: Would the Minister talk about whether he thinks a sample size of 23 people who are visibly from an ethnic minority is a sensible basis on which to base this evaluation?

Lord Bates: I will of course come to that. I realise that there are some very detailed questions and I am certainly not skipping past them, but I wanted to put on record the Government's response to the amendments before turning to the matters raised in the debate.

There are some interesting points here, the first of which is that, while this scheme has been rolled out into the private sector, the requirement to prove identity has been in operation in the social sector. It was introduced by the Labour Government in the Immigration and Asylum Act 1999. It provides a duty on local authorities to check that those entering social tenancies have a right to be in the UK. Indeed, it goes further and places a duty on local authorities to notify the Home Office where they come across people who do not have a right to be in the UK. What is new is that that requirement is being applied to the private sector.

On the criticism of the independence of the office of evaluation—a point made by my noble friend Lord Deben and a number of noble Lords—the Home Office Science evaluation had scrutiny of the consultative panel co-chaired by the noble Lord, Lord Best. It might be helpful for the Committee to have on record the members of the landlords consultative panel, co-chaired by James Brokenshire and the noble Lord, Lord Best. The representatives included: the Association of Residential Letting Agents; the UK Association of Letting Agents; the Residential Landlords Association; the National Landlords Association; the Royal Institution of Chartered Surveyors; the Department for Business, Innovation and Skills; the Department for Communities and Local Government; the Equality and Human Rights Commission; the boroughs of Sandwell, Dudley and Walsall; the National Approved Letting Scheme; Birmingham and Wolverhampton city councils; Universities UK; and Crisis.

Lord Deben: I did not criticise this as not being an independent group. My point was that the work should go on for longer before it is assessed, perhaps by the same group. It is not a question of complaining about the independence of the group; I fear that there has not been sufficient time to be able to draw the kind of conclusions which have been drawn. I think that is precisely what the noble Lord, Lord Best, indicated—that it would have been better to have had a longer period. All I was suggesting was that if you had a longer period and then had the independent assessment that would be better, given what a serious matter this is.

Earl Cathcart: I have a reservation. The Minister said that this is being done at the social housing level. However, it is relatively easy to get the message across to that sector because you just write to all the councils and tell them what it is. You cannot write to all the landlords because nobody knows who all the landlords are. There is no national register of landlords. I believe that is where the confusion has arisen in the pilot area, where 65% of landlords—two-thirds—do not understand the code of practice on preventing illegal immigration or the code of practice on avoiding discrimination. The message has not got to the landlords. When the Government roll this out, I wonder how the Minister proposes to get the message out to all landlords right across the country.

Lord Bates: I am very happy to take that further. First, it is worth pointing out that landlords already undertake a number of checks. It is standard for them to check people's identity to determine whether they are who they say they are. They take up credit references. It is standard to take up references from previous landlords to determine whether the tenants are suitable people. They require proof of employment. Therefore, a number of checks are already required. Establishing that somebody has a right to be in the UK and has the appropriate documents should be done already under best practice. However, I shall address some of the practical points about how we communicate this change.

I return to the point about the robustness of the research because that was raised by a number of noble Lords. A wide range of research tools have been used, including 17 online surveys with 539 responses. They were just part of the exercise. There were 12 focus groups and 36 one-to-one interviews. In addition, a total of 332 mystery shopping encounters were completed. The evaluation has been overseen by the consultative panel to which I referred. The Home Office has not made claims about how representative the tenants' survey was as it was administered via mailing lists and web links, and therefore we do not hold detailed responses on that. Research was carried out with landlords' letting agents. The landlords' survey had 137 completed responses, 114 of which related to landlords with properties in the phase one area. The tenants' survey had 70 completed responses, 68 of which related to tenants in the phase one area. As regards the robustness of the research, multiple methodologies were used to understand the impact of the scheme in its first six months between 1 December 2014 and 31 May 2015. It reached multiple stakeholder groups—I know that is the concern of my noble friend Lord Cathcart—of landlords, letting agents, housing associations and other voluntary and community sector organisations, including local authorities. I can also provide further details about the research if that would be helpful.

10 pm

I turn now to the point raised by the noble Baroness, Lady Hamwee, on subletting and lodgers. Tenants who are allowed to sublet and householders taking in lodgers—the point raised by my noble friend Lord Deben—and who conduct the right-to-rent check will be treated as the landlord under the scheme. Tenants of housing associations or other types of supported or provided housing should make sure that they are allowed to take in lodgers. If lodgers are not covered, it would create a loophole in the right-to-rent scheme.

On the point that was raised by my noble friend Lord Cathcart about foreign-sounding names, the Government have made it clear that the right-to-rent scheme is not directly against migrants, but a small minority of illegal migrants. Landlords should ensure that they conduct right-to-rent checks on all adults who have let property. The Equality and Human Rights Commission and the Northern Ireland Human Rights Commission assisted in drafting the code, which is helpful in this regard. It was published in October 2014 and is titled *Avoiding Unlawful Discrimination when Conducting 'Right to Rent' Checks in the Private Rented Residential Sector*. It sets out who is covered

by the code and also specifies the nature of the discrimination that we are focusing on here and relates particularly—a number of noble Lords raised this—to race. It relates, in Great Britain, to Part 2, Chapter 2, and Part 4 of the 2010 Act and, in Northern Ireland, to Part 3 of the 1997 order: landlords must not discriminate against potential tenants because of race or on racial grounds. Race and racial grounds include colour, nationality and ethnic or national origins. Case law has established that members of particular religious groups, such as Jews or Sikhs, also form racial groups for the purposes of equality law. It should also be noted that, in Northern Ireland, the 1997 order covers the Irish Traveller community. Race discrimination may be direct or indirect. There are also prohibitions against race-related harassment and victimisation.

I turn to the point raised by my noble friend Lord Deben on using spare rooms. The right-to-rent scheme and the provisions of this Bill are not about illegal migrants only; they impact on measures to provide accommodations for those who are lawfully here. I think that this is a wider point—there are issues of unemployment or homelessness and it is right that people who are legally here in the UK should be the ones who have first call on employment and on properties to rent and to provide accommodation.

In terms of the unacceptable burden of checks, landlords are not being asked—

Lord Deben: Can I come back to single rooms that are let in a house? I have said to the Minister that I am perfectly happy to go along with him if I could know that we have looked at this particular issue. As far as I understand, we have not got very much evidence about the interaction between this legislation and people letting rooms in their own house. Do we know how many people have been interviewed on this? Do we know that it does not have the effect that I fear it has? If he can show that to me I will withdraw entirely but I just want to know and I am not sure that the evidence is there.

Baroness Lister of Burtersett: To save the noble Lord from jumping up and down, our concern is that this could affect some people who have a perfect right to be here, such as British citizens—this is part of the point that the noble Baroness was making about people who are homeless. Vulnerable and disadvantaged groups—I talked about women fleeing domestic violence—may simply not have the evidence. A landlord who is in a hurry, and if there is great competition for space, is more likely to take the person who has all the documentation right at hand. It is not just between people who are not supposed to be here and people who are, because actually other groups are vulnerable to the unintended discriminatory consequences as well.

Lord Bates: I hear that. I am making the point that private sector landlords, in doing their due diligence on the person they are renting to, will already require a great deal of detail or proof of who they are and that they have a right to be here. It would surely be in their own interests. If they were letting out their property to someone who had no legal right to be here, they might find that that person disappears and they are left out

[LORD BATES]

of pocket. This is eminently sensible in terms of due diligence on the behalf of landlords, as well as being widely consistent with making it more difficult for individuals who are here illegally to operate, in terms of bank accounts, driving licences and employment. The evaluation found very little evidence that British citizens with limited documentation were experiencing problems as a result of the scheme.

With regard to the unacceptable burden of checks, landlords are being asked to take responsibility for ensuring that prospective tenants have a right to rent in the UK by carrying out simple document checks; where necessary, in a small number of cases, making a report to the Home Office. This supports the work of the Government to make it more difficult for illegal migrants to reside here unlawfully and to stop them accessing services to which they are not entitled.

The noble Baroness, Lady Lister, mentioned domestic abuse. She said that victims who do not have documents will struggle. In August 2015 the noble Baroness, Lady Williams of Trafford, announced a £3 million fund for 2015-16 to address any gaps in the provision of specialist accommodation-based support for victims of domestic abuse.

The noble Lord, Lord Deben, asked who should be checked. The answer is any adults who will be taking up the accommodation as their main or only home in the UK. This means all adult occupants, not just those who may be the named tenants.

The noble Baroness, Lady Sheehan, asked about evidence of stolen documents. If a document is stolen, a letter from a UK police force confirming that the holder is the victim of a crime and personal documents have been stolen, stating the crime reference number and issued within the past three months, would be acceptable.

I have covered the point on domestic violence. The Home Office will be aware of who is applying for leave to remain under paragraph (289A) of the Immigration Rules as a victim of domestic violence. It will refer to the national referral mechanism to ascertain who has been the victim of human trafficking. Permission to rent will not be denied to such persons.

In answer to another point made by the noble Lord, Lord Deben, the landlords' survey included a broad range of landlords with different sizes of properties and portfolios. Focus groups also included small-scale, informal landlords, including those renting a single room. I was asked about fees. The report noted:

"However amongst the focus groups with informal tenants it was suggested that the charging of fees by some agents was common practice. This was not due to the Right to Rent scheme, but had been a long-standing practice—especially in areas where demand exceeds supply".

I think that I have covered the points about homelessness and students. I say to the noble Baroness, Lady Sheehan, that we have worked with Crisis and Shelter in developing the list of acceptable documents for the right-to-rent checks.

Baroness Sheehan: I want to put more about the evaluation on record. We have heard a lot from the noble Lord, Lord Best, about his experience on the evaluation

committee, but Crisis was also a member of that Home Office panel, and its assessment is very different. It is very concerned that,

"the harsh penalties for landlords who fail to evict tenants who don't have the correct immigration status will compound the effect of the previous Immigration Act and make landlords much more 'risk averse' and less likely to rent to people who may not have easily recognisable documentation such as homeless people, as well as leading to increased discrimination against foreign nationals and people of black and minority ethnic backgrounds".

I also had a meeting with the Residential Landlords Association, which said that its fears had been allayed. It was really quite concerned about its members who rented to students and that large student accommodation would be exempt. So while I know that landlords' concerns have mostly been put to rest, let us please not forget the concerns of people who are dealing with the more vulnerable groups, such as the homeless and the not so well-off immigrants.

Lord Bates: That is an important point. Students are of course exempt because their right to be in the UK will have been checked by their university in granting them accommodation. The fact that they are exempt is because those checks are happening, and the social sector is exempt because the checks are happening there. All we want is for those checks to happen in the private sector as well.

Lord Kennedy of Southwark: Can the Minister say a bit more about who is doing the evaluations? The points that the noble Baroness, Lady Sheehan, and the noble Lord, Lord Best, have made clearly could not be further apart.

Lord Bates: In that respect I might suggest that the partial solution which we came across for our last debate, which was on overseas domestic workers, was to look at organising a meeting in between Committee and Report. However, it would probably be more useful for the House to have the noble Lord, Lord Best, at such a meeting if he were willing to meet with colleagues on that basis. We would certainly be happy to facilitate one to explain more about the process, but we have tried to be as transparent as possible about this. It has been a long trial and there has been a thorough evaluation. It will also continue to be under review because this is not the completion of the process; we are simply talking about moving to the next stage of rollout, which is to England. There will be further opportunities for evaluation thereafter. I hope that, with those suggestions, I might have prevailed upon the noble Baroness to withdraw her amendment at this stage.

Baroness Hamwee: My Lords, I will want to go back and read what the Minister had to say about protected characteristics, so I will not spend time on that. I am not surprised that he does not agree with my Amendment 159—that is self-evident.

I would not for a moment accuse the Government of not being transparent on this. It is no secret at all that his party, in the last Government, did not want to have a pilot but to roll the scheme out right across the country immediately. We have information which has

been the basis of the argument against rolling it out further. The points made by the noble Lord, Lord Deben, are unanswerable.

10.15 pm

The noble Lord, Lord Best, said that there were big, articulate meetings—I am sure they were—but nevertheless a number of us have been briefed by people who attended those meetings saying that they support our amendments and asking us to resist further rollout and, indeed, criminalisation.

The Home Office itself acknowledges that this was a very short pilot. The sample was not big or representative, and included a lot of students, who, as the Minister says, are in a very different position. Most of the tenants were white and most of them did not move, so were not able to contribute their experience. The Minister referred to social tenancies by way of comparison, but I would have thought that was a very different market, where speed was not an issue in agreeing a tenancy. I find it quite difficult to compare them in that way.

I accept that agents charge fees, but the Joint Council for the Welfare of Immigrants seems to have found not only the old practice of charging tenants fees but that they have used this as a basis for charging further fees.

Finally, no one wants to help rogue landlords, but the resources should be put into tackling the rogue landlords, not through a scheme such as this, and the penalties should be for exploitation.

We will undoubtedly come back to this at the next stage, but of course for the moment I beg leave to withdraw the amendment.

Amendment 148 withdrawn.

Amendment 148A

Moved by Lord Howard of Rising

148A: Clause 13, page 9, line 28, at end insert—

“() The landlord does not commit an offence under subsection (1) if the landlord—

- (a) has taken reasonable steps to verify the identity and immigration status of the person or people with whom the landlord has concluded the residential tenancy agreement; and
- (b) has no reasonable cause to believe that any other person who meets the first and second conditions is residing at the property.”

Lord Howard of Rising (Con): My Lords, I will also speak to Amendments 150 and 150A. I declare an interest as the owner of properties which are let to long-term tenants.

I find it a bit rich that landlords should risk imprisonment for housing an illegal immigrant when it is the Government's failure in their duty to protect the borders of this country that has resulted in the illegal immigrant being here in the first place. I fully understand the difficulties in controlling our borders, which will inevitably lead to errors, but should the person responsible for the error go to prison? If those responsible for allowing illegal immigration should not go to jail, why should a landlord? I am afraid

that I do not share the optimism of the noble Lord, Lord Best, that the power will not be abused at some stage.

New Section 33A says that if any illegal immigrant resides in a property, it will be a criminal offence by the landlord regardless of whether or not that individual was the person to whom the premises were let. Amendment 148A seeks to restrict the criminal offence to those checks which would be reasonable for a landlord to carry out and which are set out in the *Landlords' Guide to Checking Immigration Documents*, issued by the Home Office. I can understand that landlords should check the person taking the property, but can the Minister say how in practical terms it is possible for a landlord to check on each person residing in the property once it has been let? Is the landlord supposed to keep a permanent watch? What about the case where a house with a number of bedrooms has a drive and trees and is thus concealed from view?

Can the Minister suggest what reasonable steps could be taken to ensure that the person who has legally rented the premises is not allowing illegal immigrants to stay in the house? Any person renting a house legally who then wishes to house illegal immigrants is hardly likely to announce their intention when taking the property. It will be totally impractical for any landlord to monitor the ongoing use of the property and whether the person renting it has illegal immigrants to stay.

Proposed new Section 33A(7) states that a post-grant contravention is an offence. Essentially, this says that if a person becomes disqualified it is an offence for that person to continue to occupy the premises. How is the landlord expected to know if a person has become disqualified? Will the authorities notify the landlord?

Amendment 150A is to avoid Clause 13 from being retrospective. The draft right-to-rent code of practice issued by the Home Office clearly states at paragraph 3.2:

“The Scheme applies only to residential tenancy agreements first entered into on or after the date on which the Scheme is implemented in the area where the property is located.

A landlord is not required to take any action in relation to residential tenancy agreements entered into before that date, or which are renewed after that date if the renewed agreement will be between the same parties and there has been no break in the tenant's right to occupy the premises”.

Amendment 150A would bring the Bill into line with the guidance being issued by the Home Office and avoid the unfairness of retrospective legislation.

The issue of discrimination has been mentioned this evening, and I come back to it only in relation to Amendment 148A. It is touched on in the draft right-to-rent code of practice, where it states:

“Whether or not a person ... has permission to stay in the UK and has a right to rent is a matter of fact that can be verified. Only the listed documents should be used to reach a decision on whether the person has a right to rent”.

How does this apply to persons who might come to stay at the property unbeknown to the landlord? If my amendment is not included, to prevent a landlord being guilty of a criminal offence without being aware of it, the Bill will create the bias towards discrimination that has been talked about this evening.

[LORD HOWARD OF RISING]

The checking service is a method of confirming whether documents are correct—again, this has come up this evening. Can the Minister indicate the likely response time for the service and whether there will be charges for those using it, as the noble Lord, Lord Best, asked?

If it was simple for landlords to do what is being asked, why are the authorities not already monitoring illegal immigrants more effectively? It is not unreasonable for landlords to play their part in helping with the problem of illegal immigration, but what they are asked to do should be reasonable and proportionate. Landlords being subject to imprisonment for something over which, in practical terms, they can have little or no control is not reasonable. I point out that the people most affected by this will be that huge army of very small landlords who do not have agents to act for them, and who will be unable to follow what is happening to a property that they have rented out which may be in a completely different part of the country. I beg to move.

Earl Cathcart: My Lords, before I speak to my Amendment 150, supported by my noble friend Lord Howard, I would like to support his two amendments. The first is Amendment 148A. As drafted, the Bill has no defence for a landlord who has done their best to check the immigration status of a tenant, or for a landlord who is caught out by an unscrupulous tenant. They are merely reliant on the Home Office not prosecuting them in such circumstances. They will still have committed the offence, which will put them in breach of many mortgage companies' conditions. I therefore support the amendment, as it will provide greater protection for landlords who are deemed to have committed a criminal offence even if they have done all that they can to confirm the status of the tenant.

My noble friend's Amendment 150A is important because the Government have not yet been clear on whether the right-to-rent checks apply to existing tenancies. Checks part-way through or on renewal of a tenancy will leave landlords and agents with tenants who may then be deported; this will probably lead to a large number of random reports if tenants ignore correspondence or decline to provide documents. I support this amendment, as it provides clarity about when landlords will be expected to undertake the checks.

Amendment 150 in my name is supported by my noble friend Lord Howard and reads:

"A person does not commit an offence under subsection (1) or (7) where they are proceeding diligently to evict an adult who is disqualified as a result of their immigration status from occupying the property of which that person is a landlord".

As we have already heard, Clauses 13 to 15 make it an offence for a landlord to fail to check the immigration status of tenants who are subsequently found to be in the country illegally. In such circumstances, landlords face being fined up to £3,000 or imprisoned for up to five years. This builds on the Immigration Act 2014, which requires landlords to check the immigration status of their tenants; the 2014 Act contained only the threat of civil penalties for landlords, and it is the Government's plan for the checks to be rolled out across the country from February this year. That was debated at length under the previous grouping.

As the Bill is drafted, when a landlord is notified by the Secretary of State that a sitting tenant does not have the right to rent in the UK, that landlord is deemed to have committed a criminal offence even before the 28 days that the Bill allows a landlord to evict such tenants have ended. It could well be that this was the result of a landlord being caught out by forged documents that they could not possibly have been expected to detect. It could well be that those same forged documents enabled the illegal immigrant to get into the country in the first place, as my noble friend said, but I do not believe that the immigration officers who allowed the immigrant into the country are deemed to have committed a criminal offence or are fined £3,000 or imprisoned for up to five years—so why the landlord? As a landlord, I do not see how I can possibly spot a forged document if immigration officers cannot, with all their sophisticated equipment.

10.30 pm

Lord Green of Deddington (CB): Is the noble Earl aware that most illegal immigrants in Britain came legally and therefore that there is no reason why they should have been detected on arrival? They came legally and have overstayed.

Earl Cathcart: No, I am not aware of that.

I understand that previously the Government have said that they want common sense to prevail. However, landlords, fearful of the potential consequences of getting something wrong, need further assurances. A simple amendment to the Bill can rectify this and make it clear that landlords will not commit a criminal offence where they have done everything possible to verify the status of the tenant and are in the process of evicting a tenant whom they have been notified does not have the right to rent within the 28-day window that the Bill permits.

It is important to note that while a prosecution might not be taken out against a landlord seeking to evict a tenant without the right to rent, simply deeming him to have committed a criminal offence can cause extensive difficulties, especially with mortgage lenders and insurers. The fact that no prosecution has been taken does not mean that the landlord has not committed an offence. Most contracts relating to property contain a prohibition on using the property unlawfully.

While an amendment would be the clearest way of addressing this issue, in addition, clear guidance should be issued by the Director of Public Prosecutions outlining: first, that prosecutions will not take place where a landlord who has been informed that their tenant does not have the right to rent has done everything possible to check the status of that tenant and is within the 28-day eviction period; secondly, that landlords will not be prosecuted where they have fallen victim to forged documents from a prospective tenant that they could not reasonably have been expected to recognise as false; thirdly, that landlords will not be prosecuted where they were unable to receive a letter from the Secretary of State notifying them that the tenant did not have a right to rent due to hospitalisation or other reasonable measure that might prevent them reading and acting on a notice; and fourthly, how he intends to proceed with the Government's commitment that landlords will not be prosecuted for a first offence.

This amendment is supported by the Residential Landlords Association, which looks after the interests of more than 40,000 landlords, and by the Association of Residential Letting Agents. Its managing director, David Cox, commented:

“It would be unjust and inequitable for a landlord to be in breach of the law through no fault of their own, irrespective of whether the Government has outlined it will not prosecute in such circumstances. Being in breach of legislation will cause landlords great concern, and therefore, we request these technical amendments be incorporated into the Bill to ensure the spirit of the legislation is reflected in the wording of the Bill”.

I could not have put it better myself.

Baroness Hamwee: My Lords, I am conscious of the time, but we need to spend just a few more minutes on this. I shall not take too long. Noble Lords who have spoken have identified very serious drawbacks in the legislation, even if one ignores the thrust of these provisions, as I do not wish to do. If they are to be implemented in the way in which the Government wish, the points that have been made are very well made, and I am sorry that we kept the two noble Lords so late in order for them to be able to make them.

I have my name to a number of amendments in the names of the noble Lords, Lord Rosser and Lord Kennedy. I think the noble Lord, Lord Kennedy, is about to speak to them.

On Amendment 152, I want to make a point that once again has come from Crisis, which says that there are a number of situations where a claim for asylum fails but the person is unable to return to his country because there is no stable state to return to, or it is unclear where they should return to—we are familiar with these problems, of course. It says that at the very least the Home Office should clarify these people's status with regard to the new eviction process.

Lord Kennedy of Southwark: My Lords, this group of amendments contains some very sensible protections for landlords, who could find themselves in difficulties and at risk of prosecution and a fine, imprisonment or both, although they have taken all reasonable precautions and have no intention of breaking the law. Landlords, as has been said before, are not immigration officers. One of the concerns about this section of the Bill is that people will take reasonable precautions but will still find themselves in difficulties and possibly at risk of prosecution.

The amendment in the name of the noble Lord, Lord Howard of Rising, is both simple and effective, and he has made a compelling case here today: the landlord would not commit an offence if they had taken reasonable steps and there was no reasonable cause not to believe that other persons who met the first and second conditions were residing at the property.

Amendment 149 seeks to afford landlords protection when they are prohibited from evicting a tenant under new Section 33D(4), and Amendment 150, in the name of the noble Earl, Lord Cathcart, would protect landlords who were acting diligently to evict people who were disqualified as a result of their immigration status. Again, the noble Earl has made a compelling case as to why the amendment should be supported.

I have no issue with Amendment 153 in the name of the noble Lord, Lord Bates. The remaining amendments are in the names of my noble friend Lord Prosser, myself and the noble Baroness, Lady Hamwee. These important amendments would ensure that individuals and families could be evicted only following due legal process, by removing from the Bill the provisions to grant new and extensive powers to landlords outside the oversight of the courts. I say to the Minister that the Government really are creating a very difficult situation here. This whole part of the Bill puts significant pressure on landlords, with tough penalties and little protection, along with extensive new powers with no oversight by the courts.

There is a real risk here, as has been said by other noble Lords, that landlords will just not rent the property to anyone who looks as though they might be more of a risk, and great injustices could take place. To make it worse, the courts are to be excluded from the process of evicting people if they are resident in a property. This is not right, and the Government are going to have to make some movement on these matters again. I hope the Minister will agree to meet Peers who are interested in these matters and campaigners before we come back on Report.

Lord Bates: My Lords, I shall speak to Amendment 153 in my name and respond to the amendments spoken to by noble Lords. Government Amendment 153 provides powers for the Secretary of State to prescribe the form of the notice that the landlord must serve in relation to the eviction powers in new Section 33D, and the manner in which it is served. This amendment provides clarity and consistency to landlords, tenants and High Court enforcement officers about the circumstances in which High Court enforcement officers will be permitted to enforce a notice. The Secretary of State may prescribe the form or forms to be used by order, subject to the negative procedure.

I understand the concern that has been expressed thoughtfully and passionately, particularly by my noble friends Lord Howard of Rising and Lord Cathcart, that reputable landlords who have made a mistake or been deceived would be committing an offence immediately when they receive a notice from the Home Office that a tenant is disqualified from renting. However, I reassure them that the focus of these measures is on the minority of rogue landlords who deliberately flout the law. They are the intended target of the legislation, as the noble Lord, Lord Best, said in his excellent summary on the previous amendment. They are not intended to be used against reputable landlords who may have made a genuine mistake. In fact, if we look at the Bill in its present form, new Section 33A(3) says that the condition for an offence to be committed,

“is that the landlord knows or has reasonable cause to believe that the premises are occupied by an adult who is disqualified as a result of their immigration status”.

That threshold of proof, “knows or has reasonable cause to believe”, is very high.

The offences in the Bill are to do with landlords and agents knowingly renting to illegal migrants or doing so when they have reasonable cause to believe that they are doing so. They are not strictly about a failure to evict. While a desire to safeguard the position of

[LORD BATES]

responsible landlords is understandable, it would not be right to afford a grace period of 28 days to the worst offenders, such as the one that would result from Amendment 149. Such landlords deliberately rent to and may also exploit illegal migrants. Likewise, it would be difficult to be certain in any particular case what would constitute “proceeding diligently” for the purposes of Amendment 150. I am concerned that this would also provide rogue landlords with a way to avoid prosecution.

Amendment 148A is unnecessary because, under the right-to-rent scheme introduced by the Immigration Act 2014, the landlord should perform document checks to a reasonable standard. Should they do so, they will not be liable to a civil penalty, nor will they be subject to prosecution under this legislation unless they are explicitly notified or become aware when they undertake subsequent checks that an occupant is an illegal migrant.

Lord Kennedy of Southwark: Nobody here wants to protect the rogue landlords—all these amendments are about protecting the good landlords and they relate to genuine concerns about that. It would not be the first time that mistakes were made; people get things wrong, officials get things wrong. We are trying to ensure that we protect the good landlords, not the rogue ones.

Lord Bates: I accept that, and the noble Lord is making a genuine point. Certainly that is the intent, as we have said, behind the legislation. If evidence comes to light during the passage of this legislation through this House that that may not be the case, clearly the Government will want to take note of that, because it is explicitly not the intent to catch the vast majority of genuine landlords. There are a small number of rogue landlords.

Earl Cathcart: I am sorry to interrupt again. I understand the issue about rogue landlords, and of course one wants to catch them and not the good landlords. Will the Minister say whether he will consider my idea of clear guidance from the Director of Public Prosecutions? To that effect, I listed four things that he might consider.

Lord Bates: The Home Office will investigate this and present cases to the Crown Prosecution Service for a decision about whether to prosecute, and resources will be targeted at the most serious offenders. The intention behind the measures, which is that they should be used only against those landlords who deliberately and consistently flout the law, has been stated unequivocally by Ministers during the passage of the Bill. However, I give an undertaking that I will be very happy to meet my noble friend, officials and other interested Peers to discuss whether there are gaps or particular remedies as regards guidance that could be brought forward.

Lord Howard of Rising: I very much welcome the chance to meet my noble friend to discuss this. I point out, with regard to the guidance—the Explanatory

Notes—my noble friend keeps talking about landlords doing the checks, but it specifically says in the guidance to the Bill that it,

“applies where any adult is occupying the premises, regardless of whether the adult is a tenant under or is named in the agreement”.

We are not saying that there is a problem where people have been able to do checks, but that where somebody comes in, the guidance specifically says that those people have to be monitored—and I do not know how my noble friend expects landlords to monitor them. We are not a police force. That is a really important point. The other thing is that whatever anybody says—the noble Lord or my noble friend Lord Best—I cannot think of any legislation that is not abused sooner or later by somebody.

Lord Bates: We need to avoid creating an unintentional loophole that effectively says, “We’ll ask no questions and we won’t contravene the proposals in this legislation”. That cannot be right. I would imagine that most landlords would want to know who was occupying their property. In the event that a property is the subject of subletting agreement, at that point there would of course be a liability to carry out the background checks, which would fall to the people who have made the decision to sublet. However, making a general exemption in those circumstances could create an unwelcome loophole.

10.45 pm

Landlords may choose to use these powers, use other routes to eviction or agree with the illegal migrant that the tenancy be brought to an end. It cannot be right, however, that a person in the United Kingdom, in the full knowledge that they have no permission to be here, should be able to access our finite housing stock or frustrate a landlord in evicting them. A landlord may use these powers only where the Secretary of State has served a notice or notices in respect of each occupant. These will be issued only where the occupants are illegal migrants and there is no genuine obstacle to them leaving the United Kingdom, which covers the point raised by the noble Baroness, Lady Hamwee, about asylum seekers. In considering whether to serve a notice in respect of a family with children, the Home Office will have regard to the duty to safeguard and promote the well-being of children.

Amendments 154 to 157 seek to provide that the grounds for evicting an illegal migrant are discretionary, not mandatory. As we heard from the noble Lord, Lord Best, at Second Reading, the private rented sector is concerned about what landlords may do where they have persons occupying their accommodation who are disqualified from renting by reason of their immigration status. To use these mandatory grounds, a landlord must have received a notice from the Secretary of State informing them that one or more of the tenants or occupants is disqualified from occupying the property as a result of their immigration status. It is not necessary or helpful for a court to enter into its own additional assessment of the reasonableness of making a possession order, which would be the effect of the amendments in making this a discretionary ground.

I think that covers most of the points that were raised. The noble Lord, Lord Kennedy, asked whether the tenant should be able to make their case against eviction in court. The law is clear that those who require leave to be in the United Kingdom and do not have it are disqualified from renting accommodation. Such a determination on immigration status can only be made through the Home Office and, where an appeal is allowed, the immigration courts. The tenant would have been through this process if they find themselves being evicted on the grounds of their immigration status.

I appreciate that there are further discussions to be had, and we will listen carefully between now and Report to what is said about these important issues to ensure that genuine landlords are protected, and that the proposals are reasonable. I therefore ask the noble Lord to withdraw the amendment at this stage.

Lord Howard of Rising: I thank the noble Lord for his comments and for agreeing to a meeting; that is very gracious of him, and I look forward to that. Depending on it, I may wish to return to this subject, but in the mean time I beg leave to withdraw the amendment.

Amendment 148A withdrawn.

Amendments 149 to 151 not moved.

Clause 13 agreed.

Clause 14: Eviction

Amendment 152 not moved.

Amendment 153

Moved by Lord Bates

153: Clause 14, page 12, line 7, after “writing” insert “and in the prescribed form”

Amendment 153 agreed.

Clause 14, as amended, agreed.

Clause 15: Order for possession of dwelling-house

Amendments 154 to 157 not moved.

Clause 15 agreed.

Clause 16: Extension to Wales, Scotland and Northern Ireland

Amendment 157A not moved.

Amendment 158

Moved by Baroness Hamwee

158: Clause 16, page 17, line 7, leave out paragraph (b)

Baroness Hamwee: I will move Amendment 158 very briefly. This amendment came about as a result of the report of the Delegated Powers and Regulatory Reform Committee. I will not explain the detail of the clause because I am aware that the Minister intends to make a full response to the DPRR report—as I understand it, before Report. I am moving this amendment in order to ask that we get that response in reasonable time just in case we do not agree with what the Government have to say. If that is the case, we may want to use Report stage as the last opportunity to put down an amendment similar to this one. I beg to move.

Lord Bates: My Lords, Clause 16 gives the Secretary of State the power to make such regulations as are appropriate to extend the residential tenancies provisions, as set out in the Immigration Act 2014, to Wales, Scotland and Northern Ireland. It is entirely right that there is provision to make such an extension throughout the United Kingdom as the residential tenancy provisions in this Bill are for the purposes of immigration control, which is a matter reserved to the UK Government.

Amendment 158 seeks to remove the provision for regulations under Clause 16 to confer functions on any person. In order to make appropriate provision that applies in Wales, Scotland and Northern Ireland, it may be necessary to confer functions on a person—for example, the Secretary of State for the Home Department or an immigration officer—under those regulations. The provision in the Bill is helpful as it makes it clear what can be done under these regulations. Removing the provision would serve no useful purpose and would lead to an unhelpful lack of clarity.

I note that the Delegated Powers and Regulatory Reform Committee’s 17th report of Session 2015-16 has drawn attention to some aspects of the Bill but not to this specific provision. As the noble Baroness has asked us to do, we will certainly provide a full response to the committee’s report and also, of course, make sure that Members of your Lordships’ House have a copy of the response before Report. I therefore ask the noble Baroness to consider withdrawing the amendment but to note the further consideration being given by the Government to the points raised by the Delegated Powers and Regulatory Reform Committee.

Baroness Hamwee: My Lords, I beg leave to withdraw the amendment.

Amendment 158 withdrawn.

Clause 16 agreed.

Amendment 159 not moved.

House resumed.

Psychoactive Substances Bill [HL]

Returned from the Commons

The Bill was returned from the Commons with amendments.

House adjourned at 10.54 pm.

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