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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

Grand Committee

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

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House of Lords

Tuesday 27 February 2018

2.30 pm

Prayers—read by the Lord Bishop of Salisbury.

European Free Trade Association
Question

2.36 pm

Asked by ***Lord Lea of Crondall***

To ask Her Majesty's Government whether remaining in the European Single Market, post-Brexit, would require the United Kingdom to retain membership of the European Economic Area and associated European Union agencies through re-joining the European Free Trade Association.

The Minister of State, Department for Exiting the European Union (Lord Callanan) (Con): My Lords, the Government's position is clear: the United Kingdom is leaving the EU and will no longer be a member of the single market. As such, we have no plans to join EFTA in order to continue to participate in the EEA agreement beyond the implementation period. Instead, we are seeking a bold and ambitious economic partnership that is of greater scope and ambition than any existing agreement.

Lord Lea of Crondall (Lab): I thank the Minister for that helpful Answer. The customs union and the European single market are, from a practical and industrial perspective in the advanced economies, intertwined—technical standards being a good example. Is not the way to make the best of a bad job to move from where we are now, in Pillar 1 of the European Economic Area—namely, the EU—to Pillar 2, namely EFTA? We would not be at the EU table, it is true, but to make that complaint on the way out is palpably risible. Is not one indisputable advantage that EFTA is a vehicle which actually works, as opposed to one which has not yet been designed, let alone road tested? It has been a nice runner, without any engine or transmission failure since 1959, and we would get it for half price or, to use a different metaphor, for half the annual subscription and country membership.

Lord Callanan: I was not totally clear what the noble Lord was asking me there, but of course not all of the EFTA countries are in the EEA: Switzerland is not. We will clearly want to continue our relationship with the EFTA countries afterwards, as they are close friends and neighbours. After the end of the implementation period, we will of course want to continue our association with them.

Lord Forsyth of Drumlean (Con): My Lords, could my noble friend confirm that Donald Tusk's words—

"Nothing is agreed until everything is agreed"—

also apply as far as we are concerned, in particular to the contribution of money to the EU?

Lord Callanan: My noble friend is of course correct. It is a basic factor of all EU negotiations that nothing is agreed until everything is agreed. Having said that, we are a law-abiding country, and when we make agreements, we do not rat on them.

Baroness Hayter of Kentish Town (Lab): My Lords, I am sorry I ran into the Chamber, but it was because I had been to inspect the border between Camden and Westminster. When I told my noble friend Lady Blood that this morning, she was delighted—she cannot wait for the Tube to be put there, from northern to southern Ireland. Is this level of understanding in the Minister's department about how a border between north and south would work actually the level of discussion going on there?

Lord Callanan: I am not aware that anybody in my department has said anything of the sort. The point the noble Baroness is referring to is that of course we want no border in Ireland between the north and the south. We are committed to the Good Friday agreement. It has been the basis of lasting peace and prosperity in Ireland, and it is important that we come up with suitable arrangements in future negotiations with the EU to ensure that there is no border.

Baroness Ludford (LD): My Lords, can the Minister give a precise definition of "ambitious managed divergence" and the other new buzz-phrase, "European traded goods area"? Can he also explain the three baskets, which sectors are in which baskets and whether suppliers to a sector, such as the textile-makers of a car seat, are permanently or temporarily in a basket? Does he agree that so-called EU red tape ain't got nothing on the bureaucracy involved in the Government's plans?

Lord Callanan: I am tempted to make a comment about a basket case but that is probably not a good idea. The noble Baroness is referring to the point that when we leave the EU, we will start off with identical rules and regulations, as she well knows. The issue then is how we diverge in the future and how that divergence should be managed, should the EU want to adopt different regulations or should we want to do so. If we do and it does not affect the functioning of the ambitious free trade we want between us and the EU, why should we not be able to? Clearly, there needs to be a mechanism to manage that.

Lord Garel-Jones (Con): My Lords, now that the leader of the Labour Party does not seem to believe any longer that the European Union is a capitalist conspiracy against working people, does my noble friend the Minister agree that his support for the single market can serve only to undermine the standing of this rather successful organisation?

Lord Callanan: I am slightly confused about what the Labour Party's position is this week. Last week, they were against the customs union; this week, they seem in favour of it. Perhaps next week they will be in favour of a single market, then against it again the

[Lord Callanan]
following week. I can say only that I agree with Barry Gardiner, their international trade spokesman, who said in another place that,

"in voting to leave the EU the British people voted to leave both the single market and the customs union".—[*Official Report*, Commons, 5/9/16; col. 47-48WH.]

He then went on to write an article in the *Guardian*—a well-known journal of record—saying that retaining membership of a customs union would be "deeply unattractive" because it would stop us negotiating our own trade deals. He is supposed to be their trade spokesman.

Lord Dykes (CB): My Lords, bearing in mind that more and more people now think that staying in the customs union is a very good idea—led by that subversive body, the CBI—what on earth will the Government say on Friday to reassure an increasingly desperate public?

Lord Callanan: I am sure that we all await with interest what the Prime Minister has to say in her speech on Friday, but the point about joining a customs union is a serious one. We are the fifth-largest economy in the world and the normal state of affairs in the rest of world is that large countries negotiate their own trading arrangements. It baffles me why people want to contract that out to the European Commission. We collect tariffs that we would then send to the European Commission; we would be totally in its control. Surely, if anything, the EU referendum means that we need to take back control in this country and do not want to contract out our trade policy to another organisation.

Lord Monks (Lab): My Lords, can I ask about the three baskets? It seems that there is detached, semi-detached and alignment. Which of those baskets will take employment rights and workers' rights? Can we please be told?

Lord Callanan: I think the noble Lord will have to wait to see what the Prime Minister has to say about the issue on Friday. I am building up the sense of anticipation.

Lord Newby (LD): My Lords, the Irish Government believe to have a frictionless border, we have to be members of both the single market and the customs union. On what basis do the British Government disagree with the Irish Government on that matter?

Lord Callanan: We think the Irish Government are wrong on this matter. There is already a fiscal border in Northern Ireland but we have been very clear that we are not going to impose a hard border. We set out in a paper last year how we think this could be achieved by various electronic and technological means. However, we accept that this has to be the subject of further discussion, and we look forward to having those discussions. The Taoiseach of Ireland has accepted that that has to be part of the end-state agreement.

Disabled Students' Allowance

Question

2.45 pm

Asked by ***Lord Addington***

To ask Her Majesty's Government what consideration they have given to removing the need for candidates for higher education with dyslexia and other specific learning disabilities to pay for new assessments for the disabled students' allowance if they have an existing diagnosis acquired before the age of 16 and a history of support.

Lord Addington (LD): I beg leave to ask the Question standing in my name on the Order Paper, and draw the House's attention to my declared interests.

Viscount Younger of Leckie (Con): My Lords, disabled students' allowances do not meet the costs that students incur in providing evidence of their disability. We committed to reviewing the need for post-16 diagnostic assessments for students with specific learning disabilities and have sought expert advice on whether the need for this remains. The result of that review will be published in the spring and I would not wish to pre-empt it.

Lord Addington: Would the Minister agree that there is a very good case here for not needing a review? The second assessment for somebody who has already been identified as having a lifelong condition can cost up to £600. You cannot get rid of dyslexia—I know; I tried. Can the Government give us some idea of why they are not just getting rid of this? On receipt of DSA, you get a needs assessment. This is a total waste of time and money.

Viscount Younger of Leckie: I do not agree with the noble Lord. We gave a commitment to seek expert advice. For example, there are very important questions that we need to ask, to which we are getting answers. For example, is it necessary to require a diagnostic assessment to have taken place when the student is a specified age or older? If so, what age should that be? Does the assessment need to have been undertaken recently? If so, how recently? If a new assessment is still needed, does it need to be a full assessment or could it be a more limited one? There are a number of questions that we seek answers to, and we are going to come back to the noble Lord as soon as we can in the spring.

Baroness Manzoor (Con): My Lords, I welcome the Government's review and am grateful that we will see the results some time soon. However, there is an issue when vice-chancellors are paid significant sums of money while disabled students who have previously had assessments need another assessment to get their benefits. That seems to go against the natural grain of justice. When the payment for the assessment is made, who receives that payment?

Viscount Younger of Leckie: The Government are clear that disabled students should receive support wherever and whatever they choose to study, so that they are able to study alongside their fellow students on an equal basis. They are paid in respect of the additional expenditure that a higher education student is obliged to incur because of their disability. I should say that they are not intended to cover disability-related expenditure that the student would incur even if they were not in higher education.

Lord Howarth of Newport (Lab): Without pre-empting the outcome of the Government's review, will the Minister at least agree in principle that it is desirable that there should be continuity of support for people with clearly diagnosed disabilities, and that there should be the minimum of impediments to disabled people taking part in study and in all other aspects of our national life?

Viscount Younger of Leckie: I partly agree with the noble Lord. As I said earlier, it is important that we give the correct form of support to those who are disabled. It is also up to the individual providers—the universities and colleges—to make the right decisions themselves as to how they can look after those who are disadvantaged and who have disabilities. There is evidence that this is happening, but more should be done.

Baroness Garden of Frognal (LD): My Lords, the Minister mentioned the additional expenses that disabled students often have. What is the Government's response to the disincentive of the £200 charge for any computer equipment that is imposed on any disabled student to get the technology that they need to assist them? What are the Government doing to help the students with that additional charge?

Viscount Younger of Leckie: The £200 student contribution towards the cost of a computer is something that all students get. I realise that some evidence and figures show a reduction in the cost. We are looking into that but we are adamant that all students, disabled or not, should receive the £200.

Lord Hunt of Kings Heath (Lab): My Lords, will the review look at the fact that prospective students have to pay a charge, often amounting to hundreds of pounds, for the second assessment? Given that many of the people we are talking about come from lower-income households, how is that consistent with the Government's approach to widening access? As I understand it, the review is not looking at the issue of charges. Will the Minister agree to extend it?

Viscount Younger of Leckie: We have made it clear that the review is not considering the issue of who should pay for such a diagnostic assessment. The reason for that is that we want to see the result of this review as to whether the diagnostic assessment should occur post 16 or before that.

The Lord Bishop of St Albans: My Lords, as I understand it, the Equality Act recognises learning disabilities and other forms of mental and physical disabilities in the same way. Yet until now, the Government's position has been to separate learning disabilities out into a different category. I welcome this review but can the Minister assure us that it will lay out the basis for that different treatment?

Viscount Younger of Leckie: I cannot confirm that the review will cover that but I have no doubt that the review panel will look at the different types of specific learning difficulties. The right reverend Prelate will know that there is a big spread between dyslexia, dyspraxia and attention deficit disorder. The panel will look at all these issues as part of this review, focusing particularly on the diagnostic assessment.

Lord Elton (Con): The noble Lord, Lord Addington, has put his finger on what appears to be a pretty simple, straightforward case. My noble friend's Answer reveals that the Government may have many further considerations before they are in a position to resolve this question. That being the case, will he talk to the usual channels and arrange for us to debate the result of the review when it comes to us?

Viscount Younger of Leckie: I am certainly happy to talk to the usual channels through my noble friend the Chief Whip, but would not like to promise anything. We await the results of this review in the spring and will make them apparent.

Grenfell Tower

Question

2.52 pm

Asked by ***Lord Goddard of Stockport***

To ask Her Majesty's Government what action they have taken to rebuild the lives of people affected by the Grenfell Tower fire.

The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, the Government are clear that our highest priority is to ensure that survivors receive the humanitarian support they need. This includes financial, practical and mental health support, as well as making sure that the survivors are provided with a permanent home on the same terms as before.

Lord Goddard of Stockport (LD): I thank the Minister for that reply. I must admit that this was not my question. It came from Conner Pollitt, a student at the Wellacre Academy in Urmston, Greater Manchester, which I visited under the Peers' outreach programme sponsored by the Lord Speaker. I recommend the programme to all Members as an excellent way in which to engage with students and young people, and explain what we do, and sometimes what the other place does. Will the Minister undertake to write to

[Lord Goddard of Stockport]
Conner Pollitt with a slightly fuller answer? If a 15 year-old boy, 200 miles away from London, who knows nobody at Grenfell Tower and nothing about those families, cares that much, an answer from the Government would be much appreciated by him. It would show that we in the House of Lords not only talk the talk but sometimes walk the walk.

Lord Bourne of Aberystwyth: My Lords, I thank the noble Lord very much indeed, both for his involvement in the Lord Speaker's schools outreach programme—which is very valuable and in which I know many Peers are involved—and through the noble Lord I thank Conner Pollitt very much for his interest. Obviously, the Grenfell disaster affected everyone in the country. It is of note that somebody who is that far away and has not visited London has shown that interest—along with the school, the Wellacre Academy. If the noble Lord would care to speak to me separately, perhaps we can organise a visit from Conner Pollitt to see the work of the House of Lords and of the department.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I refer the House to my relevant interests as outlined in the register. It is more than eight months since the fire at Grenfell Tower, and to say that the local authority has been slow off the mark is an understatement. The noble Lord told the House before Christmas that the local authority was completing the purchase of a number of properties for the victims who lost their homes in the fire. Has that process been completed and when does he expect all the families to be finally rehoused, which will be one major step towards rebuilding their lives?

Lord Bourne of Aberystwyth: My Lords, the noble Lord rightly raises the issue of the rehousing of the households affected by the fire in Grenfell Tower and Grenfell Walk. There are now 209 households, because some of the households split and we have honoured that: some wanted to become more than one household. Of those 209, 175 have now accepted offers of temporary or permanent accommodation and 123 of those have moved in. I think that means that 89 households have yet to be relocated. Progress, in short, is being made. It is sometimes slow, but we bear in mind that sometimes people will make a decision about a property, perhaps close to where the fire was, and then change their mind—there have been instances of that happening. We are now reaching the end game, as it were, and are putting pressure on the local authority to ensure that people are made aware of the choices available. There are enough properties, but not always in the right place—but work is going on and progress is being made.

Lord Bassam of Brighton (Lab): My Lords, the information I have suggests that only 60 of those households have been given permanent accommodation. What is the timetable for the rest of those households, who are in temporary accommodation? How long does the Minister think it will take for all those households to be given permanent, long-standing new homes?

Lord Bourne of Aberystwyth: My Lords, it is not quite as simple as the noble Lord makes it sound. Some of those in temporary accommodation will, after a period, elect to stay there permanently, once they have got the feel of the temporary accommodation and find they like it. That is happening a fair amount. The important thing is that progress is being made. The noble Lord is right that there are about 60 in permanent accommodation and about 60 in temporary accommodation, roughly speaking—but each week that goes by, more people are moving into permanent accommodation, more people are accepting offers and, as I said, we are approaching the end game. The important thing is that households should have the benefit of making a decision themselves about when is the appropriate time and where is the appropriate property.

Lord Stunell (LD): My Lords, there are 160 other high-rise blocks of social housing with this cladding, where residents—and tenants in particular—face a difficult choice. Either the cladding comes off and they face frost and damp or it stays on and they have the risk of fire. What is the timetable for issuing clear advice on what replacement cladding should be used? In the meantime, what support can the Government give to tenants and residents who face increased heating bills because of the taking off of that insulation?

Lord Bourne of Aberystwyth: My Lords, the most important thing, as the noble Lord will appreciate, is the safety of tenants and others in those buildings, and that is the Government's prime concern. Work is progressing on those blocks, as he identified, and also in the private sector—it is not just social housing and it is important that we press ahead in both areas. Safety is the watchword. If the noble Lord is aware of people who have particular problems with heating, I encourage him to tell them to get in touch with the local authority in the first instance to see what can be done.

Balkans: Euro-Atlantic Enlargement

Question

2.58 pm

Asked by ***Baroness Helic***

To ask Her Majesty's Government what is their assessment of the impact of the government of Russia's policy towards the Western Balkans on prospects for Euro-Atlantic enlargement in the Balkans.

Baroness Stedman-Scott (Con): The Government remain concerned about increased Russian interference in the western Balkans, seen most starkly in the Montenegro attempted coup plot. This behaviour by Russia is destabilising for the western Balkans and for European security. We support the Euro-Atlantic aspirations of all six western Balkan countries, a point that our Prime Minister made to the region's six Prime Ministers in London yesterday.

Baroness Helic (Con): I thank my noble friend for her Answer. There are credible reports of sustained Russian effort to prevent western Balkan countries from joining NATO and the EU. There has been the opening of the so-called humanitarian centre in Serbia and the providing of arms to Serbia, the attempted coup in Montenegro, the support for secessionists in the small entity of Republika Srpska, the deliberate stoking of ethnic tensions in Macedonia and recent reports of apparent support for the partition of Kosovo. What action will the Government take with our EU and US allies to ensure that these deliberate attempts to destabilise the region are rolled back?

Baroness Stedman-Scott: I thank my noble friend for her question, and obviously her experience in this region is to be noted. The Government remain committed to the security and stability of the western Balkans region. We uphold the commitments made in the Dayton peace agreement and in the United Nations Security Council. The priority for all the countries in the western Balkans, including Kosovo, is to make progress towards their respective Euro-Atlantic aspirations. The Government believe in particular that the region needs to do more to uphold the status of Bosnia, and to normalise relations between Serbia and Kosovo on the basis of recognition of independent sovereign nations within their current borders. We invite Russia to engage constructively on this agenda, as she has from time to time in the past, but we and our NATO and EU allies and partners are clear that we shall continue to resist and overcome current and future Russian attempts to destabilise the region.

Lord Ashdown of Norton-sub-Hamdon (LD): My Lords, the catalogue provided by the noble Baroness of Russian attempts to destabilise the western Balkans is both serious and dangerous. Instability is deepening in the western Balkans again, and there are many who should know better who are now calling again for a "Greater Serbia" and a "Greater Croatia". Do the Government agree that at this point it is essential and urgent that the European Union should now state explicitly—as, indeed, it has not yet provided an explicit statement—that it is not prepared to countenance any change of borders in the western Balkans because it sees this properly as an essential prelude to further bloodshed?

Baroness Stedman-Scott: I thank the noble Lord for his question. One thing I have worked out is that there are giants in certain subjects dotted around this place, and the noble Lord, Lord Ashdown, is one on this subject. The Government share his concerns and we remain actively engaged, and do not wish to see any changes to borders within the region.

Lord Howell of Guildford (Con): Does my noble friend have a date for the conference on the western Balkans that is to be called in London some time this summer?

Baroness Stedman-Scott: I understand that the conference will be in July.

Lord Collins of Highbury (Lab): The noble Baroness in her original Answer makes a very good point. There are aspirations in the western Balkans: there are aspirations to join the EU. Joining the EU has been the bulwark for defending liberal democracy, and certainly that is the view that the Government have held in the past. Is the Minister still of that view, and how does she tally that with the Foreign Secretary's view that somehow the EU represents a model against democracy?

Baroness Stedman-Scott: I thank the noble Lord for his question. The UK wants a strong, stable and prosperous neighbourhood. We remain of the view that the EU accession process is important to delivering security and prosperity in the western Balkans, and we will do all that we can to support that process.

Baroness Hodgson of Abinger (Con): My Lords, what assurance can my noble friend give us of the UK's commitment to the western Balkans?

Baroness Stedman-Scott: The Prime Minister has been very clear, in her Munich speech and in public statements, that this is a region in which the UK has played, and will continue to play, a leading role in promoting European prosperity, stability and security. Our commitment is demonstrated through action and engagement, and we have increased our funding this year to £27 million. I understand that this is to be further increased next year. We are also deepening our security, defence and operational engagement within the region, and we intend to focus in the summit, referred to by my noble friend Lord Howell, on three priority areas: first, to strengthen regional security; secondly, to increase economic stability; and thirdly, to foster political co-operation.

Lord Foulkes of Cumnock (Lab): Has the noble Baroness seen reports that the Russians used people in Macedonia who use social media—and did so during the EU referendum campaign—to support the leave campaign, because President Putin wanted the United Kingdom to leave the European Union to destabilise the West? Is that not an indication that we should stay in the European Union and strengthen the West?

Baroness Stedman-Scott: I thank the noble Lord, Lord Foulkes, for his question. I am aware of different cyber issues and of information being tampered with and used incorrectly. I do not wish to annoy or frustrate the House—OK, I will. As I understand it, we have made a decision to leave the European Union, and nothing Mr Putin can do is going to change that.

Baroness Ludford (LD): My Lords, the biggest challenges in the western Balkan countries are to the rule of law and anti-corruption. There are also worrying developments in EU countries. Is this not precisely the moment when the UK, with its strong—if not perfect—record on the rule of law, democracy and human rights ought to be contributing to the collective European effort to uphold the highest standards, rather than abandoning the field?

Baroness Stedman-Scott: It is my understanding that, even though we are on a journey to leave the European Union, on these sorts of matters there is nothing to stop us continuing to engage and play our part.

Viscount Waverley (CB): My Lords, not co-operating with the European Union cyber agency ENISA would be akin to failing to support the Prime Minister at the recent Munich security conference. Can we, therefore, take it as a given that there will be co-operation with ENISA?

Baroness Stedman-Scott: I believe that the answer to that question is yes. However, rather than giving the noble Viscount incorrect information, I hope he will give me the luxury of checking it with the officials and writing to him.

Lord Elton (Con): My Lords, may I offer a piece of advice, which I hope will be superfluous, to the Minister and her colleagues in the Foreign Office? They should read the history of the years preceding the First World War and the implementation of Russia's policy of pan-Slavism, which carried them into precisely the same territory. We do not want a replication of the consequences of that.

Baroness Stedman-Scott: I am very happy to pass on my noble friend's recommendation and suggest a reading list for my colleagues at the FCO. The more important point is that we do not want history repeated in that way.

Yarl's Wood: Hunger Strike

Private Notice Question

3.07 pm

Asked by ***Lord Paddick***

To ask Her Majesty's Government what steps they are taking to respond to the hunger strike at Yarl's Wood Immigration Removal Centre in Bedfordshire.

Lord Paddick (LD): My Lords, I beg leave to ask a Question of which I have given private notice.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the Government take detainee welfare extremely seriously. Any detainee who chooses to refuse food and fluid, for whatever reason, is closely monitored by on-site healthcare professionals. There are a number of established ways in which detainees can make representations on their individual case and about conditions of detention. Individuals are detained only for the purposes of removal from the UK.

Lord Paddick: My Lords, about 400 people are detained at Yarl's Wood detention centre, nearly all of them women. One Algerian woman came to this country at the age of 11 and has been here for 24 years. It was not until she applied for a passport that she was found to be undocumented and detained at Yarl's Wood. She has been there for three months so far. Does the Minister agree that one of the main reasons for the hunger strikes is that people are being detained unfairly, unreasonably and indefinitely? One woman has described it as like being kidnapped, not knowing when it will end or what will happen to her. The Minister will, of course, say that the Home Office detains people only for as short a period as possible, but at the end of 2017 one person had been in immigration detention for four and a half years. Does the Minister agree that it is time to introduce a 28-day limit on immigration detention, except in wholly exceptional circumstances?

Baroness Williams of Trafford: There may be a multitude of reasons for refusing food and fluid. As the noble Lord has pointed out, they may be in protest against their detention but there may also be dietary and religious reasons.

Noble Lords: Oh!

Baroness Williams of Trafford: It is true; it is not a simple issue. The noble Lord pointed out that detention was not indefinite for the case he outlined. In fact, the lady had been detained for three months. Every four months, a detainee is reassessed for immigration and bail. It is fair to say that 92% of people in detention do not stay there for more than four months. The notion that someone might be detained indefinitely simply is not there. The purpose of detention is removal; it is not to detain indefinitely.

Lord Kennedy of Southwark (Lab Co-op): My Lords, does the noble Baroness agree that rape is a form of torture and that victims of sexual abuse, including rape, are being held at Yarl's Wood, despite government policy stating that victims of torture must not be detained for immigration reasons? What action will the noble Baroness take to enforce the policy of her Government in this respect?

Baroness Williams of Trafford: The noble Lord is right about victims of sexual abuse being deemed vulnerable adults. Stephen Shaw made recommendations about the treatment of vulnerable adults in detention. As the noble Lord will know, we are working with NGOs on the definition of torture, because the courts challenged us on it, but we are alive to some of the vulnerable people who might be in detention for a number of reasons, including sexual abuse.

Lord Alton of Liverpool (CB): My Lords, after my noble friend Lord Hylton and I visited Yarl's Wood, we reported back to your Lordships' House that we had seen significant progress and improvements there. Does the noble Baroness not agree that there is a danger that that could be jeopardised for the reasons that the noble Lord, Lord Paddick, describes? There are some 400 people there now, some feeling a sense of real desperation. The shadow of fear hangs over them, such as the woman who came here as an 11 year-old girl and is now 35 years of age. After living in this country for 24 years, she has been taken to Yarl's Wood. Does the noble Baroness not agree that it is worth looking at specific cases, such as of those now on hunger strike? Can she tell the House any more

about the health and well-being of those currently on hunger strike and whether they have proper access to legal aid and representation?

Baroness Williams of Trafford: The noble Lord is right that individual cases should always be treated sensitively. If the noble Lord could outline an individual case for me, I will certainly take it back. The last thing we want for people in detention is for them to be refusing food and fluid. Legal representation is available to people. There are specific rules on how we should treat sensitively those with mental health problems, vulnerable adults and traumatised people in detention.

Baroness Lister of Burtersett (Lab): My Lords, the point about indefinite detention is not that the person is never released; it is that they do not know when they will be released. We know from the evidence given to Stephen Shaw, including from a psychologist, that this has a devastating impact on mental health. Will the Minister now ask Stephen Shaw, who is reviewing how his recommendations are working, to widen his brief to include whether indefinite detention should be ended, which is in line with what happens in other countries?

Baroness Williams of Trafford: As I said to the noble Lord, 92% of people in detention do not stay there for more than four months. I appreciate the noble Baroness's point about people with mental health issues in detention. In addition to the implementation of the *Adults at Risk in Immigration Detention* policy in September 2016, NHS England commissioned the Centre for Mental Health to carry out research to support the Mental Health Action Plan, which is part of the Government's commitment to review and improve the provision of mental health services in immigration removal centres and short-term holding facilities. We appreciate the stresses and strains that this can have on people's mental health. As the noble Baroness says, it follows one of the major recommendations of Stephen Shaw's *Review into the Welfare in Detention of Vulnerable Persons*. We have now invited Stephen Shaw to carry out a short review in the autumn to assess progress against the key recommendations for action in the previous review of the welfare of vulnerable people in detention. The work will be completed in the spring and its findings laid before the House.

The Lord Bishop of Salisbury: Can the Minister inform the House what percentage of those held in immigration detention centres are released back into the communities from which they came and what that tells us about the appropriateness of the numbers being detained in that way?

Baroness Williams of Trafford: In terms of releasing people back into the community, somebody would be in detention only for the purposes of removal, and immigration bail would be in line with a risk assessment done on that person. I do not know the exact percentages. I will see whether they are available and, if they are, I will write to the right reverend Prelate and put a copy in the Library.

Baroness Hamwee (LD): My Lords, does the Minister accept that the Government's policy on achieving pretty swift removal when someone should be removed and the operation of their guidance on adults at risk in immigration detention are not working? Surely one reason for the action taken by women in Yarl's Wood, which is the sort of response one might expect from people who feel unjustly imprisoned, is that detention should be detention and not imprisonment, which is how it is regarded. Will the Government not reconsider looking at the mechanisms used in the Scandinavian countries, where work is done successfully within the community to encourage people to leave when they have no right to be there, and applying a more humane and, frankly, more effective policy such as the ones we see in those countries?

Baroness Williams of Trafford: My Lords, I do not have concerns that the Government's policy is not working. The policy is most certainly that action to get people out of detention should be taken as quickly as reasonably possible, but a reason for someone remaining in detention for longer than they might have done is that they might themselves have launched further appeals against their removal. The reasons for detention are many and complex, but the purpose of detention is to enable swift removal.

Lord Green of Deddington (CB): My Lords, does the noble Baroness agree that we need a little balance on this subject? In particular, does she agree that the credibility of the immigration system depends on being able to remove people who no longer have a right to be in this country? Clearly there will be difficult cases and clearly they must be dealt with in the best possible way, but fundamentally we have to be able to remove people or the entire credibility of the system disappears.

Baroness Williams of Trafford: The noble Lord is absolutely right. The purpose of detention is necessary removal. I also take his point that, although we need to deal sensitively with people who may be traumatised or have mental health problems or other reasons for being vulnerable, the ultimate aim of the detention centre is removal.

City of London Corporation (Open Spaces) Bill

Third Reading

3.18 pm

Bill passed.

Mental Health

Statement

3.18 pm

Baroness Chisholm of Owlpen (Con): My Lords, with the leave of the House, I will repeat as a Statement the response to an Urgent Question given by my honourable friend the Parliamentary Under-Secretary of State for Mental Health and Inequalities in the other place. The Statement is as follows:

"The Government welcome the CQC's latest annual report, which it produced as part of its statutory duty to monitor how mental health providers exercise powers and discharge their duties when people are detained under the Mental Health Act.

[Baroness Chisholm of Owlpen]

We are committed to ensuring that the Mental Health Act works better for patients and their families, and that is why we have commissioned an independent review led by Professor Sir Simon Wessely, who will make recommendations in the autumn.

We are also investing more in mental health than ever before—spending an estimated record £11.6 billion this year. We have seen that the number of detentions under the Act has been rising year on year: it rose 2% last year and 9% the year before that. We also know that black people are disproportionately affected. These were both driving reasons for the Prime Minister's decision to call for a review of how the entire Act is operating.

This Government have already acted when they saw that the Act was not working properly. Last year we legislated to make it illegal to use police cells as places of safety for children under the Act, and to ensure that police officers consult health support staff before using their detention powers.

Sir Simon, his vice-chairs and the independent review's team are consulting actively and widely with service users and professionals and today are taking part in a major stakeholder event in Newcastle. Indeed, I welcome the fact that the CQC takes care in its report to state:

"We have confidence that the independent review's solutions-focused approach to identifying priorities, based on the feedback and experiences of people across the country, will offer a review of the MHA that has the confidence of patients and professionals".

The CQC is of course directly involved in the review. The CQC's report has found examples of good practice, but we recognise that more needs to be done to ensure that people's voices are heard and their rights respected. Where possible, we expect all patients to be involved in their care planning, and we expect that providers should consider how best to do this in light of the CQC's recommendations.

In the spring, the review will provide an interim report identifying priorities for its work. It will then develop a final report containing detailed recommendations on its priorities. The final report should be delivered by autumn 2018.

There are problems with the Act and we will address them. But we should remember that today, no one gets sent to an asylum only to disappear within its walls. There are regular reviews, clear rights of appeal, and checks to ensure that people are lawfully detained, only in order to get the treatment they need. But our society is changing the way we think about mental illness, and we do want to ensure that people have as much liberty and autonomy as is possible".

3.22 pm

Baroness Thornton (Lab): I thank the Minister for her Statement. I declare an interest as a lay member of a CCG.

I think we would all agree how disappointing the CQC's Mental Health Act report is, given that the CQC found that there has been limited—or no—improvement in key concerns which it raised in previous years, and given that the number of people detained under the Mental Health Act continues to rise. Added to that, last week's analysis by the Royal College of Psychiatrists found that mental health services have less money to spend than they did in 2012. That does not weigh with what the Minister was saying about the amount of money going into mental health services. How will the department address that failure? I accept that there is a review going on. That is very important and we support it. There could not be a better person to lead it than Sir Simon Wessely—there is no question about that. However, there seem to be some immediate problems, one of which is whether the money allocated to mental health services is actually spent on mental health services. What do the Government intend to do about that? Indeed, will the Government pledge to ring-fence mental health spending so that the money is not siphoned off to be used elsewhere in the system?

Baroness Chisholm of Owlpen: I thank the noble Baroness for her question, and indeed, some of the CQC report is disappointing. That is why it is so important that it is working with Sir Simon's review to feed its thoughts into the review. I know that he will take a terrific interest in what it says.

As to ring-fenced funding, there was an overall increase in spending of £11.6 billion, which was up 8.4% since 2014-15. NHS England has strengthened the mental health investment standard in its planning guidance. This means that as of 2018-19, every CCG will be required to increase its spend in excess of its overall increase in funding. Commissioners must be given the freedom to make decisions about the needs of their population. At the moment, we believe that the investment standard strikes the right balance in allowing that freedom while ensuring that crucial mental health services are properly funded. However, I believe, as the noble Baroness said, that the review will look into this. It is very important that the money going to the commissioners is spent on what it is meant to be spent on.

Baroness Tyler of Enfield (LD): My Lords, the consistent theme running through the findings of the CQC report is that patients are not being fully involved in decisions about their care. A particularly worrying concern was whether clinicians are recording evidence of their conversations with detained patients about their proposed treatment, particularly about whether the patient has consented, refused to consent or, indeed, is incapable of consent. In too many cases it is clear that this is simply not happening. Given that the ability to impose medication is unique to the Mental Health Act, could the Minister say what steps the Government will take to ensure that this is addressed as a matter of urgency? I do not think that this can wait for the review, good as I am sure it will be.

Baroness Chisholm of Owlpen: I thank the noble Baroness for her question. I think that we will have to wait for the review. An interim report will come out in the spring and then the final review will come out in autumn 2018. At the centre of that review will be the rights of the patient. It is very important that the patient is taken along by healthcare professionals in the process in terms of how they want to be treated. This will be one of the highlights of the review.

Viscount Waverley (CB): My Lords, what can be done to encourage those who do not wish to come to terms with the possibility of their situation to make it as painless a journey as possible to assessment and assistance?

Baroness Chisholm of Owlpen: That is always a very difficult problem; it is difficult for the carers and the loved ones of the person concerned, as well as for those who are involved. As the noble Viscount will know, it is hoped that a person seeking mental health help will be able to go to their GP and get the help that they need. If they are seriously ill, a different process can take place through which they can be put into a place of safety to be assessed and looked after in a greater way.

Baroness Massey of Darwen (Lab): My Lords, the Minister will know that many mental health problems arise at a young age—some 50% before the age of 14. The excellent Green Paper on child mental health is ambitious for change. However, only 7% of the overall mental health budget is spent on children, although children make up 20% of the population. How will the Government address that?

Baroness Chisholm of Owlpen: The noble Baroness is absolutely right: early intervention is essential. The Green Paper is very much welcome. Its proposals are supported by a commitment of more than £300 million of additional funding, and there will be a brand new workforce supporting schools to intervene early before specialist mental health services are needed. We are working with the Department for Education, incentivising each school to have a designated senior mental health lead, in addition to our current programme of rolling out mental health first aid training to every school across the country. We are currently consulting on the proposals and have received more than 1,000 responses. We are aware that the responses from specialist child and adolescent mental health services are a concern, so we will pilot a four-week waiting time in this area.

Baroness Finlay of Llandaff (CB): My Lords, I declare my interest as chair of the National Mental Capacity Forum. One difficulty for the police is that they are often called when someone is acutely disturbed, and they have to deal with the situation as it arises. In some police forces in Wales, particularly in Gwent, there has been an active programme to educate the police. Are there plans to involve the police at a national level in the review of the Mental Health Act? If not, they will end up being the front-line person who is called on to cope with an acutely distressing situation.

Baroness Chisholm of Owlpen: That is true. It is often unfair to ask the police to deal with such a situation. Police forces are now meant to have a liaison officer to take with them and that is working quite well. However, as the noble Baroness said, this will also be looked at in the review because, quite often, the police are the first ones called to go to someone's house, and it is important that they have with them someone who is trained and knows how to deal with the particular person.

Baroness D'Souza (CB): My Lords, can the Minister say how far the Government have taken into account some of the recent research looking into the earliest indicators of mental problems in children and, therefore, the ability to intervene early?

Baroness Chisholm of Owlpen: I thank the noble Baroness for the question. The issue of early intervention is part of the Green Paper and we are looking into it. As we know, there are children in primary schools who are suffering from mental health issues, so it is important that we have mental health first aid training in every school across the country. This will obviously take time because people need to be trained to deal with this particular situation.

Lord Patel of Bradford (Lab): My Lords, around 50,000 people a year are detained in mental health institutions and the rise in the past few years is worrying. It is not perfect to be detained under the Mental Health Act and to be locked away but at least there are some protections in the Act for such individuals. However, what about the tens of thousands of people who are de facto detained—that is, those who are locked in nursing and care homes and cannot leave—but who do not have the protections of the Mental Health Act because they are not detained? Will the review look at that issue?

Baroness Chisholm of Owlpen: Yes. I can say categorically that the review will look at that issue because it is important. As I said in the Statement, people do not go into asylums and are not locked away. There are no such things as asylums—I should not even use that word. People do not go into mental health institutions without being looked after and reassessed to find out what care they need. However, the issue will be looked at in the review.

Baroness Hollins (CB): My Lords, at the moment people can be detained under the Mental Health Act simply by virtue of having a learning disability with behavioural associations. A significant number of people are thus detained, and delayed discharges are notorious. I know the review will look at this issue—I have certainly discussed it with Sir Simon Wessely—but to what extent has the Transforming Care programme succeeded in speeding up the discharge of people who have been detained through the development of skilled and adequate community treatment and support?

Baroness Chisholm of Owlpen: I do not have the figures so I will have to get back to the noble Baroness. As she pointed out, however, the idea is that people should be discharged into the community. I will get back to her on the numbers.

Office for Students

Statement

3.33 pm

Viscount Younger of Leckie (Con): My Lords, with the leave of the House, I will now repeat as a Statement the response to an Urgent Question made in the other place by my honourable friend the Minister of State for Universities, Science, Research and Innovation. The Statement is as follows:

[Viscount Younger of Leckie]

"Mr Speaker, the Office for Students, which will be operational from April this year, is the biggest regulatory change to higher education in 30 years. It will run a new regulatory framework that will for the first time put the interests of students at the heart of higher education regulation. It will focus relentlessly on student choice and value for money and will ensure that the concerns of all students of higher education in England are heard in the corridors of power. It has a commensurate wide-ranging remit and powers to deliver for students.

It is ably lead by Sir Michael Barber, who has a long record of working for Labour and Conservative Administrations, including advising a Labour Prime Minister and Secretary of State. He has also been a Labour parliamentary candidate. Nicola Dandridge, the CEO, has a background in Universities UK and as an equalities lawyer. They are supported by a board of 12 further members with a wide range of talents and from different backgrounds, including senior leaders in higher education, graduate employers, legal and regulatory experts, as well as a student representative. I am particularly pleased that Chris Millward, the Director for Fair Access and Participation, sits on the OfS board, putting widening participation and fair access at the heart of the organisation. Toby Young would have been just one non-executive member of this board.

The board will put quality of teaching, student choice and value for money at the heart of what it does. The Commissioner for Public Appointments advised the department on 11 January, two days after my appointment, that he was looking into the appointments process for the OfS and the department provided him with the relevant paperwork. We are grateful to him for forwarding his report yesterday. His report recognises the good intentions of Ministers and officials, and that the advisory panel did judge candidates on a fair and impartial basis. That said, we note his findings and will carefully and seriously consider his recommendations. The commissioner raises important points about due diligence in public appointments. We have already accepted that in the case of Toby Young, due diligence fell short of what was required and the department has therefore already reviewed its due diligence processes and will seriously consider the further advice from the commissioner.

The commissioner has rightly observed that it was wrong not to have made a formal request to him regarding the approach the department took in appointing the student experience role, and therefore this was in breach of paragraph 3.3 of the governance code. We should also have clarified in the announcement that it was an interim position, although the candidate had been informed of this and all failing candidates in the process had also been informed that the appointment was an interim one. I understand that informal contact was made but I do accept this should have been formalised with the commissioner. Without this formal advice, and under pressure to make an appointment by 1 January, it meant that the announcement was not made in line with the commissioner's expectations. I can also confirm that in line with the commissioner's steer, we will shortly be launching a recruitment campaign for a permanent "student experience" representative and intend to appoint before the end of June this year. We are glad that the commissioner agrees that the incumbent in the interim role, Ruth Carlson, is free to apply. I would like to put on the record that she is doing an important job and extend my thanks to her for agreeing to accept the interim appointment.

There are lessons to be learned here and we will learn them. I will be writing to the commissioner shortly with an initial response to his findings and the next steps we will take with regard to his recommendations".

3.37 pm

Lord Hunt of Kings Heath (Lab): My Lords, I am grateful to the noble Lord, but I have to say that the response in no way measures up to the seriousness of the case and the commissioner's report. The Government only recently told the House that the process to appoint Mr Young was a fair and open competition in accordance with the code of practice, but the commissioner has found that this was not the case. Indeed, it is a damning indictment of the department and of the Minister responsible, Mr Jo Johnson. The department delayed responding to the commissioner, which held up the investigation. The appointments were not conducted in respect of all the candidates on an equal basis, and an all-male appointment panel was used twice. Moreover, can the Minister tell me why it was impossible for the department to check Mr Toby Young's past social media activity when it was quite easily able to check the social media activity of the candidate found suitable for appointment to the student experience representation role? Why was it not made clear in the advert that Ministers had decided not to appoint someone with close links to the National Union of Students? Will the Minister tell me why being elected by students somehow makes someone unsuitable to represent them?

The commissioner concludes that the code was broken. Can the Minister tell the House whether the Cabinet Secretary is now investigating that breach and other breaches raised by my noble friend Lady Prosser in a recent debate? Further, does the Minister believe that after this level of interference, we can possibly call the Office for Students an independent body? Finally, can the Minister tell me why Mr Jo Johnson, who was responsible for this debacle, has not resigned?

Viscount Younger of Leckie: My Lords, the noble Lord asked a number of questions and I will attempt to answer them. On the question about delay, we understand that this was the first formal investigation under the Government's code, and formal timelines had not yet been identified for such an investigation. This necessitated liaising with colleagues in the Cabinet Office who led on the Government's code. Much has been said about the failings in respect of the Toby Young appointment, as the noble Lord put it, and I informed the House of our views on that. As I promised, lessons are being learned and have been learned. The department has set up a nominations committee as a result of the issues that have arisen, so action is being taken within the department to ensure that these problems do not occur again. That action particularly focuses on the due diligence involved. I emphasise that the 40,000 to 50,000 tweets were obnoxious and salacious and must not occur again; the department must improve the due diligence. I assure the noble Lord that the

Office for Students is independent, but as he will of course know from the debates on the Higher Education and Research Bill, the ultimate responsibility lies with the Secretary of State.

Lord Storey (LD): My Lords, clearly, the Minister, who is an honourable person, is as annoyed and embarrassed as we are about this report, and I understand that. The Government have failed in every respect to follow their own governance code: they interfered in an appointments process that was not transparent, fair or open. To secure the appointment of Mr Young, the Minister invited him to apply; inadequate due diligence was undertaken in respect of a person infamous for his extreme views, and inaccurate press statements were issued that were not immediately corrected. The Government also took steps to ensure that other candidates for the student places were not appointed. The failure of the Government to follow their own code is a damning indictment and will do nothing to restore public confidence in the probity of such appointments. Will the Minister assure us that Ministers will not be inappropriately involved in future appointments and that the governance code will be followed to the letter?

The Minister mentioned the establishment of a nominations committee. Perhaps he can tell us its terms of reference and its membership. Mention was also made of social media. I understand that the DfE has already put into place changes in its approach to social media. Will the Minister go a bit further and talk some more about that? Finally, Mr Young is also the chief executive of the New Schools Network, and the work of supporting free schools—the raison d'etre of the New Schools Network—has been put out to tender. Bids are currently under consideration for this multi-million pound contract. Will the Minister assure us that the award of this contract will be properly managed and that correct procedures will be followed in every detail?

Viscount Younger of Leckie: First, in response to the noble Lord's comments about the Office for Students, I have made it clear that lessons needed to be learned. Altogether there were 14 appointments, and the process of due diligence normally went well for the other appointments. Let me make it clear, however, that we are learning lessons from the Toby Young appointment. It is important to get a bit of perspective on this. On the student appointment, we have said that lessons need to be learned about the Government's failure to make it clear that this was an interim appointment. I reassure the noble Lord that, for future appointments, with the lessons learned, this will not happen again. In putting some perspective on this, however, it is in order for Ministers to recommend names, but it is not in order for them to go further than that. They can recommend names, and then it is over to the panel to independently select suitable candidates. On the make-up of the nominations committee, it is led by a number of non-executive directors—three to be precise, but I will need to confirm that with him.

On social media, I feel that I have covered that already, notwithstanding the Urgent Question today. Lessons have been learned on undertaking due diligence in looking at the social media issues that arose over the Toby Young appointment.

As for the noble Lord's question about the New Schools Network, that is very much a matter for it. The New Schools Network is a small independent charity. I do not want to go further on that front.

Baroness Garden of Frognal (LD): My Lords, as the Minister said, the Office for Students is an influential and powerful body and should therefore have appropriate people on it. However, given the flaws that have emerged in the way the appointments were made, is it not time for the Government to look again at whether there should be representation from further education and the unions? He has addressed the matter of the student representative—which really needs to be sorted out; there is no great clarity on that—but those other representations would be useful for the Office for Students. Can I also press the Minister on the point raised by noble Lord, Lord Hunt: why was the interview panel an all-male panel?

Viscount Younger of Leckie: I think the noble Baroness and I have had an exchange on the make-up of the Office for Students before. It is important that the members of the panel represent a broad range of areas within the higher education sector, and indeed the further education sector. I reassure her that there are some representatives covering further education. However, I also reassure her that that issue will be borne in mind when further and final appointments are made.

Lord Rooker (Lab): My experience in six government departments over 12 years—true, it was at a low level, as a Minister of State—and in a non-ministerial department for four years subsequently was that the Civil Service was meticulous in ensuring that Ministers followed the rules. That was also my experience with a range of independent committees, Permanent Secretaries and chief executives. My question is—I have only read the press reports on this—what are the lessons to be learned? Will there be any changes to the Ministerial Code? It seems to me that the Ministerial Code should cover this, which it clearly does not, because we still have a Minister in post. The issue here is not the code for appointments, but that the Ministerial Code has clearly been breached, if not in the letter then certainly in the spirit.

Viscount Younger of Leckie: I think I have made it clear to the House—and I shall make it clear to the noble Lord—that lessons are being learned. We will respond to the views of the Commissioner for Public Appointments on this process. It may well be that we look at the Ministerial Code, but I cannot confirm that. We have already said that lessons need to be learned regarding the mistake that was made in not declaring that that this was an interim appointment for the student representative.

Space Industry Bill [HL]

Commons Amendments

3.48 pm

Motion on Amendments 1 to 5

Moved by ***Baroness Sugg***

That the House do agree with the Commons in their Amendments 1 to 5.

1: After Clause 10, insert the following new Clause—

"Grant of licences: assessments of environmental effects

(1) This section applies to—

(a) a spaceport licence;

(b) an operator licence authorising launches of spacecraft or carrier aircraft.

(2) The regulator may not grant an application for a licence to which this section applies unless the applicant has submitted an assessment of environmental effects.

(3) In this section "assessment of environmental effects"—

(a) in relation to a spaceport licence, means an assessment of the effects that launches of spacecraft or carrier aircraft from the spaceport in question, or from launches of spacecraft from carrier aircraft launched from the spaceport, are expected to have on the environment;

(b) in relation to an operator licence authorising launches of spacecraft or carrier aircraft, means an assessment of the effects that those launches are expected to have on the environment.

(4) If or to the extent that the regulator directs, the requirement imposed by subsection (2) to submit an assessment of environmental effects may be met by submitting—

(a) an equivalent assessment prepared previously in compliance with a requirement imposed by or under another enactment, or

(b) an assessment of environmental effects prepared in connection with a previous application.

The regulator may make a direction under this subsection only if satisfied that there has been no material change of circumstances since the previous assessment was prepared.

(5) The regulator must take into account the assessment of environmental effects (including any assessment submitted as mentioned in subsection (4)) in deciding—

(a) whether to grant a licence to which this section applies;

(b) what conditions should be attached to such a licence under section 12.

(6) The regulator must issue guidance about—

(a) the form, contents and level of detail of an assessment of environmental effects;

(b) the time for submitting an assessment of environmental effects;

(c) the circumstances in which the regulator will or may give a direction under subsection (4).

Guidance under paragraph (a) may specify matters that are to be dealt with in an assessment of environmental effects only if the regulator so requires in a particular case."

2: Clause 34, page 25, line 15, leave out "may" and insert "must"

3: Clause 34, page 25, line 22, after first "or" insert "duty under subsection"

4: Clause 34, page 25, line 26, after "may" insert "or must"

5: Clause 34, Page 25, line 29, after "or" insert "duty under subsection"

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Sugg) (Con): My Lords, these amendments cover issues debated during the passage of the Bill through both Houses.

I know noble Lords will agree that the Space Industry Bill is an important step to ensure that the UK space sector is at the forefront of a new commercial space age. It is important that our scientists, engineers and entrepreneurs are equipped to take advantage of this opportunity.

On Amendment 1, noble Lords may recall our useful debates on the requirement for environmental protection to be set out in the Bill. I thank the noble Lords, Lord Rosser and Lord McNally, and the noble Baroness, Lady Randerson, for their valuable contributions to this debate. These debates resulted in an additional licence condition being inserted into Schedule 1, enabling the regulator to require an assessment from an applicant of the impact noise and emissions are expected to have on the local community. Noble Lords did not consider that this amendment alone went far enough to afford the environmental protection to which spaceflight activities ought to be subject. On Report, I committed to the Government tabling a further amendment in the other place to address this. I am pleased to report that such an amendment has been inserted into the Bill by way of a new Clause 11. Amendment 1 places a mandatory requirement on an applicant for either a launch or a spaceport licence to submit an assessment of the environmental effects of their proposed activity. The regulator must take the assessment into account before a licence is granted. I hope noble Lords will agree that the amendment provides robust environmental protection in the Bill as requested.

I turn to Amendments 2 to 5, which also reflect a commitment I made on Report to ensure that the uninvolved general public have easy recourse to compensation if something goes wrong. This followed a helpful debate and I thank the noble Lord, Lord Tunnicliffe, for leading the way on this issue and the noble Lord, Lord McNally, for his support of it. As highlighted throughout the passage of the Bill, safety is our priority. The provisions are designed to ensure that spaceflight activity is as safe as possible and that risks to third parties are minimised. However, where injury or damage occurs, third parties should have easy recourse to compensation; this remains the case even when an operator's liability to third parties is capped. These amendments turn the discretionary power in what is now Clause 35(3) into a duty. This means that if an operator's liability is capped under Clause 35, the Government are required to pay compensation to the public for any claims for injury or damage above the capped amount.

I hope noble Lords will agree to support the Motion to approve these Commons amendments, which reflect commitments I made during our discussions on the Bill. I beg to move.

Baroness Randerson (LD): My Lords, very briefly, I am particularly pleased to see Amendment 1. The Minister gave those assurances during the debate and we tabled an amendment relating to the need to take environmental considerations into account. I recall saying at the time that one has to think of the impact on local people; just because it is exciting and being done in rural areas does not mean that we can ignore the impact on the environment. A great deal was made of the rurality of these space sites and it strikes me that the noise, road closures and impact of heavy vehicles will be of more concern in rural areas than

they would if it was being done in an urban area, which of course cannot be the case here. As with any building works in previously greenfield sites, there will be a huge impact and I am reassured that the Government have now taken this rather more appropriately into account.

Lord McNally (LD): My Lords, perhaps I may cover the other amendments to which the Minister referred. I welcome what the Government have done; she promised to do it and she has, and for that we are very grateful.

This gives me an opportunity to repair an omission from our earlier debates. These were much dominated by the prospect of the Moynihan international spaceport up at Prestwick—the noble Lord, Lord Moynihan, is not in his place at the moment—but I saw something a few days ago that took me back to my youth, if not to my childhood. It was the name Goonhilly hitting the headlines, with the fact that there is to be an £8.4 million investment by the Cornwall and Isles of Scilly local enterprise partnership to upgrade Goonhilly Downs. I can still hear "Telstar" in my head as I think of the way Goonhilly captured the imagination of the world many years ago. It is good to know that Cornwall Airport Newquay is also an active bidder for the idea of being one of these new spaceports.

The other factor to bring to mind is that the UK Space Agency says that the global market for space is expected to increase from £155 billion per year to £400 billion by 2030. Although sometimes during the debate in both Houses there was a feeling that these matters are a long way away, they are really just around the corner, and the activities of people such as Elon Musk are proving that to be so. That is why this amendment is so important. We have to give people the assurance that if they go into this exciting new industry, they will not be left with unlimited liabilities, and that public safety will be adequately covered. By her action, the Minister has made sure that the industry is investment-friendly, and that is all to the good.

Lord Tunnicliffe (Lab): My Lords, we raised the issues covered by these amendments in the Lords, and the Minister assured the House that changes would be brought forward in the other place to address those concerns. We are pleased the Government have delivered on those assurances and warmly welcome the amendments. During the passage of the Bill, I referred to early aviation legislation and its failure to envisage the growth of that industry or the impact it would have on our future. These amendments are vital to ensuring that we look not only at the needs of the industry but at the impact it will have on the environment and, importantly, surrounding communities.

When we began the Bill, there was not a huge amount of reference to the environment in it and—as the Minister no doubt finds it hard to forget—there was no mention at all of the word "noise". We have come a good way since then. The new clause ensures that the impact the project will have on the environment is put front and centre as part of the application process and will be duly taken into account by the regulator. We welcome this and put on record our hopes and expectations that this will be a rigorous part of the application process.

The amendments to Clause 34 will ensure that the uninvolved general public—those of us who are not planning to launch into space any time soon—are fully protected if a catastrophic incident occurs and causes damage. It is right and proper that the Government have afforded their citizens that protection. We thank the Government for listening and acting on our concerns.

Baroness Sugg: My Lords, first, I thank noble Lords for participating in this short debate and for their support for the amendments to the Bill. Indeed, this cross-party support has been clear during the passage of the Bill through your Lordships' House. As ever, the scrutiny and analysis of noble Lords has improved the Bill.

The Bill will deliver on the Government's ambition to take the UK into the commercial space age by enabling small satellite launch and suborbital spaceflight from UK spaceports, whether it be the Moynihan Prestwick one or the McNally Newquay one, as we might now call it. There is no shortage of ambition in the UK, with a number of potential spaceports and launch companies developing plans to offer UK launch services. The Bill provides the modern regulatory framework needed to enable this exciting and empowering opportunity for our thriving space sector, but also addresses the important concerns around the environment and communities. This will help ensure that the UK is one of the best places to start, grow and invest in space businesses.

Motion agreed.

Motion on Amendment 6

Moved by ***Baroness Sugg***

That the House do agree with the Commons in their Amendment 6.

6: Clause 71, Page 47, line 11, leave out subsection (2)

Baroness Sugg: My Lords, this amendment removes the privilege amendment and is a procedural technicality. I beg to move.

Motion agreed.

Laser Misuse (Vehicles) Bill [HL]

Report

3.59 pm

Clause 1: Offence of shining or directing a laser beam towards a vehicle

Amendment 1

Moved by ***Baroness Sugg***

1: Clause 1, page 1, line 3, leave out "on a journey" and insert "moving or ready to move"

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Sugg) (Con): My Lords, I rise to move Amendment 1 and speak to Amendment 3, which is grouped with it. Amendment 1 would replace "on a journey" with "moving or ready to move". At Second Reading and in Committee, the definition of "on a journey" was the topic of extensive discussion

[Baroness Sugg]
and I am grateful to the noble and gallant Lord, Lord Craig, and the noble Lords, Lord Trefgarne, Lord Balfe and Lord Rosser, who contributed to those discussions and made such helpful suggestions.

Our intention in the Bill has always been to capture when a vehicle is in motion and also when it is stationary but about to travel, as there is still a safety risk if the person in control were to be dazzled or distracted at this stage. This includes journeys of any length and journeys that begin and end in the same place, such as training flights. It also includes taxiing in the case of aircraft, as well as temporary stops, such as at a train stations, bus stops, traffic lights or when waiting to take off. To clarify this, the Government have laid the amendment to remove the references to "journey" and refer instead to when a vehicle is "moving or ready to move". This wording is wider than "journey" and removes the ambiguity of what actually constitutes a "journey".

To strengthen this further we have, in Amendment 3, defined that when a mechanically propelled vehicle's engine or motor is running, it should be treated as being ready to move. It is important that we include all safety-critical points, for example when an aircraft is at a stand, as this could have safety implications for persons on the ground in the immediate vicinity. The amendment does not change the policy intention of the Bill but does provide greater clarity, which I hope noble Lords will welcome. I beg to move.

Lord Berkeley (Lab): My Lords, the noble Baroness and the Government have made some good changes to the Bill, but I have one or two questions, which I am sure she will be able to answer. They relate to the definition of a "vehicle". The word "vehicle" appears in Clause 1(1)(a)—"on a journey", as the noble Baroness said—and subsection (2). She is then introducing—on page 2, line 9, through Amendment 3—"a mechanically propelled vehicle", which seems to substitute the wording of subsection (6), which includes an,

"aircraft, motor vehicle, pedal cycle, train, vessel, hovercraft or submarine".

I am glad she has got rid of some of those because that could be quite difficult.

However, she goes on to say in the interpretation—I know it is not in this group but I might as well mention it now—that Clause 7 defines an aircraft, but a "vehicle" also includes an aircraft. Presumably you can get done both ways, in either Clause 1 or Clause 2 or something. Perhaps she could explain whether these definitions include trains or bicycles, I just wonder whether a little bit of tidying up might be a good idea before the Bill reaches the statute book.

Lord Craig of Radley (CB): My Lords, noble Lords may recall that I moved some amendments to this important Bill, which of course has my full support. One of them dealt with the phrase "on a journey". As is evident from the amendment, and others in the noble Baroness's name, possible weaknesses in the original wording—that is, a risk of loopholes in the intended coverage of the Bill—have all now been addressed. I support the amendment and I am very grateful for the noble Baroness's receptive consideration of the points made in Committee.

Lord Tunnicliffe (Lab): My Lords, we, too, welcome these two amendments. Put simply, I agree with my noble friend about further tidying up. If the noble Baroness wants to come forward on Third Reading with any tidying up, we would be grateful for it—but we are very pleased that the spirit of the debate has been taken on board.

Baroness Sugg: On the point made by the noble Lord, Lord Berkeley, perhaps we could wait to discuss the definition of "vehicle" until the fourth group, as Amendment 5 refers to exactly that. The amendments in this group clarify what we intend the Bill to cover and ensure that all safety-critical points are included. On that basis, I beg to move.

Amendment 1 agreed.

Amendment 2

Moved by ***Lord Tunnicliffe***

2: Clause 1, page 1, line 5, leave out paragraph (b)

Lord Tunnicliffe: My Lords, while I am not going to get carried away and divide the House on this issue, I will press it just once more. In my view, Clause 1(1) and (2) in fact describes two crimes. Clause 1(1)(a) says,

"the person shines or directs a laser beam towards a vehicle which is on a journey",

which is great,

"and … the laser beam dazzles or distracts".

That is a straightforward crime because I have stopped before the word "or", so it is not a problem. Then there is a second offence, where,

"the person shines or directs a laser beam towards a vehicle which is on a journey, and … the laser beam … is likely to dazzle or distract … a person with control of the vehicle".

In my view, it will be incredibly difficult to prove this second crime of being likely to dazzle or distract. That is why I would like paragraph (b) deleted so that it would simply be a matter of proving that a person had shone or directed a laser beam towards a vehicle that was on a journey. That is my reason for pressing the amendment again.

Baroness Randerson (LD): The noble Lord has my support in wanting to push this issue a bit further. I recall raising in Committee the issue that it would be difficult to imagine why people would be walking around carrying a laser and pointing it at either objects on the road or planes in the air unless they were intent on doing some mischief.

It is also possible that people would find it very difficult, as the noble Lord has said, to prove the intent that is in the Government's proposed legislation. I understand where the Minister is coming from on this—the Government do not want to criminalise people simply for walking around with a laser pen in their pocket—although I go back to the point, which I believe I made at Second Reading, that we have a situation with knives where we all own them and use them on a daily basis but it is an offence to be carrying a knife in certain situations. So we have managed to sort out the law in such a way that it is possible to

distinguish between people who happen to have a knife in their rucksack because they were cutting up their apple for lunch and people who are carrying a knife with the intent to use it as a weapon. I say to the Government that it is probably worth while going back and looking again at applying that approach to the carrying of laser pens and lasers in general.

Lord Berkeley: My noble friend has made a very good point, as has the noble Baroness. It is a question of what evidence would be needed to secure a conviction for the intention to dazzle. It seems to me that, taking the noble Baroness's example of having a knife in one's pocket, evidence that a laser is switched on is not hard to find. Evidence of intent to dazzle is very difficult. I hope that she can give some examples of the type of evidence that would be likely to be accepted in order to secure a conviction. If she cannot do so after she has had time to consider the matter, it may be that my noble friend's amendment is the right one, and the paragraph should be thereby deleted.

Lord Hope of Craighead (CB): I used to prosecute some years ago. I take the noble Baroness's example regarding the carrying of knives. There was of course a real scourge of young people carrying knives in the street, but it would have been extremely difficult to secure convictions of people roaming the streets in Glasgow, where I prosecuted, on the basis of what was likely to happen. That is why the safer course was followed of defining knives of a particular size, those exceeding six inches or whatever it was. Anyone who was carrying one was guilty of a crime. There should be some way in which to achieve certainty. One has to remember that north and south of the border the standard of proof in criminal cases is high—proof beyond reasonable doubt. It is that aspect that makes the issue so difficult. If one was dealing with a civil test, the balance of probability, then likelihood would be fine. That comes up from time to time in various other situations, but it is the criminal standard of proof that makes the point important.

Baroness Sugg: My Lords, the noble Lord, Lord Tunnicliffe, and I have discussed this matter and I have written to him on the subject. I have also discussed this at length with colleagues in the Ministry of Justice, and I will attempt to set out the reasoning behind why we are resisting the amendment.

The Government believe that removing the requirement to dazzle or distract would widen the offence more than is appropriate, thereby criminalising behaviour that would not cause harm. It is government policy and part of the better regulation agenda not to criminalise behaviour unless it is absolutely necessary, which includes focusing any offence on the behaviour it seeks to address. Criminal law ought not to be more extensive in scope than is necessary to achieve its purpose. In creating criminal law, a balance has to be drawn between protecting society and individual rights, and an act generally should not be condemned as criminal where there is no risk of a harmful effect on the public or society.

The offence in this Bill has already been widened from the original contained in the Vehicle Technology and Aviation Bill because it now covers when pointing a laser at a vehicle is,

"likely to dazzle or distract".

This means that the prosecution will not necessarily need to prove that the laser dazzled or distracted if it presented a clear risk and potential to do so. Evidence of that could come either from the person whom the laser is attempting to dazzle or distract, or from eyewitnesses.

Furthermore, this will be a strict liability offence. Such an offence requires no proof of intention or knowledge of wrongdoing and therefore should be kept within appropriate bounds. There is no need to prove intent to harm, or to dazzle or distract. When the police try and prosecute more serious cases under the offence of endangering an aircraft, they are required to prove recklessness or negligence, which can make prosecutions difficult. Under the new offence, it will no longer be necessary to prove that the accused was reckless or negligent. It is therefore the Government's opinion that the offence as it is now drafted will make it easier to prosecute without going further and criminalising behaviour that does not present a risk to the public.

I hope that that explains the reasoning for resisting the amendment and satisfies the noble Lord. However, I have heard the arguments and would be interested as to whether he would like us to consider the matter further.

Lord Tunnicliffe: I thank the noble Baroness for setting out the arguments. As a non-lawyer, I remain underwhelmed and hope that she will look at this debate and once again consider coming back at Third Reading with some change to allay the fears that have been expressed in the debate. However, it would not be appropriate to press the matter further at this time, and I beg leave to withdraw the amendment.

Amendment 2 withdrawn.

Amendment 3

Moved by ***Baroness Sugg***

3: Clause 1, page 2, line 9, leave out subsections (6) and (7) and insert—

"( ) A mechanically propelled vehicle which is not moving or ready to move but whose engine or motor is running is to be treated for the purposes of subsection (1)(a) as ready to move."

Amendment 3 agreed.

4.15 pm

Amendment 4

Moved by ***Lord Craig of Radley***

4: Clause 1, page 2, line 14, leave out from "any" to end of line 15 and insert "person on the aircraft who is engaged in controlling it, or in monitoring the controlling of it."

Lord Craig of Radley: My Lords, as I mentioned, this, like previous amendments that I tabled in Committee, aims to plug any possible legal loopholes in the Bill. This amendment improves on my attempt in Committee. It is vital that both the pilot of an aircraft and other flight deck or crew members whose contribution to the control responsibilities of the pilot are critical to the safe operation of that aircraft are fully covered in the Bill. This form of words achieves that additional coverage. I am grateful for the discussion I had with the noble Baroness and for her Bill team's helpful guidance on precise wording, so I look forward to her agreement to the amendment, which I beg to move.

Baroness Randerson: I certainly support the principle behind the amendment, but I am aware that the Government are keen to keep the Bill as simple as possible, and I hope that the Minister will be able to persuade us that it is already covered in other ways. It is essential that co-pilots are also covered. Attempts have been made in government amendments to broaden the Bill—for example, to include towers at airports. That is welcome, but it is important that we ensure that the co-pilot—the person sitting alongside the pilot—is covered, because if the pilot is dazzled, undoubtedly anyone sitting next to them will be as well.

Lord Tunnicliffe: My Lords, we support the amendment and hope the Minister will consider it. First, I can see no harm in it and no perversity that might come out of it. It is always dangerous in high-tech industries to be too constraining in one's language. For all we know, the illustrious title of pilot, which both the noble and gallant Lord, Lord Craig, and I enjoyed at one point in our lives, may fade away as the operation of aircraft becomes more automated. This catch-all amendment would improve the Bill just that little bit.

Baroness Sugg: I am very grateful to the noble and gallant Lord, Lord Craig, for tabling the amendment. As I said, it has always been our intention to cover all persons in control of a vehicle, and it is of course important to include all members of the flight crew who are in control of the aircraft or have a safety-critical role in monitoring its control. I hope that my acceptance of the amendment reassures the noble Baroness, Lady Randerson, that a co-pilot will indeed be covered. I reiterate my thanks to the noble and gallant Lord for lending his expertise to this and other areas of the Bill. I fully agree that the amendment strengthens the legislation, and the Government support it.

Amendment 4 agreed.

Amendment 5

Moved by ***Baroness Sugg***

5: Clause 1, page 2, line 19, leave out subsection (10)

Baroness Sugg: My Lords, in moving Amendment 5, I shall speak to Amendments 7 to 12, which are grouped with it. Amendments 5 and 7 relate to which vehicles are covered by the offence. During earlier stages of the Bill, it was highlighted that, although the Bill in its current form lists most type of vehicle, including submarines, the list is not comprehensive. We have therefore taken a more complete approach through the amendments. We are removing the list of vehicles covered and have provided a broad definition to cover all vehicles. Amendment 7 defines a vehicle as,

"any vehicle which is used for travel by land, water or air".

Therefore trains, and indeed submarines, will be covered.

Inserting this broader definition simplifies the Bill and removes any ambiguity about which vehicles are included in the offence and which are not. It sends a clear message to the public that it is unacceptable to shine a laser towards any vehicle. Furthermore, I am pleased to confirm to the noble and gallant Lord, Lord Craig, following his contribution to previous stages of the Bill, that this broad definition means that horse-drawn vehicles are now also covered by the offence.

In making this change, some types of vehicles now considered devolved in Scotland are now captured by the Bill, and I am grateful to the Scottish Government for agreeing to bring forward a Legislative Consent Motion in the Scottish Parliament to cover those aspects. This definition of a vehicle will be contained in a new interpretation clause. The clause will include other definitions that were part of the Bill as introduced, such as aircraft and vessel. I hope that clarifies things somewhat for the noble Lord, Lord Berkeley. The definitions of aircraft and vessel relate to subsections (8) and (9) on who is in control of the vehicle, so they do not change the definition of a vehicle for the purposes of the offence.

Amendment 7 also introduces the definition of the term "laser beam" as,

"a beam of coherent light produced by a device of any kind'.

The amendment addresses concerns from noble Lords during earlier stages of the Bill over potential loopholes. The definition includes laser guns and pulse and burst lasers, which emit laser beams of short duration. We have drafted this in consultation with a range of experts in this field at University College London and Newcastle University, as well as the Department for Transport's chief scientific adviser, and I am grateful to them for lending us their expertise on this matter. These experts agree that this definition uniquely identifies the concept of a laser beam and leaves no room for ambiguity. I hope noble Lords will be content with this amendment.

The other amendments in this group are technical amendments required to reflect the other amendments we have tabled. They relate to commencement and bring the Bill into line with normal practice on commencing technical provisions. The Long Title of the Bill, which we discussed earlier, has also been changed to reflect the amendments tabled. The previous Long Title comprehensively stated the content of the Bill, so the words "for connected purposes" were not included. As we are proposing that the Bill now includes an offence of shining a laser beam at a person providing air traffic services, which we will come to, that is no longer the case, so the words "for connected purposes" have been added. I beg to move.

Lord Craig of Radley: I very much welcome this approach, and the tidying up of the original interpretations in Clause 1(10). It has sensibly removed references to submarines and pedal cycles, neither of whose operators seem particularly at great risk from a laser beam. It will cover the coachmen of horse-drawn vehicles, which provoked some examples of misinformed or imprecise reporting following the Committee stage. I wish to record that for horse-drawn vehicles, as for all other types of vehicle, the person responsible for controlling the vehicle—in this case, the coachman—is who I had in mind. I am grateful to the noble Baroness for her positive consideration in arranging for these improvements to the Bill.

Lord Berkeley: I am grateful to the Minister for that explanation. I just want to clarify something I said earlier, because if I do not, the lawyers will start nitpicking at vast expense. Presumably "vehicle" in Amendment 7 includes trains—I think it should. Does it include bicycles, and people on bicycles? The controller of the vehicle is the person at whom the laser may be directed. Then we have things called segways, scooters and single-wheel segways. If they are all vehicles, that is fine by me, but I hope people will not start nitpicking and say, "Well, it's not this, it's the other". I hope the definition is comprehensive.

Baroness Randerson: My Lords, I am grateful to the Minister for her amendments. They demonstrate that she has approached this Bill with very much an open mind. Because of the Bill's technical nature, some experts in the House were able to add some very useful amendments, the noble and gallant Lord, Lord Craig, being an example. But it perhaps gives us pause for thought that the Bill, which has been pretty narrowly drafted—fortunately the noble Baroness has tabled amendments to broaden it significantly—still needed quite a lot of amendment. Although this is an issue that the Government have been considering for many months, there were still technical issues that needed to be addressed. That does not suggest that the proposals had been consulted on sufficiently. However, in relation to the Minister's approach, I am very grateful to her for her assistance.

Lord Tunnicliffe: My Lords, we have examined this group of amendments and believe they have significantly improved the Bill. I thank the Minister for bringing them forward.

Baroness Sugg: I thank all noble Lords for their contributions on this group. All the vehicles mentioned by the noble Lord, Lord Berkeley, would be covered under the definition of a vehicle as,

"any vehicle which is used for travel by land, water or air".

We have brought forward this amendment so that the definition does cover things comprehensively, not just a limited list.

As the noble Baroness, Lady Randerson, said, the Bill has changed during its progress through the House. It is an excellent example of the improvement that this House can bring to a Bill. I thank all noble Lords for their contributions to that improvement.

Amendment 5 agreed.

Amendment 6

Moved by ***Baroness Sugg***

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

"Offences relating to air traffic services

(1) A person commits an offence if—

(a) the person shines or directs a laser beam—

(i) towards an air traffic facility, or

(ii) towards a person providing air traffic services, and

(b) the laser beam dazzles or distracts, or is likely to dazzle or distract, a person providing air traffic services.

(2) It is a defence to show—

(a) that the person had a reasonable excuse for shining or directing the laser beam towards the facility or person, or

(b) that the person—

(i) did not intend to shine or direct the laser beam towards the facility or person, and

(ii) exercised all due diligence and took all reasonable precautions to avoid doing so.

(3) A person is taken to have shown a fact mentioned in subsection (2) if—

(a) sufficient evidence is adduced to raise an issue with respect to it, and

(b) the contrary is not proved beyond reasonable doubt.

(4) A person who commits an offence under this section is liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months, to a fine or to both;

(b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both;

(c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both;

(d) on conviction on indictment, to imprisonment for a term not exceeding five years, to a fine or to both.

(5) In relation to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003, the reference in subsection (4)(a) to 12 months is to be read as a reference to six months.

(6) In this section—

"air traffic facility" means any building, structure, vehicle or other place from which air traffic services are provided;

"air traffic services" has the meaning given by section 98(1) of the Transport Act 2000."

Baroness Sugg: My Lords, Amendment 6 creates a new offence of shining or directing a laser towards air traffic control which dazzles or distracts, or is likely to dazzle or distract, a person providing air traffic services. The inclusion of air traffic control in the Bill has seen cross-party support, including from the noble Lords, Lord Tunnicliffe and Lord Monks, and the noble Baroness, Lady Randerson, who tabled amendments on this subject in Committee. We have listened to these concerns.

[Baroness Sugg]

Air traffic control personnel have an important responsibility in controlling and monitoring the movement of aircraft. I agree that a laser attack on a person carrying out these duties presents clear safety concerns and could endanger aircraft. The Bill was originally drafted to deal with the safety risks faced when a laser distracts or dazzles the person in control of a vehicle, but including air traffic control fits with the underlying principle of the Bill and goes further to protect the travelling public.

Before tabling this amendment, we consulted a range of stakeholders including BALPA, NATS and the UK Laser Working Group. They are all supportive of this new clause. We are treating shining a laser beam at air traffic control in the same way as shining a laser beam towards vehicles, with the same defences and punishments. There is a clear case for this amendment in the interest of public safety, and I am grateful to noble Lords for highlighting this and so improving the Bill. I beg to move.

Lord Tunnicliffe: We welcome this amendment. We moved into interesting territory in Committee and, sadly, the Government may come back at some point to address the whole issue of the laser as a weapon. However, they have chosen the right point in that progression and we support the amendment.

Lord Balfe (Con): My Lords, I draw attention to my entry in the register. The Bill is a good example of a common endeavour in this House. Because they are passionate about aviation safety, all sides of the House wish to have a successful Bill. I thank the Minister for listening to all the groups that have responded, particularly BALPA, of which I serve as vice-president. We are extremely grateful to the Minister for the efficient and open way in which she has handled this matter. I place that on record as we come to the end of this stage.

Baroness Sugg: My Lords, I welcome the support for the creation of this new offence, which strengthens the Bill. I am grateful to noble Lords for their contributions in favour of the proposal. Thanks to this, and the other improvements suggested by noble Lords and discussed today, the Bill leaves your Lordships' House as a better piece of legislation than it was when it arrived.

Amendment 6 agreed.

Amendment 7

Moved by ***Baroness Sugg***

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

"Interpretation

In this Act—

"aircraft" means any vehicle used for travel by air;

"laser beam" means a beam of coherent light produced by a device of any kind;

"vehicle" means any vehicle which is used for travel by land, water or air;

"vessel" has the meaning given by section 255(1) of the Merchant Shipping Act 1995."

Amendment 7 agreed.

Clause 2: Extent, commencement and short title

Amendments 8 to 11

Moved by ***Baroness Sugg***

8: Clause 2, page 2, line 33, at end insert—

"( ) This section and section (Interpretation) come into force on the day on which this Act is passed."

9: Clause 2, page 2, line 34, leave out "This Act" and insert "Section 1"

10: Clause 2, page 2, line 37, leave out "This Act" and insert "Section 1"

11: Clause 2, page 2, line 42, at end insert—

"( ) Section (Offences relating to air traffic services) comes into force at the end of the period of two months beginning with the day on which this Act is passed."

Amendments 8 to 11 agreed.

In the Title

Amendment 12

Moved by ***Baroness Sugg***

12: In the Title, line 1, leave out from "creating" to end of line 2 and insert "new offences of shining or directing a laser beam towards a vehicle or air traffic facility; and for connected purposes"

Amendment 12 agreed.

Transparency of Donations and Loans etc. (Northern Ireland Political Parties) Order 2018

Motion to Approve

4.29 pm

Moved by ***Lord Duncan of Springbank***

That the draft Order laid before the House on 23 November 2017 be approved.

The Parliamentary Under-Secretary of State, Northern Ireland Office and Scotland Office (Lord Duncan of Springbank) (Con): My Lords, this statutory instrument, the Transparency of Donations and Loans etc. (Northern Ireland Political Parties) Order 2018, will provide for the full publication of donations and loans received by Northern Ireland political parties and other regulated donees or participants on or after 1 July 2017.

The current regulatory framework already provides for information on political donations and loans to Northern Ireland recipients above relevant thresholds to be reported to the Electoral Commission. However, the commission is forbidden by law from publishing or revealing this information to anyone, other than in very limited circumstances. This contrasts with the position in the rest of the United Kingdom, where information on donations and loans to political parties is published quarterly.

Party funding regulations were introduced across the United Kingdom by the Political Parties, Elections and Referendums Act 2000. However, these arrangements

did not apply to Northern Ireland at the outset due to concern about the risk of intimidation of donors, which remained a major concern at the time. The Northern Ireland (Miscellaneous Provisions) Act 2006 provided for the 2000 Act requirement to report donations to the Electoral Commission to extend to Northern Ireland, but with provisions in place to prohibit their publication. The Electoral Administration Act 2006 made UK-wide provision for the reporting and publication of loans to political parties, similar to that already in place for donations. The Electoral Administration Act 2006 (Regulation of Loans etc. Northern Ireland) Order 2008 extended the 2006 Act provisions to Northern Ireland—but again with modifications to prohibit publication of details relating to loans for political purposes.

The donations and loans confidentiality provisions were always considered to be temporary, and public support for transparency has remained strong and consistent throughout the period that the provisions have been in force—and this Government have consistently made clear their desire to increase the transparency of Northern Ireland political loans and donations.

In January 2017, the then Secretary of State for Northern Ireland wrote to the Northern Ireland political parties to seek their views on moving to full transparency. For the first time—I stress—all parties that responded agreed that the time was right to introduce transparency to Northern Ireland. The Secretary of State also asked the Northern Ireland parties for views on a date from which transparency should take effect. Of the parties that responded at the time, the Alliance Party was alone in suggesting that publication should be backdated.

The issue was further discussed as part of the political talks that followed the Assembly election in March 2017. Again there was consensus that transparency should be introduced, and again only the Alliance Party suggested that publication of donations and loans should be backdated. The Secretary of State subsequently announced that the Government would bring forward secondary legislation to introduce transparency, and I am pleased to bring this important legislation before noble Lords today.

In light of the responses received from the political parties in Northern Ireland on the date from which transparency should take effect, and to ensure consistency with the Electoral Commission's quarterly reporting schedule, the order will provide for the publication of details relating to all donations and loans received on or after 1 July 2017. I am aware there has been some criticism of the fact that the order does not provide for backdating of transparency to January 2014. However, the important point to note here is that when the decision was made, it was made on the basis of broad support among the Northern Ireland political parties. With the exception of the Alliance Party, the parties did not suggest backdating. Indeed, the opposition spokesperson on Northern Ireland in the other place was quoted as actively welcoming the decision not to backdate transparency to 2014 as the best decision because it had the support of the majority of the Northern Ireland parties.

In addition, much has been made of the position of the Electoral Commission. I hope that all noble Lords have had an opportunity to see the latest briefing note issued by the commission last week. The briefing made it clear that the commission fully supports this piece of legislation. It recommended that the Government bring forward a second, additional order that would see the provisions backdated to 2014—but again I stress that the commission continues to press for this order to be brought into force and implemented as soon as possible.

Although the primary objective of the order is to provide for publication of donations and loans from 1 July 2017 onwards, it also contains provisions to address a range of related issues, particularly in relation to the operation of the Political Parties, Elections and Referendums Act 2000. It may be useful if I now summarise these technical provisions.

Noble Lords will wish to be aware that the Northern Ireland (Miscellaneous Provisions) Act 2014 does not permit provision to be made in this or any other order allowing for information on donations or loans made or entered into before 1 January 2014 to be published. The Political Parties, Elections and Referendums Act 2000 provides for details of donations and loans received over the calendar year by a recipient from the same source to be published when their aggregated total exceeds the reporting threshold. Articles 2 and 3 of the order therefore provide for the publication of details about a donation or loan received before 1 July 2017 if it is aggregated with a donation or loan received on or after 1 July 2017, provided it is within the same reporting year.

Loans, unlike donations, may not be one-off events, and changes to a loan may be made over time. Certain changes to a loan, such as a change in the value or rate of a loan, a change of the repayment term, a change to the parties to a loan or the loan coming to an end, must be reported to the Electoral Commission. Article 3 provides for reportable changes taking effect on or after 1 July 2017 to be published if the loan was entered into on or after 1 January 2014. The effect will be that a change to such a loan which takes effect on or after 1 July 2017 will result in the publication of all details relating to that loan, including from the pre-1 July 2017 period. However, the order provides that such publication will not take place if the change to the loan is simply the repayment of the whole of the debt, or all of the remaining debt under the loan.

The prohibition on commission officials disclosing information relating to Northern Ireland political donations and loans is supported by a criminal offence. This will remain the case in relation to information about donations and loans unless that information is permitted to be disclosed by this order.

Articles 2 and 3 also provide that the commission will not act contrary to the prohibition on disclosure if commission officials publish information relating to a donation or loan received after 1 January 2014 and before 1 July 2017 if the relevant donation or transaction report does not state that the donation or loan was received before 1 July 2017 and commission officials believed that the donation or loan was received on or after 1 July 2017 and were reasonably entitled to hold that belief.

Your Lordships may be aware that the Political Parties, Elections and Referendums Act 2000 permits

[Lord Duncan of Springbank]
donations and loans from certain Irish citizens and bodies to Northern Ireland recipients. In such cases, additional information must be provided to the Electoral Commission in respect of these donors in order for them to confirm their identity. This includes passports and statements of naturalisation. It would clearly be inappropriate for the commission to publish sensitive personal information such as passport and naturalisation documentation, so Article 5 provides that such sensitive personal information will not be published by the commission. However, I can assure the House that all other information, such as names and addresses, relating to Irish donations and loans received from 1 July onwards will be published in the normal way.

Articles 6, 7, 8 and 9 of the order require political parties and regulated donees or participants to provide the dates on which donations or loans are received, particularly those received before 1 July 2017. This will minimise the risk of pre-1 July 2017 donations and loans being published in error.

Articles 10 and 11 ensure that the current verification steps undertaken by the commission to verify Northern Ireland donations and loans will continue to apply to Northern Ireland donations and loans received on or after 1 July 2017.

The Political Parties, Elections and Referendums Act 2000 provides for reports to the commission to be submitted and published at different times, depending on whether the recipient is a political party or a regulated donee or participant. Article 12 provides that the first publication of regulated donee information can take place only at the same time or after political party information has been published.

I hope that this brief summary of the provisions of the order has been helpful and not too confusing.

The Electoral Commission will have responsibility for implementing the arrangements set out in the order. Your Lordships will want to be assured that the Government have fulfilled their statutory obligation to consult the commission in respect of the order, and I would like to place on record my thanks to the commission for its close co-operation and constructive input into the drafting process. Once again I emphasise that the Electoral Commission has made it perfectly clear in its public statements that it fully supports the order and is keen to see it in force as soon as possible.

In summary, there remains widespread support for full transparency among the people of Northern Ireland. There has been a welcome recognition by the political parties of the importance of transparency to the broader political process, and the Electoral Commission has placed on record its support for this order. While there is much work to be done in re-establishing the Executive in Northern Ireland, I hope that this order will help strengthen confidence in and support for the democratic process of Northern Ireland more generally. I hope that noble Lords will support the order. I commend it to the House and I beg to move.

Amendment to the Motion

Moved by ***Baroness Suttie***

At end insert "but this House regrets that the draft Order does not provide for transparency of political donations in Northern Ireland dating back to 1 January 2014 as provided for in the Northern Ireland (Miscellaneous Provisions) Act 2014, thereby preventing proper scrutiny of donations to political parties in Northern Ireland during the European Union referendum campaign."

Baroness Suttie (LD): My Lords, I would like to thank the Minister for that very detailed and at times complex explanation. I would like to make it clear that we welcome this order as a first and long overdue step towards greater transparency of donations and loans given to political parties in Northern Ireland. As the Minister has said, subject to the order coming into force, for the first time the Electoral Commission will be allowed to publish information about loans and donations given to Northern Ireland political parties dating back to July 2017. This step towards bringing Northern Ireland in line with the transparency provisions in the rest of the United Kingdom is to be welcomed. However, it is deeply to be regretted that the order is not backdated to 2014, as the Northern Ireland (Miscellaneous Provisions) Act 2014 allowed. That is why we have tabled this amendment today.

The 2014 Act anticipated that the names of donors to political parties in Northern Ireland could be made public dating from January 2014. We have to ask two fundamental questions. Why has it taken so long to bring forward these proposals? Why have the Government chosen to backdate them to July 2017, rather than January 2014?

I should pay tribute at this point to the former MP for Belfast East, Naomi Long, now leader of the Alliance Party, for her tireless work in campaigning for greater transparency of political funding in Northern Ireland. It was her amendment to the 2014 Act that has allowed full transparency dating back to January 2014. It is also worth noting that in response to the tabling of this order, the Electoral Commission, in its letter of last December to the then Secretary of State for Northern Ireland, James Brokenshire, recommended that another order be brought forward to allow for full transparency dating back to January 2014, as the 2014 Act had anticipated. The Electoral Commission is already in possession of all of the relevant data to allow this.

That this order has not been backdated to 2014 is clearly of particular importance. During the three-year period in question—January 2014 to July 2017— there have been two general elections and the EU referendum campaign. It is also important because it has since come to light that a very significant donation of £425,000 was given to one political party in Northern Ireland during that referendum campaign, and it has been said that much of that donation was spent elsewhere in the United Kingdom during the campaign.

Public confidence in political parties and political campaigns is worryingly low, at a time when there are accusations of foreign interference in elections throughout

the world and of dirty money in politics. Transparency is therefore more vital than ever in providing voters with trust in the democratic process.

When the Political Parties, Elections and Referendums Act was introduced in 2000, there was general acceptance that Northern Ireland should be exempted because of genuine concerns about the security and safety of individuals and potential risks to the safety of donors if their names were put in the public domain. But the 2014 Act provided for Northern Ireland to be brought more in line with the provisions for the rest of the United Kingdom, subject to the laying of the order before us today. The provision ensured that, at a point determined by the Secretary of State, any donation of more than £7,500 from a single source to a political party could be subject to publication from January 2014. It has therefore been clear to political parties in Northern Ireland since that Act that donations made after 2014 could be made public. The Electoral Commission also made this very clear in its letter to the Secretary of State for Northern Ireland in December last year.

4.45 pm

Some have said that political donations were given during this period on the continued assumption of anonymity. But to make such a claim is simply not in line with the facts. Since the 2014 Act, it has been very clear that any political donation given since January 2014 could at some stage become public. Indeed, as the Minister has already said, it is explicit in the 2014 Act that the identity of a person who donated before 1 January 2014 cannot be disclosed as they were donating under a different system with the expectation of privacy.

The Alliance Party has been consistent in stating that it believes that the transparency of donations should be backdated to 2014. As the Minister outlined in his opening remarks, it was the only party opposed to commencing these provisions in July 2017 during the consultation last year. The other political parties in Northern Ireland accepted the date of 1 July 2017 but as I understand it, when they were consulted they were unaware of the £425,000 donation to one political party during the EU referendum campaign.

When this order was debated on 19 December last year in the Delegated Legislation Committee in the other place, both the Labour Party and the SNP voted against it on the basis that it was not backdated to 2014. Today, we are not talking about rejecting this order. As I have already said, it is a welcome, if belated, step in the right direction. This is unquestionably a delicate time in Northern Irish politics and a time when steps forward, however small, are to be welcomed.

In conclusion, I would like to ask the Minister to explain why the date of 2017 was chosen and not 2014. It would be very helpful to hear whether the Government, as well as civil society organisations in Northern Ireland, intend to follow the advice of the Electoral Commission on this matter by bringing forward a further order in the near future to backdate these provisions to 2014. If so, when? This would allow proper transparency of donations given during the period 2014-17, including in particular any donations made during the EU referendum campaign.

These are not just Northern Ireland issues but key issues of public interest concerning the donations given in the period 2014-17. They are central to the Brexit referendum campaign and how it was funded, and key issues of transparency and trust in our electoral process. I beg to move.

Lord Tyler (LD): My Lords, I am pleased to support the amendment to the Motion in the name of my noble friend Lady Suttie. However, before I give my detailed reasons for so doing, I want to touch on the role and responsibilities of your Lordships' House in matters of this sort.

Last night, in concluding the debate on an amendment relating to Europe's foreign and security policy, my noble friend Lord Wallace of Saltaire made a number of references to the present Foreign Secretary. This was especially relevant, since there had been some very instructive comparisons to previous Conservative Foreign Secretaries, including the noble Lord, Lord Carrington, and Douglas Hurd and Geoffrey Howe, as they then were. There was an especially trenchant speech along these lines by the noble Viscount, Lord Hailsham, himself a former Foreign Office Minister, to which the noble Baroness answering for the Government failed completely to reply—perhaps because his case was unanswerable. At that point, the noble Earl, Lord Howe, intervened to say:

> "I think it is against the rules and the spirit of this Chamber to criticise a Member of another place by name. I hope that the noble Lord will see fit to moderate his comments accordingly".—[*Official Report*, 26/2/18; col. 508.]

Like many others in the Chamber, at that moment I was so stunned by this suggested new rule that I did not have time to consult the *Companion*, although I did have my copy with me. However, I have since read it very carefully and I simply do not understand what the noble Earl was saying. I mentioned to his office that I was going to raise this issue this afternoon because it is relevant to all the business of your Lordships' House. I have checked the *Companion* today and, frankly, I do not understand what exactly it was that caused such concern to the noble Earl. As my noble friend referred only to the Foreign Secretary by his correct ministerial title—not by his name—I do not understand what the noble Earl was alluding to. This is a key issue for the way in which we do business in this Chamber. If we are not free to criticise a Minister and his or her words in their ministerial capacity, then clearly that restricts and constrains the work of your Lordships' House. I hope the noble Earl will reconsider that statement. In the meantime, I believe that I am at liberty to criticise the Government—and hence, individual Ministers speaking and acting on their behalf—in relation to this order.

My noble friend Lady Suttie has fully explained the origins and circumstances of the order. At its heart there is a continuing suspicion of serious political money laundering. The basic facts are not in dispute. The DUP received a sum approaching £500,000 from an undisclosed source for its campaign in the 2016 EU referendum. Despite supporting leave while the majority in Northern Ireland supported remain, the DUP chose to spend £425,000 on paying for wraparounds for the

[LORD TYLER]

Metro newspaper, which does not circulate in Northern Ireland. Exclusively, therefore, that was targeted at electors on this side of the Irish Sea.

I have a few specific questions for the Minister to underline and supplement those that have already been posed by my noble friend Lady Suttie. First, why was the order not brought forward, at the very latest, in the last Parliament? As we have heard, it was anticipated that the transparency provisions could be extended to Northern Ireland at any time after January 2014 under the 2014 Act. This was the firm intention of the then Alliance MP, Naomi Long, at that time. Why the delay?

Secondly, was it a coincidence that the ministerial decision to restrict the retrospectivity to carefully avoid any reference to the transaction to which I have just referred came just a few days after the Government had to pay a price for DUP support in the Commons having lost its majority in the summer of 2017? What representations did the DUP make about timing? Was that part of the deal? Having accepted the retrospective application of this order, albeit by only a few days, surely the Secretary of State should at least have been prepared to explain why that retrospectivity could not have been extended that bit further on the lines that my noble friend has said. His letter to MPs of 6 July 2017 sidesteps that issue.

Was the Secretary of State briefed on the potentially illegal donation involved? Had any checks been undertaken at that stage as to whether it had been made through any intermediary—perhaps by a foreign agent? We now know that the Russians took a considerable interest in the outcome of our referendum. Perhaps it was Russian money being channelled by this means and covered by the particular process that was used. Was the Foreign Office consulted on this potential interference in UK politics? Has it been since?

What detailed analysis and recommendations have any Ministers received from the Electoral Commission on this episode? Has not the Northern Ireland commission head argued for the transparency to go back to 2014? The outgoing head of that commission has stated that:

"The deal on party0 donations and loans must be part of the DUP-Conservative deal. No other explanation".

"Every party in Northern Ireland understood that the publication of political donations over £7,500 was to be retrospective to Jan 2014"—

as my noble friend has already emphasised.

Meanwhile, have not all the Northern Ireland parties, including the UUP but not the DUP, now confirmed that they would be happy for retrospection to go back to the originally planned date in 2014? The Minister and my noble friend have mentioned the possibility of further action to undertake this reform. When will we see that, because surely there need be no delay? It is a simple matter.

Finally, has the DUP privately informed the Secretary of State or the Electoral Commission who the original donor was? What was the source of that very considerable sum? Are the Secretary of State and the commission both fully satisfied that the donation was legal under the PPER Act 2000?

If any Members of your Lordships' House doubt the public significance of this order and think that it is just technical, let me read, from the excellent advice provided by our Library, this list of relevant publicity. I will take only a few examples but there are plenty here: the *Belfast Telegraph* article of March 2017, "End the secrecy over political donations in Northern Ireland"; Julia Paul's article of June 2017, "Bringing Northern Ireland's political process in line with the UK"; the BBC News articles, "Political donations: NI Secretary to address transparency issue" and "Donations to Stormont parties to be published"; the Open Democracy articles from October 2017, "The 'dark money' that paid for Brexit" and "UK Government set to ignore Northern Ireland parties' transparency calls"; the Open Democracy article from 19 December 2017, "Why is Theresa May protecting the DUP's dirty little (Brexit) secret?"—that of course was while the House of Commons committee was looking at this issue; the *Belfast Telegraph* article on 19 December 2017, "DUP calls for foreign donations to Sinn Fein to be made public"—the DUP seems to be selective in terms of what transparency it supports, although it seems to be okay to demand it of Sinn Fein, which is somewhat ironic in the circumstances when the DUP has defended its own secrecy; and the *Guardian* article of 19 December, "Labour criticises move to let past donations to DUP stay hidden".

These are serious concerns and issues that do not touch only on Northern Ireland. As my noble friend Lady Suttie has said, the integrity of our whole democratic system is involved in this issue. It was the subject of some debate in your Lordships' House, including on my Private Member's Bill on the issue of money and its power in British politics.

Unsurprisingly, the members of the Delegated Legislation Committee in the other place took this order very seriously indeed, and allowed it through by only nine votes to eight on 19 December last, under government pressure. I suggest that we, too, should take it very seriously indeed and demand answers to these questions from the Government.

Lord Browne of Belmont (DUP): My Lords, I rise to support this order, which I firmly believe will provide a framework of openness and transparency in relation to donations and loans to political parties in Northern Ireland. Given the improved security situation, it is now the right time to bring Northern Ireland legislation in this field into line with that in the rest of the United Kingdom.

As we have heard, the Secretary of State for Northern Ireland sought the views of all the local political parties in January 2017, and there was general support for full transparency. At the time, only one party suggested that the implementation of the new rules should be back dated to January 2014. However, in recent months there has been considerable debate in the other place concerning this date, and the amendment tabled by the noble Baroness, Lady Suttie, supports retrospective implementation backdated to 2014. I acknowledge that this earlier date was referred to in the Northern Ireland (Miscellaneous Provisions) Act 2014, but in my view retrospective legislation is acceptable

only in exceptional circumstances. It is simply not fair to reveal the identities of those who made donations on the assumption that the law as it stood at the time would apply.

Several critical comments have been made in the debate concerning the donation which the Democratic Unionist Party received during the 2016 European Union referendum campaign from the Constitutional Research Council. I would simply point out that the donation was declared and the name of the organisation was provided. The uses to which the money was put were fully disclosed to the Electoral Commission, which accepted the bona fides of the council.

I recognise that current UK legislation relating to donations by and to political pressure groups is perhaps inadequate in some respects. I am sure that we are all aware of the recent controversy concerning the large donation to the political pressure group Best for Britain by the Open Society Foundation. However, this is perhaps a matter for consideration by the House at a later date.

In concluding, may I ask the Minister for clarification regarding the treatment of foreign donations to Northern Ireland political parties? As noble Lords will be aware, foreign donations to UK political parties are prohibited under the Political Parties, Elections and Referendums Act 2000, but donations and loans from certain Irish citizens and bodies to Northern Ireland recipients are excluded from these provisions. This order now provides that certain sensitive personal information relating to these persons and bodies will not be published by the Electoral Commission. Will the Minister confirm that all the transparency requirements, including personal identification, that will apply to United Kingdom donors will also apply to Irish donors? I am pleased to support this order.

5 pm

Lord Bew (CB): My Lords, I thank the Minister for his statement today and express my support for this proposed legislation. I declare my interest as chairman of the Committee on Standards in Public Life. In our fifth report, on *The Funding of Political Parties in the United Kingdom* in 1998, in our 13th report of 2011 and in a statement in April 2014, we called for the changes that the Government are finally bringing about.

From the point of view of transparency in our electoral law, this is a wise move: whether it has been delayed too long because of exaggerated fears about violence, I am not quite sure. It is useful to remember that, although at times we now hear people claiming that the peace process is on the verge of collapse, we all seem confident enough to do this, which would suggest that, whatever the tensions that arise out of Brexit, the peace process might not actually be on the verge of collapse.

I have one issue to raise that has already been alluded to by the noble Lords, Lord Tyler and Lord Browne of Belmont, and that is the issue of foreign donations. The truth of the matter is that our electoral law does not only impose a demand for transparency—and on this, we are now bringing Northern Ireland into line with the rest of the United Kingdom—but is opposed to foreign donations in principle, and we are bending it radically here. The Minister used the laconic phrase, "certain Irish citizens". The point about this is that, as one of his predecessors from the Labour Party said at this Dispatch Box in the summer of 2007 in exactly this context, Ireland has a very capacious definition of its citizenry. It is a fact that you can be an Irish citizen living in New York city, having never set foot in Northern Ireland, and be contributing money under the terms of what we have agreed.

I completely understand the unease that the noble Baroness, Lady Suttie, and others have expressed about a particular donation connected to the Brexit campaign. That unease is entirely legitimate, but the truth is that it is really as nothing compared to the fact that we now have a situation in which the Government might conceivably fall, if the seven Sinn Féin Members turn up in Parliament, because of the votes of MPs who were elected with money from foreign sources. This is obviously a rather larger problem looming on the horizon. That is worth alluding to, because the reason why we have not in recent years—in both Houses of Parliament—been too concerned over this breaching of the principle on foreign donations has been to do with the fact that the Members of Parliament concerned do not actually turn up. We cannot assume that this will carry on for ever, and I think it is very unlikely that it will carry on for ever.

There are two problems: it is not only the Brexit donation. There is a point on the other side of the ledger, which is likely to be considerably more important and sensitive in the future. Can the Minister respond on what he means by "certain Irish citizens"? I accept that he has explained the terms under which they would give, but are we still in the framework, as the noble Lord, Lord Rooker, said 10 and a half years ago, of the capacious definition of Irish citizenship? If so, this is foreign donation in the normal sense that our law disapproves of strongly.

Although this is not a happy circumstance, the Government are right to, as it were, look the other way and tolerate it. We are in a very difficult moment with Brexit. There is great sensitivity among Irish nationalists that the balance of identity has been shifted against them in certain ways. I regard some of those fears as exaggerated, but it does not really matter; that is what is in their mind. The Government are quite right as part of their acknowledgement of the nationalist identity in Northern Ireland to leave the door open for certain Irish citizens to donate. However, they should say, "We are doing something quite remarkable here. We shouldn't just stick it away in a corner. We are doing our best to be fair across the border in Northern Ireland and we are taking a bit of a risk which could be highly controversial. We are doing it because of our commitment to equality of esteem within Northern Ireland". If one is going to make a concession at this point, there is no point in hiding it away; one might as well openly declare that the Government are doing something generous, risky and, in my opinion, absolutely right. However, they should say, "This is a broad-minded move on our part".

Baroness Harris of Richmond (LD): My Lords, as we have heard, the draft order provides for the full publication of donations and loans received after

[Baroness Harris of Richmond]
1 July 2017, which is the bone of contention that we have with it. I absolutely agreed with my noble friends Lady Suttie and Lord Tyler, who outlined the problem so clearly.

All have to abide by the rules that govern information on political donations and loans in the rest of the UK, so Northern Ireland—which is still part of the UK, is it not?—must now abide by the same rules as everyone else. We are all obliged to publish such donations quarterly, so it is now time for Northern Ireland to do the same.

The real problem, of course, is when the measure should be imposed. The confidentiality clauses, arising out of fears of intimidation of donors, were always considered to be a temporary measure, and we can see that the people of Northern Ireland have always wanted transparency in this matter—but it appears that the two main political parties have felt otherwise.

In January 2017, all parties agreed to this measure. On these Benches, we have spoken many times—and certainly for as long as I have been a Member of this House and speaking on Northern Ireland matters; I am in my 19th year—about transparency being essential at the earliest possible time. It took a member of the Alliance Party in Northern Ireland, the former MLA for Belfast East, Naomi Long, to remove some of the severe restrictions about disclosure in 2014, in the Northern Ireland (Miscellaneous Provisions) Act, where the Secretary of State had the power to give the Electoral Commission permission to publish the details of individual donors if he or she felt it expedient to do so.

So it is safe to say that the Alliance Party has urged transparency for many years. I well remember dealing with legislation coming out of the Belfast agreement where these Benches echoed those views—but to no avail until now. I hope that it is accepted that all political parties in Northern Ireland now see the importance of transparency rather than using the old arguments against it.

This order, however, should be backdated to 2014, especially as we see the incredible lack of progress on any matters dealing with Northern Ireland. I am afraid that the DUP, in particular, cannot have it both ways: being a part of the UK but not wishing to abide by any laws that do not suit its particular brand of politics. When it suits the DUP to receive a huge donation of money—which, we understand, was not used in Northern Ireland during the referendum campaign—but not to have the legislation applied to a time before it accepted that donation, it is time to ask why the Government went along with this shabby and entirely political manoeuvre in allowing a later date for the order to be implemented. So will the Minister answer the questions from my noble friends Lady Suttie and Lord Tyler about when the Government intend to bring in the further legislation which will backdate this order to 2014, as strongly recommended by the Electoral Commission? We should be told.

Lord Murphy of Torfaen (Lab): My Lords, this has been a fascinating if rather short debate on an important subject. I recall that about 21 years ago, the Chief Electoral Officer for Northern Ireland visited me in my ministerial office with a suitcase. In the suitcase were about 300 to 400 fraudulent ballot papers. I suddenly realised that things were a bit different in Northern Ireland from my constituency in south Wales. They were of course impersonated ballot papers and I often wondered whether they resulted from intimidation. It is quite possible that they did. The reason why the transparency laws in Northern Ireland have not always coincided with those in the rest of the United Kingdom is precisely because of intimidation. For example, if people wanted to donate to this or that party and it was made public, they could well face intimidation. That was wrong and therefore it inevitably took some time for it to change over the last two decades.

I certainly welcome the order; it is a step in the right direction to normalcy in Northern Ireland. But I see the points that the noble Baroness, Lady Suttie, and the noble Lord, Lord Tyler, made with regard to the donation by a particular body—I think it was in Scotland—to the DUP with regard to the European Union referendum. I understand that a lot of that money was used in Northern Ireland and in London; but it did not do much good, because in both those places people voted to remain in overwhelming numbers. Nevertheless, that rather bizarre and controversial donation is an important issue. It was aired very widely in the debate in the other place by my honourable friend Owen Smith and others, and of course it has been aired here. So the idea that the donation has somehow or other not been debated is wrong; it is being debated today and has been debated in the House of Commons as well.

But—and this is an important but—the Electoral Commission has indicated in response to this legislation, which of course it supports, that the Government should bring in another order that would reflect on the situation and go back to 2014. The Minister has rightly told the House that when the political parties were asked about whether the provision should be retrospective, with the exception of the Alliance party they said, "No, it should not be". They had reasons for that, which again probably relate to intimidation and such factors—but there is a case for the Government to take seriously the Electoral Commission's recommendation and consult again the political parties in Northern Ireland as to whether it should be backdated. That should not mean that the order should be held up; it should not.

I also take the point made by the noble Lord, Lord Bew, with regard to donations from Irish citizens and various bodies on the island of Ireland. This reflects the different situation in Northern Ireland from the rest of the United Kingdom—of course it does. There are obviously people in Northern Ireland who regard themselves as Irish and not British, and people who regard themselves as British and not Irish. Donations from Irish citizens and bodies to political parties in Northern Ireland therefore are and have been acceptable, but they have to lie properly alongside Parliament's view that foreign donations in general should not be allowed. But I do not think you can disallow Irish citizens—as long as, again, there is an element of transparency in all this.

I hope that we will agree to the order going through, but I also ask the Minister to reflect on the commission's recommendation on retrospection. This is part of the journey towards reconciliation and the establishment of the institutions in Northern Ireland. This is set against the background of where we are at the moment—which is, frankly, disastrous. We do not want direct rule in Northern Ireland; we want the restitution of the Assembly and of the Executive. This order helps towards that.

5.15 pm

Lord Duncan of Springbank: My Lords, I thank your Lordships for their wide-ranging contributions to the discussion this afternoon. I begin by thanking noble Lords for the support for the order before us, which will establish transparency from 1 July 2017. I believe we all welcome that particular feature—we can agree on that part.

I will address the question of backdating head-on. When the then Secretary of State consulted the political parties in Northern Ireland, he asked them when they wished the order to commence. In response, the parties themselves were quite explicit. The Alliance Party, as we have heard, wished to see the order backdated to 1 January. The DUP and the UUP both explicitly wanted it to be a forward order from the point at which it was agreed in 2017. The SDLP and Sinn Fein did not address this specific question in their responses. It is important also to stress that since that consultation, we have received no further update from those main political parties on the backdating question. I put that as a matter of record.

On the issue raised by the noble Lord, Lord Tyler, many of these questions cannot have been germane to the decisions of last year, for one very simple reason. Although the Electoral Commission was gathering the data at the point, it was not able—indeed, it would have been illegal—to release that data to the United Kingdom Government, whichever party held office. It could not therefore have been part of those ongoing discussions. We have heard at least one noble Lord today make reference to the details of that donation, and that is now a matter of public record. But it is a matter of public record as a consequence of other elements, not of its registration during the electoral gathering of data. It is important to stress that. That is why many of the questions raised by the noble Lord, Lord Tyler, fall at that point.

It is important again to recognise that we have an opportunity here in looking at establishing transparency. Right now, we are not ruling out the re-examination of the period that precedes 1 July 2017. Indeed, the draft order will allow consideration of it, once we have had an opportunity both to bed in the transparency order and to examine the details reflected therein. We will not rule anything in or out on that point. I stress that. It is important that we recognise it.

It is also important to recognise that the data has been gathered from that period in 2014—the data exists. Those who believe that it will be for ever concealed need fear nothing; there is nothing to be seen here and we can move along. In truth, that data will remain there. If it is determined that we should examine that in greater detail going forward, there is an opportunity for us to revisit this item. We should not lose sight of that fact.

As for the donations and loans that come into Northern Ireland from outside, from the southern part of the island of Ireland, I assure both the noble Lords, Lord Browne and Lord Bew, that there will be full transparency of those donations and loans. There must be—there can be nothing but that. That is why, again in relation to Irish citizens, the prescribed condition is that at the time of making a donation to a Northern Ireland recipient, the individual must be eligible to obtain one of the following documents: an Irish passport, a certificate of nationality or a certificate of naturalisation. There will be a full gathering of all the data of moneys coming into the electoral process in Northern Ireland. It is important that we recognise what that means.

Lord Kilclooney (CB): We just heard a definition of "certain Irish citizens". Does that definition apply to Irish citizens in the United States of America? Let us be fair, when the IRA was active, it was not the southern Irish who gave it the most finance; Irish citizens in the United States of America were the major financers of the IRA terrorist regime. I hope that such people in the United States will not be able to finance elections in Northern Ireland.

Lord Duncan of Springbank: I thank the noble Lord, Lord Kilclooney, for his intervention. Again, I stress this point. As a frequent visitor to North America, I have discovered many people who invoke their affinity to the homeland. I have met many Scots—who may indeed be fourth or fifth-generation Scots—who proudly wear their tartan as frequently as they possibly can. I do not fault that; I celebrate it. That is true for citizens of whichever homeland might be in question.

However, in terms of their rights and abilities to donate money to Northern Ireland, they must hold a valid Irish passport—not an Irish passport held by their grandparents, which might entitle them to play for Ireland—or a certificate of nationality or naturalisation. The order does not allow someone simply to invoke Irish heritage to be able to donate. One would hope that the transparency revealed by the order will help us to be attentive to the risks raised by the noble Lord, Lord Kilclooney. If any failings become apparent as the data is gathered, the Electoral Commission will be able to draw those to our attention and they can be examined in the cold, hard light of day. That will be very important.

The noble Lord, Lord Murphy, made a number of important context-setting remarks, which I endorse. We are at a delicate time and there is no better time for transparency than right now. There should be no escape from that transparency. As many noble Lords have heard me say more than once, we need to establish a sustainable Executive in Northern Ireland. I believe that the order will go some way to ensuring that the people of Northern Ireland have the utmost confidence in the electoral process. The order is right and timely.

I recognise that the issue of backdating will remain sensitive. If, on consideration of the data as it is gathered, ascertained and seen, there are deemed to be

[Lord Duncan of Springbank]
issues that need to be examined further, the Government will consider them at that point. We are ruling nothing in and nothing out. On that basis, I commend the order to the House.

Baroness Suttie: My Lords, I thank all noble Lords who have taken part in this short, but extremely important and valuable, debate. I also thank the Minister for his characteristically courteous, detailed and open response.

I stress that we on these Benches will continue to press the Government to live up to their earlier commitment on backdating these provisions to 2014—I welcome some of the Minister's comments in that regard—and to follow the advice of the Electoral Commission in bringing forward another order at the earliest convenience to make this possible. I also agree with the suggestion of the noble Lord, Lord Murphy, that, at the very least, following changes in circumstance, we should discuss again with the political parties in Northern Ireland and hear their views on backdating to 2014.

On this occasion, however, it would be inappropriate to test the opinion of the House. We do not want to see further delays to the order. I therefore beg leave to withdraw the amendment.

Amendment withdrawn.

Motion agreed.

Haulage Permits and Trailer Registration Bill [HL]

Second Reading

5.25 pm

Moved by ***Baroness Sugg***

That the Bill be now read a second time.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Sugg) (Con): My Lords, the UK's road haulage sector directly contributes £13.1 billion to our economy and plays a major role in carrying £35 billion in trade between the UK and the EU. It is estimated that almost 200,000 people are directly employed in the road freight sector in Great Britain. These figures alone highlight the importance of the sector to the UK economy. The commercial haulage industry is critical to ensuring the continued movement of goods between the UK and EU. Hauliers are planning for the years ahead and they want certainty that any future deal can be implemented smoothly.

I hope noble Lords will welcome that the UK's overall aim in the negotiations with the EU is to maintain the existing liberalised access for commercial haulage. We anticipate success in the negotiations, building on the progress made last December. However, it is only right and responsible that the Government should prepare for a range of scenarios. As part of the Government's EU exit legislation programme, the Bill provides a sensible framework for the UK to use, if required, as part of our agreement with the EU. The Bill also ensures that the UK can fulfil its international obligations and be ready to operate in the international arena when we leave the EU. I hope noble Lords from all sides can support the Bill's intention.

There are two parts to the Haulage Permits and Trailer Registration Bill. The first will give the UK Government the ability to introduce arrangements to operate a road haulage permit scheme, if that is what is required as part of our deal with the EU. Currently, hauliers have to hold an international operator's licence and an EU community licence to operate on the continent. The Bill puts in place a legal framework for the Government to establish an administrative system to issue permits, if required, as part of the final deal. This part of the Bill is designed to provide a flexible framework for any system that may be needed, without placing any undue regulatory or financial requirements on the industry. It will come into effect only if our international agreements require it, and it applies only to UK hauliers travelling abroad.

Permits are a key feature of almost all international road freight agreements outside free trade areas. Indeed, the UK already has several permit-based agreements with non-EU countries, including Belarus, Georgia, Kazakhstan, Morocco, the Russian Federation, Tunisia and Ukraine. The UK also has liberal non-permit agreements with Serbia, Albania and Turkey. While we currently administer some types of permits, the numbers that we issue are very small, so the Government are putting in place plans to deal with future international agreements that may require permits. The Bill will allow the UK Government to distribute permits that we negotiate with overseas authorities to UK operators. The type and form of permit will depend on the agreements that we negotiate. It also contains powers to determine how to allocate permits in the light of any agreement reached, based on criteria that will be set out in the regulations with further guidance on how they will be applied in practice.

This section of the Bill also allows the Government to recover the cost of the scheme through the charging of fees that will be in line with current arrangements for international permit schemes. We are committed to ensuring that any additional requirements or costs to the road haulage industry are minimised. There are a total of 13 provisions containing delegated powers within the Bill to establish the permitting system, should we need it, and a trailer registration scheme. Of course it is important that we get these regulations right, and we will be consulting with industry on the detail later this year.

Before moving on to Part 2 of the Bill, it may be helpful if I say a few words about the 1968 Vienna convention, which is subject to a separate parliamentary process but is related to the trailer registration section in the Bill before us today. The Government have recently laid a Command Paper with the intention to formally ratify the 1968 Vienna Convention on Road Traffic, which the UK signed in 1968. We intend that our ratification will be completed on or before 29 March 2019. The convention was introduced by the United Nations to enable international road travel and to increase safety by establishing common traffic rules. The convention builds on the earlier 1949 Geneva

Convention on Road Traffic and the 1926 Paris convention, both of which the UK has already signed and ratified.

Moving on to the second part of the Bill, the Government are seeking powers to establish a trailer registration scheme to meet the registration standards in the 1968 Vienna Convention on Road Traffic which I just mentioned. Many EU countries already comply with this convention and have similar registration schemes. This part of the Bill will ensure that UK operators will comply with the obligations of those countries that require registration of trailers travelling on their roads.

The Bill provides powers to set the scope of coverage for a trailer registration scheme. While the detail of the scheme will be set out in regulations, our intention is to require only operators who take trailers abroad to register their trailers. The scheme will apply to commercial trailers over 750 kilograms, and all trailers over 3.5 tonnes. I would like to reassure noble Lords that private-use trailers such as caravans and horse trailers would not fall within the scope of the mandatory registration scheme. Furthermore, this scheme would not apply domestically.

This section of the Bill also allows the Government to recover the costs of running this scheme through the charging of fees. The fees will be significantly lower than those currently set out for the registration of motor vehicles. It is of course important that these new arrangements are complied with. Offences will be created in relation to trailer registration that mirror existing offences for motor vehicle registration.

On devolution, the Bill covers the whole of the United Kingdom. Haulage permitting and trailer registration are reserved matters in Scotland and Wales, and this matter is devolved to Northern Ireland. The department has been working closely with all devolved Administrations as the Bill has been developed.

On the Bill's application to the island of Ireland, this legislation supports the commitments made in the December joint report. These commitments include avoiding a hard land border and preserving the constitutional and economic integrity of the United Kingdom. We want to see trade and everyday movements over the land border continue as they do now. The Bill will not create a permit regime or a hard border on the island of Ireland. Trailers travelling only between the UK and Ireland will not need to be registered.

Your Lordships will be well aware that there are many other considerations when considering the movement of goods across to the EU, including the future customs and border arrangements. Separately to the Bill, my department is working closely with the Department for Exiting the EU and HMRC as part of the cross-government borders working group to manage impacts to borders after we leave the EU. I can confirm that the Bill will not impact on border arrangements and that there will be no new transport-related checks at our borders.

I look forward to this Second Reading debate on the content of the Bill. As I have already outlined, this Government are committed to ensuring that this sector can continue to prosper as we leave the European Union. As part of the Government's EU exit legislation programme, the Bill prepares us for a range of scenarios and will ensure that the UK can fulfil its international obligations and be ready to operate in this sector when we leave the EU. The Government have been supported by industry for bringing forward these measures. I hope that noble Lords will recognise this Bill as the Government taking a responsible approach in their contingency planning, and I welcome your Lordships' expertise in ensuring that this legislation is as well designed as possible. I beg to move.

5.33 pm

Lord Bassam of Brighton (Lab): My Lords, towards the end of my time as part of the usual channels the Government Chief Whip advised me that we would be receiving this Bill as a Lords starter. I recall thinking at the time that it was not one of those mentioned in the Queen's Speech, and becoming instantly suspicious. I should tell the House that suspicion is an integral part of a Whip's training. Later it comes as second nature.

Despite the distinct lack of interest in the Bill displayed in the Chamber today, I was right to be concerned. It is the first major piece of Brexit contingency legislation I have seen and is in essence a panic measure. Sam Coates of the *Times* got it right when he said on 7 February, "Last week No.10 said there was no date for the bill; there wasn't a date and there was lots of work to do. Six days later it was published". Someone in the department finally persuaded Mr Grayling that it was not a given that there would be agreement on road haulage arrangements after 29 March 2019.

It is a fact that without a system of fully effective multilateral road haulage arrangements, our businesses would literally grind to a halt. In the event of no deal, this legislation is hugely important. The alternative is chaos at our borders and ferry ports. It would make Operation Stack look like a minor hold up in B-road Britain. Thinking about it, I am staggered at Mr Grayling's complacency in not requiring the Bill earlier and not ensuring that it had Queen's Speech clearance.

In her customary charming way, the Minister has set out the Bill's main provisions. Currently, we benefit from eminently sensible EU regulations that flow from the International Road Haulage Permits Act 1975—legislation, I might add, so old that it was enacted the year I graduated. The current regulations require road hauliers to have a Community licence for all operations in or through EU countries. Post Brexit UK-issued Community licences will no longer be valid, unless of course we have secured agreement. UK hauliers would be able to use European Conference of Ministers of Transport permits. These provide for a multilateral quota scheme, are limited in number and do not cover the full range of haulage operations currently permitted by the Community licence.

The problem with the ECMT permit scheme is that it is limited to 102 permits annually. These are specifically allocated to a company for use for one international journey at a time. If the permits are allocated to only the most modern vehicles—Euro 6—the number increases to a maximum of 1,224 permits a year. Currently, approximately 300,000 UK registered powered vehicles travel from the UK to the continent, and that is

[Lord Bassam of Brighton]
without adding in those travelling to the Republic of Ireland, so reliance on ECMT permits alone would cripple our haulage sector and is simply untenable. It would be a bit like tickets for Glastonbury: you just about get online and they are all sold out in seconds. The permits will be gone. Even with rationing, some sectors would be given first refusal—and who would want to decide between essential medicines and fresh foods for supermarkets? These are decisions we should not have to make.

The second part of the Bill introduces a trailer registration scheme, which will be required following the UK's ratification of the 1968 Vienna convention. This makes sense even though ratification triggers the need for a registration scheme. A failure to put one in place would mean that unregistered trailers could be turned away at the borders of countries that have ratified the convention.

As the Minister recognised, the road haulage sector is vital to the UK's economy. It contributes £11.2 billion to it and enabled the UK to import and export 8.9 million tonnes of goods in 2014 alone. Additionally, foreign-registered HGVs carry 34.2 million tonnes of goods as part of the current Community licence scheme. It keeps supply chains working for our vital food and agriculture sector. The Community licence arrangements secure our industrial base, facilitate economic growth in EU trade and keep the construction industry and high-tech sectors moving forward. Without it, business here in the UK would grind to a halt and we would cease to be a major trading nation.

Eighty per cent of goods go by road, 47% of goods we exported in 2015 went to the EU and 54% of goods imported came from that same source. The impact of a failure to put in place either an agreement following a Brexit deal or a scheme, if there is no agreement, can be judged by the scope of the current Community licence. It is issued free of charge to the UK hauliers who sign a standard international operators' licence. Community licences are issued to operators. Office copies must be retained and certified copies held on each vehicle on each international journey. Certified copies are not specific to each vehicle. At the end of 2016, 9,745 UK hauliers possessed a licence and more than 35,000 certified copies had been issued. This scheme is extensive and essential to our nation's economic health and success.

The most effective option, so that we do not have to rely on the Bill, will be to negotiate and agree a bilateral road transport agreement with the EU, which in turn could be part of a wider trade agreement or a stand-alone agreement separate from a customs union. This should be done as a matter of priority and be in place before Brexit, or before the end of a transition period, if one is agreed. Frankly, anything short of an agreement replicating existing arrangements with no quantitative restrictions will greatly disrupt and constrain cross-channel trade.

We need arrangements that place no additional administrative or financial burdens on hauliers. It is only by achieving this that people avoid damaging the road haulage sector and the economy as a whole. It is difficult to see how a Brexit that does not include, as a minimum, membership of a customs union could be compatible with preserving the current ease of transit of goods. In that context, can the Minister say something about costs when she sums up? I ought to add that I made the mistake yesterday of taking a look at the DfT's memorandum accompanying the Bill and the two impact assessments of costs to government and business. It is worth reminding ourselves that at present, the Community licence comes at no cost to hauliers. The memorandum makes it clear that there will be full cost recovery. Those costs will cover the issuing of permits for both road haulage and trailers, and the enforcement of the scheme, including compliance inspection.

Will the Minister tell the House how much each permit will cost, how long the application process is expected to take, whether it will be an online system, what it will cost the Government to establish the scheme, how much the trailer registration scheme will cost and how much registering each trailer will cost? Given that this Government are supposed to be concerned about the cost of regulatory burdens on businesses, have they done any cost modelling of the impact on the businesses affected?

If the haulage sector is looking for sympathy from the Government it will not find much in the impact assessments, which simply say that larger businesses will require more permits and incur higher costs. They say that 99.6% of the haulage sector is made up of SMEs, which account for 45% of road freight turnover. The Government say that,

> "smaller businesses may find it harder to absorb the additional costs of a permit scheme. Operators typically have tight profit margins and smaller scale businesses may have more difficulty in absorbing the new costs".

That is a pretty sobering assessment, and my worry is that Ministers have yet to realise the seriousness of the position.

Rightly there has been concern in the aviation sector about the failure to agree a deal, leading to a cliff edge for the European aviation market. As yet, freight has not achieved that degree of realisation. The Freight Transport Association has estimated that the logistics sector contributes over £121 billion GVA to the UK economy. We need the Government to safeguard that return. We also need to ensure the mutual recognition of driver qualifications. This needs to be agreed early on in negotiations to secure cross-border operations for drivers and operators. Currently drivers and transport managers need to hold certificates of professional competence to operate a heavy duty vehicle in the EU. The haulage sector will require legal certainty post Brexit, as the Minister acknowledged, to guarantee mutual recognition. Can the Minister provide a timetable for resolving this and say what progress has so far been made?

The Government are keen to present this Bill as a last resort, but the lack of progress in the Brexit negotiations make it increasingly unlikely that the DfT's preferred outcome will be achieved. I worry that insufficient thought has been given to the unintended consequences of Brexit on freight haulage. The Government have not reassured me by publishing this Bill, which is a panic measure. They have published

no-cost assessments for the sector, nor have they given any detailed assessment of the impact of added bureaucracy on businesses or the on-costs.

As a result, I intend to table amendments asking the Government specifically to negotiate a deal which replicates the benefits of the current Community licence and brings the UK within its purview. I shall also be asking the Government to report on the impact of the international road transport permits regime on the efficiency of haulage between the UK and the EU. If we cannot have an agreement that allows business as usual for haulage, we could end up with one of Mr David Davis's dystopian fantasies—only it would not be a fantasy, but a fact.

The Bill should, and no doubt will, be supported by Parliament in an attempt to prevent chaos on day zero for Brexit, but it is a far from satisfying way of dealing with a problem almost entirely of the Government's making—for example, the shoddy way they have dealt with negotiations. I worry about this Bill, and this House should too.

5.45 pm

Lord Teverson (LD): My Lords, I had the great privilege and enjoyment of working in the road freight industry for the first 17 years of my career. It was rather different from my parliamentary career but it was just as competitive—in fact, it was more competitive. As the noble Lord, Lord Bassam, said, this is probably the most competitive sector in the economy, with a large number of SME companies operating in it. Any costs, charges, delays or extra bureaucracy—red tape as we normally call it—will have a very negative impact on the sector. This is an unintended consequence of the Brexit negotiations, particularly the red lines on the customs union and single market that the Government have chosen. I shall come back to that theme later. This is an unnecessary and—in the sense that it was not in the Queen's Speech—unexpected Bill, which promises the industry quite a substantial amount of extra red tape.

Looking at the size of the issue, there are some 4 million cross-border truck movements in and out of the United Kingdom per annum. This is an addition to the customs issue, which the Minister herself mentioned. There will be extra costs there, too: an average of £500 a day for the delay of a truck going across a border. The number of customs declarations will have to go up from 55 million to something like a quarter of a billion. In Dover, there are 10,000 freight movements a day, with no holding space for delay. There are issues around rules of origin and phytosanitary conditions. Hauliers and road transport operators will have to deal with all those issues post Brexit, based on the red lines the Government have put down. So this is an important Bill, but it is part of a larger problem and challenge to the industry to adjust over a relatively short period to the new, post-Brexit situation. This will be challenging financially, time-wise, bureaucratically—in every way—to an industry that is always under pressure.

The noble Lord, Lord Bassam, has given an excellent summary of the majority of the issues, so I will ask the Minister a number of questions. I, too, would like to understand the cost to hauliers of these permits. In her introductory remarks, the Minister said that it would be comparable to the cost of permits in countries that we deal with elsewhere in the world. Presumably we have a fairly good idea of what those are; the analysis will be there. I would be interested to hear about that. Are we certain, as negotiations stand, that we can keep the community licences we have at the moment during the transition period? Having seen the correspondence on the offer from Brussels on the transition deal and the Government's response, I do not see this as an issue. I hope we will have a breathing space of two years, 18 months or whatever it is. It is important for the industry to understand how much of a breathing space it might have, provided we do not come to no deal in the meantime.

On trailer registration, there is an absolutely huge number of trailers. I am slightly reassured by the Minister that it will relate only to trailers used on international movements. However, hauliers may often not be aware which trailers they might or might not want to use and feel they have to register their whole fleets. Does the Minister have an estimate of the number of trailers and semi-trailers in the United Kingdom that will have to be registered?

What is happening about foreign vehicles coming into this country? This is the other side of the argument. What are we expecting as a permit system from them? Are we going to give them free access? Are we going to allow them to undertake cabotage in the UK, as we will almost certainly be stopped from doing in other European Union countries? Will we charge them road fund licence fees for operating on British roads? As I understand it, foreign or cross-border traffic by road transport is heavily dominated by EU 27 rather than British vehicles. Are we to have issues around paying for our roads and infrastructure?

Does the Bill require new IT systems in the Department for Transport and, if so, have they started to be developed? Are they complex? Are they being put out to consultants? I hope not. Can we be certain that this will happen? As we all know, IT systems are one area of development where we need urgent and rather forced change when things go wrong and we do not meet deadlines. I am unclear whether these regulations apply to or will be needed by other EU countries for own-account operations, as well as hire and reward. Most of the commentary in this area is around hire and reward, but what about the own-account organisations?

I am very pessimistic about this. If the Government stick to their red line of being outside not just the customs union but the single market, I can guarantee that this legislation and scheme will be necessary. There is not a chance that, outside the single market, we will be able to have a similar system to community licensing. That is described by Mr Barnier as cherry picking. A number of colleagues, the noble Lord, Lord Whitty, and I met him last week, and he once again made the point that Britain would not be able to cherry pick if it is not in the single market. This is one of those areas, so I very much regret its bureaucracy

[LORD TEVERSON]
and cost, and that this unnecessary act will indeed be necessary if we have a Brexit that is outside the single market.

5.52 pm

Lord Snape (Lab): My Lords, it is a pleasure to follow the noble Lord, Lord Teverson. I acknowledge his experience in the road haulage industry. It is also a pleasure to follow my noble friend Lord Bassam of Brighton, who spent far too many years in the silent cell of the Government Whips' Office. He reminds us today how much he was missed in the years he spent away.

It is always a pleasure to listen to the Minister. She has not been in her position long, but she has a mellifluous tone that makes it difficult to disagree with her, no matter what she says. In the early part of her speech, she said that the Government anticipate success in their long-term arrangement with the EU. I wonder whether she can tell us why the Government anticipate success. From Minister after Minister at the Dispatch Box we hear this philosophy that our future relationship with the EU will be all right on the night. This is exemplified by her opening remarks about this Bill and yet, so far, we have not seen any evidence that the Government are making great progress in this or any other area of Brexit. Perhaps when she winds up, the Minister will give us further cause for encouragement about their progress.

She mentioned in passing the 1968 Vienna convention and that it will become the fallback position for the United Kingdom if the worst comes to the worst and there is no long-term deal for the road haulage industry. We have avoided the convention for 50 years. Although we were initially involved in its preparation, the United Kingdom has never implemented or signed it. What makes that change of heart necessarily beneficial for the future? What guarantee can the Minister give us that our ratification of that convention, after five decades, will be allowed, bearing in mind that the Government have expressed their reservations about certain aspects of it. The parking of vehicles facing oncoming traffic and the lighting of parked vehicles at night are just two areas of the convention from which, as I understand it, the Government will seek exemption. Can she give us any assurance that the Community or the other signatories to the convention will be prepared to go along with our ratifying those parts of it that we find suitable? The view seems to be that our negotiations with the EU are such that it will agree to virtually anything that we propose regarding agreements and conventions.

What further grounds for optimism does the Minister have in relation to the convention? Her optimism is not particularly shared by the road haulage industry. I refer her to the latest press release on the Bill from the Freight Transport Association. It says that the biggest long-term challenge for the UK freight industry is the tiny number of travel permits that will potentially be available for British truck drivers if no other solution is found through an EU trade deal. Under existing international treaties, between 103 and 1,224 permits a year are available to deal with more than 300,000 journeys by 75,000 British trucks. There are no real grounds for optimism for the future if we are to have a rationing system and a small number of permits for British trucks. I am old enough to remember Winston Churchill talking about setting the people free and abolishing rationing back in the 1950s, yet here we are, as an act of desperation, considering legislation that brings back rationing of permits for British trucks. It is scarcely a Conservative measure, as I am sure the noble Baroness will agree.

As my noble friend from Brighton, Lord Bassam, pointed out, chaos regularly reigns on the M20. If the French ferry workers decide that there is a dispute, in no time at all the M20 motorway becomes a massive car park. If we have to fall back on the provisions of the legislation before your Lordships today, it will not be difficult to imagine—this is not scaremongering—that the chaos on the M20 may well be repeated daily. Again, I think the House is entitled to some assurance from the Minister about the future.

Part 2 of the Bill concerns the licensing of trailers. It seems to me that a triumph of hope over reality is inherent in the proposals here. The convention requires the setting up of a new system for the registration of trailers and the issuing of international driving permits if the EU refuses to recognise UK licences. Perhaps the Minister can tell us how many such permits are likely to be issued and how the road haulage industry will cope with a limited number of permits for an enormous number of trailers. The noble Lord, Lord Teverson, referred to cabotage. As far as I can see, there is no provision under the Bill for cabotage to continue. Among the benefits of membership of the EU for the road haulage industry is the ability to pick up goods in one part of Europe and take them to another. There is no provision for the extension of such benefits in the Bill.

It seems that we are just striking blindly into the dark in this as in so many other aspects of Brexit, and that the Government have no real idea of how to take things forward. This measure has been brought forward at the last minute, with less than a year to go before, at least theoretically, we leave the EU. I fear that it will take more than the Minister's optimism, refreshing though it is, to reassure those in the road haulage industry that the Government know the best way forward over the next months and years.

6 pm

Earl Attlee (Con): My Lords, I am grateful to my noble friend the Minister for introducing her Bill. My noble friend and other noble Lords are right to draw the House's attention to the importance of the road haulage industry, both internally and internationally. I will not weary the House by repeating the arguments so well put by other noble Lords. I declare an interest: I own two classic heavy goods vehicle tractor units and one very large trailer. However, they are not used commercially and it is extremely unlikely that they would go overseas.

My main parliamentary activity is to take a very close look at the UK prison system. We have far too many prisoners and insufficient resources to look after them properly. I am therefore pleased that Clauses 8 and 17 do not provide for imprisonment for any offences. However, the maximum fine relating to international

road traffic permits must not exceed level 4 on the standards scheme, and only level 3 for any of the trailer registration offences. Given the commercial and competitive pressures that operators are under, which some noble Lords have talked about, the penalties appear to be quite lenient and I would like to understand why. The Minister may tell us that this is in order for the offences to be consistent, which would be a good reason. Also, I do not understand why the drafting in Clause 17(6) provides that offences can be tried only summarily, whereas the drafting in Clause 8, 5 and 6 is not so clear. There does not seem to be a consistent provision for offences—but I expect there is a good reason for that and my noble friend the Minister might want to write to me about it.

The noble Lord, Lord Bassam of Brighton, has obviously been extremely well briefed. However, he talked a lot about the current situation with permits and not the future. We simply do not know what the future will be. The Bill is purely an enabling measure. It does not seem a panic measure to look twelve months in advance of when the provisions may be needed. I expect that the negotiations will be difficult and may go right to the wire. They nearly always do, as noble Lords know perfectly well. However, we should not forget that there would be very serious difficulties for industry, commerce and transport within the other EU states if some sensible agreement were not reached.

Having the Bill in place is only a sensible precaution. However, I would expect that the most likely outcome is little real change. It would not be sensible for ourselves or our EU friends to have anything else. I do not believe that the doomsday scenario that many noble Lords seem to enjoy portraying will ever come to pass. I assure the House that I will be vigorously supporting my noble friend the Minister.

6.03 pm

Lord Whitty (Lab): My Lords, it is a pleasure to follow the noble Earl, Lord Attlee. It takes me back about 20 years to when he and I were exchanging views on regulation of the road haulage industry. I am pleased that he is here tonight.

We should start by recognising the move that has been taken by the Department for Transport. It has produced a contingency plan for, in effect, a downbeat Brexit. In that sense, it is well ahead of any other Whitehall department I know of. I hope, therefore, that the Minister will convey her congratulations to her department and her fellow Ministers.

The first point, which colleagues have made and which I have made in this House in different debates over Brexit, is that without membership of a customs union and probably without membership of the single market, there is no such thing as frictionless trade. There are costs, both administrative costs and on-costs. There are costs to the road haulage industry itself: to the 9,000 or so independent road hauliers, to own-account drivers and to those who run great fleets. As was made clear in the impact assessment, there are also costs to the Government, and of course to the people who rely on the road haulage industry for importing and exporting. Therefore, at the end of the day, there are costs also to consumers.

In this case, the costs are quite seriously aggravated. In effect, as my noble friend Lord Snape indicated, we are reverting to a prehistoric system. The conventions that were established in Geneva and Vienna—the latter of which I think we have not actually ratified—relate to an entirely different era, when economic relations in Europe were supposedly governed by the UN Economic Commission for Europe, under which the Council of Ministers for Transport operated and developed the quota scheme. It is now proposed that we take that back from 50 years ago and put it into operation in the UK now.

That scheme is archaic. It was based largely on bilateral arrangements and was not for the whole of the European Union, and it has quotas. I am not quite sure how the calculation was made but I understand that, under that system, about one-eighth of quota licences will be available compared with the community licences that are currently available to the road haulage industry in the UK. The scheme also does not deal with cabotage, and therefore cuts the UK industry out of profitable trade on the continent and beyond.

The old system has some serious deficits and difficulties. It will undoubtedly be more costly, more administratively bureaucratic and more of an inhibition to trade. It may be necessary as a stop-gap if we do not end up with a deal that gets us closer to frictionless trade—although, even in a free trade agreement, there will still be some friction and some costs. Even if part of that free trade agreement was almost a cherry-picking arrangement for road haulage—it is a large "if"—there would still be a cost involved in moving from a system of absolute access for British hauliers and EU hauliers here to the replacement archaic and limited scheme.

I will make three other quick points. The first relates to Ireland and to the broader Brexit argument. At present, Northern Ireland has devolved powers for the registration of transport vehicles, admittedly within an overall system. The agreement that provisionally was reached in December foresees the alignment of regulations in those areas that support the Belfast/Good Friday agreement. There are all sorts of arguments about whether that is a lot of areas—142 areas have been suggested—or whether it is to be limited to a number of specific areas. In the limited interpretation, transport is one of those areas. Therefore, in default of an overall agreement that allows us no border of any sort, transport would, under the agreement that we signed and which has yet to be put into legal form, require the full alignment of the Northern Irish licensing system with that of the Republic of Ireland—in other words, with the EU system.

The bulk of trade that goes in road haulage across the sea, both from Northern Ireland and from the Republic, is not travelling north-south across the border but east-west, into Great Britain and beyond into Europe. Therefore, we get a contradiction of not having alignment between Northern Ireland and the rest of Britain, which will be an anathema to a number of elements —some of them fairly close to the Government—in Northern Ireland. It will also inhibit trade if we have a different system in Northern Ireland from that of the rest of the United Kingdom.

[LORD WHITTY]

The Irish dimension in this has not been fully addressed and may not be capable of being so until we have the final version of the December agreement. It may even not be addressed before the withdrawal treaty, or beyond that at the end of the transition. But, at whatever point we contemplate introducing this system, I plead with the Minister to take the Irish dimension into account.

I have two other quick points. If we are to introduce a new licensing and registration system, issues of road safety, environmental performance and driver standards ought to be introduced at the same time.

Finally, I will make a constitutional point. I am not making a big thing about it, but the noble Earl, Lord Attlee, referred to penalties. As a consequence of this system, some penalties can be introduced by secondary legislation. Your Lordships' Constitutional Committee has taken a fairly hard view on introducing new criminal offences through secondary legislation. To justify doing so, we need more justification than is currently in the Explanatory Notes to the Bill.

I started by congratulating the Minister. I still think it is a good thing that the department is thinking that it may need this contingency, because at the moment it is by no means certain that anything better will be delivered, to put it at its mildest. But I also think that the Government have to face up to some of these very important side issues and not put all their eggs in the basket of solving a problem that is not of their making by reverting to an archaic, expensive and clumsy system.

6.11 pm

Lord Berkeley (Lab): I am grateful to the House for allowing me to speak in the gap.

I am interested in the way in which the Conservative Party has done a complete U-turn on this issue over 25 years. When I was building the Channel Tunnel, one of the arrangements Margaret Thatcher was pleased about was that she negotiated cabotage mainly with France because the French haulage industry was not keen to have British trucks going into France and doing cabotage there. In return for building all the trains in France, Mitterand allowed the UK to have cabotage. That was the start of the single market in transport, and here we have the same party trying to close it down today, which I find rather sad.

I saw Barnier and his team last year, as did the noble Lord, Lord Teverson, and he gave me the same message: industry must be prepared for a cliff edge and there will not be any cherry picking. Nothing seems to have changed. The Bill is a good start as an attempt to cherry pick but, as many noble Lords have said, what about the continental drivers who are going to come to the UK? About 80% of cross-Channel traffic is now provided by non-UK registered trucks and drivers, and I cannot see much point in setting out what we want unless we can reach agreement with the European Commission as to what happens the other way. Many noble Lords have referred to this.

It is worse with the issues in the Republic of Ireland, to which the noble Lord, Lord Whitty, briefly referred. I have an interesting paper on Brexit produced by the Irish Academy of Engineering, which gives many statistics, including that about 1 million trucks or unit loads cross the frontier from the Republic. Some of them are destined for Northern Ireland while others go straight across the sea. The report states that 95% of the units go to and from Great Britain and two-thirds of the traffic to and from the continent goes through what they call the "land bridge". It points out that that will involve four customs checks unless the system is changed. I cannot believe that the Irish Taoiseach, Mr Varadkar, whom I have met once and who I think is doing very well in sticking up for the Republic, will be pleased about that.

I understood the Minister to say in her opening remarks that there was no need for registration, whether for trucks or trailers, between the Republic and Northern Ireland. I do not know, but I hope that she will be able to clarify that in her response to the debate. As many other noble Lords have said, I do not see how we can have no checks on registration between the Republic and Northern Ireland and no checks on registration across the sea.

Finally, several noble Lords have put this to the Minister. If we have a system for issuing licences for trailers, trucks or drivers, how long will it take to develop and how much will it cost? She will remember that HMRC was asked a similar question last autumn: what would it cost to handle the customs on trucks? The chief executive said that it would take five years to develop an IT system, he could not say what it would cost and the work cannot start until HMRC knows what has to be done. We are going to have five years of misery on the licensing, assuming the Department of Transport can do as well as HMRC—I do not know whether it can—before something good comes out of it, if it ever does. I look forward to the Minister's response.

6.16 pm

Lord Campbell-Savours (Lab): My Lords, I want to intervene only briefly. On 5 December last year, I spoke in a debate on trade and customs policy, in particular on the issue of the allocation of CEMT permits, and I expressed some concerns. Some noble Lords may well recall the debate. My experience goes back almost 50 years, when I was in business and I had trucks. We were running our goods abroad into markets in Europe and importing components into the United Kingdom. When I read this Bill, I was disturbed by one sentence, which is set out in Clause 2(2):

> "The methods that may be specified under subsection (1)(d) include random selection and first come, first served".

I can tell the Minister what that means, because I have seen it with my own eyes: corruption. The old permit system was corrupting. I know that because the hauliers used to tell us about it. The drivers told us how they would get through customs posts in various parts of Europe. At the Mont Blanc tunnel, customs officers were bribed, as they were at the Brenner Pass tunnel because very often the permits the hauliers were running on were illegal. I have some of those permits with me, which I found this morning, and they go back almost 35 years. Now I might get a phone call from the civil servants asking what I know about it, but I do not intend to tell them—it is their responsibility

to find out how it was done. It was common practice throughout the allocation of permits. In his place behind the noble Baroness on the Front Bench is a former Minister of Transport who will recall what happened because I think he took over while the old permit system was still in operation, or perhaps I am wrong. I think that the old system was completely cleared out by the beginning of the 1990s, but I am not altogether clear on that.

All I am saying is that, if the system was capable of corruption then, given that the language used in this Bill is very similar to the language that must have been used in the legislation at that time, it will be corruptible in the future. Before we go into Committee, Ministers should be briefed on how the system was corrupted so that, when we start producing examples of what happened, at least they will be able to give us a sensible reply.

6.20 pm

Baroness Randerson (LD): My Lords, this is a surreal situation. Earlier this afternoon we were discussing outer space, spaceports and lasers—innovations and challenges of the 21st century—and suddenly here we are, with this Bill and the 1968 Vienna Convention on Road Traffic, which is 50 years old. In a way, it is an analogy for the whole of Brexit, an attempt to return to the world of yesteryear, because if you look at the Vienna convention, you will see that it has not, in all senses—despite some updating—withstood the test of time. It conjures up a different world.

It appears that, although we signed this convention, we have never ratified it. We have to do so now, because one of the realities of post-Brexit life will be that we can no longer be assured that we will be able to travel freely abroad to the 27 EU countries. With huge sadness, therefore, I say that what the Government are setting out to do in this Bill, given their commitment to a hard Brexit and thus the likelihood of a no-deal Brexit, is a sensible kind of insurance policy. It is truly tragic, however, that we are in this situation. This Bill, and the speed with which it is being pushed through, is symptomatic of the kind of crisis management we can expect from now on, as one thread after another of the EU web unravels and the Government work desperately to keep it all together. After all, this Bill, as other noble Lords have pointed out, was not on the Government's list of Brexit-related Bills in the Queen's Speech. It is one that the Government have only recently realised we need, and I am sure it will be the first of several.

The background to the Bill is that the UK has just weeks to ratify the convention in order to give the required 12 months' notice before Brexit day. The current situation is that hauliers require a standard international operator's licence and they can also request, free of charge, a Community licence, which allows them to work in EU countries. There is a single permit for all EU states, which—crucially—also allows cabotage: journeys within one EU member state made by a haulier from another EU state. So far, so simple, but it is part of a much more complex overall picture. Community licences are also valid in EFTA states. In addition, the UK has bilateral agreements and is a member of the European Conference of Ministers of Transport. There are 43 countries participating in this multilateral quota scheme, but not all are participating on the same terms. These 43 countries include all the EU countries except Cyprus and 17 others—from Albania at one end of the alphabet to Ukraine at the other. That is just a very simplified snapshot of a hugely complex set of arrangements that our hauliers will have to confront, without the core certainty of easy access to 31 other countries on the basis of one free Community licence.

The Road Haulage Association has already warned that relying on ECMT permits would be inadequate for market demand, would be very bureaucratic and would not allow cabotage. In its estimation, there will be 75,000 trucks chasing 1,300 permits, which it says will devastate the industry. I therefore ask the Minister if she could explain to us how the 80% of hauliers who are EU nationals will be affected by this. Any new scheme is likely to result in cost to hauliers and to the people for whom they transport goods, as well as to the Government—by which I mean the taxpayer—in setting up the new scheme and operating it.

Let us look at this from the EU perspective, because the Government have been very vague about what they want but the EU has been very specific about the situation as it sees it. The UK will exit the internal market for road transport. This means the end of market access based on the Community licence, of cabotage rights, of mutual recognition of driving licences and vehicle registration documents and of the cross-border enforcement of traffic offences—I want to emphasise how important that is. There are fallback positions—for example, the 1949 Geneva Convention, which can be used to deal with driving licences—but they are complex and uneven. The end of cabotage and transit rights beyond those covered by ECMT permits will mean a considerable reduction in territorial and market access.

I have a couple of questions for the Minister about haulage permits. Given that Community licences are free, what is the Government's estimate of the likely cost of obtaining one of the alternative permits that the Bill enables? On trailer registration, the National Caravan Council has already voiced its concern that the Bill allows non-commercial trailers to be brought within its scope. How and when do the Government think that might be necessary? There is already an established NCC registration scheme. Are the Government going to duplicate that, which would of course mean significant additional bureaucratic cost and burden for people operating trailers? The Government have a voluntary registration scheme for trailers called the certificate of keeper, which is designed to deal with the issue raised by Germany having slightly different rules on trailers, involving inspection. However, only some 260 permits are issued per year. I gather that the Government have said that they cannot expand this scheme; perhaps the Minister will explain why.

The Government expect to have the trailer permit scheme in operation by the end of this year, so, clearly, work has been done in preparation for it and answers should be readily available. When will the Government consult the industries on this? What is their estimated cost of a trailer permit? What will be the basis for the cost—will it be the size of the trailer or the use? I also want to push on the definition of a commercial trailer. The briefing states that it will not apply to horse trailers, because they would be non-commercial, but

[Baroness Randerson]
what about horses being transported to horse shows? In the same competition, you can have professional riders and amateur riders, with the horses, I assume, separately classified. Perhaps the Government need to give answers on such issues.

I have a particular concern about the island of Ireland. The Government say that Ireland is by far Northern Ireland's biggest trading partner and give various assurances that permits will not be required. However, their own briefing states that permits will be issued for travel on the island of Ireland only when it is at the agreement of the UK and Ireland, and that this could be part of a bilateral agreement or the UK-EU future relationship agreement. That means just about anything you want to make it mean, and I do not find it reassuring.

The Bill deals with only road transport but our industry and agriculture rely on the rail and maritime sectors, as well as air freight, of course. I have dealt with air freight in debate here on the open skies Bill that I have introduced, but I want to ask the Minister about the rail sector. Leaving the single European rail area will mean the end of the mutual recognition of operating licences, safety certificates, train driver licences and vehicle authorisations, among other things, and the end of the UK's participation in the European Union Agency for Railways. In the maritime sector, leaving would mean the end of mutual recognition of seafarers' certificates, of participation in the European Maritime Safety Agency and of free-as-of-right access to port services. The big question is: what are the Government doing to prepare for a no-deal Brexit and its impact on the rail and maritime sectors, as well as dealing with it in the Bill?

Finally, this Bill would not be necessary if the UK remained in the single market. It demonstrates that a hard Brexit will have a huge impact on the haulage industry, an industry on whose shoulders sits so much of our economy and our prosperity.

6.31 pm

Lord Tunnicliffe (Lab): My Lords, I get a sense from previous speeches—most of which have stolen the contents of mine, so I shall try to be short—that an awful lot of people are trying to understand the road haulage legal environment. That includes myself, and I admit to failing, so if I make assertions I will not be upset if the Minister tells me I am wrong.

It seems that in anticipation of multiple scenarios, the Government are doing three things: ratifying the 1968 Vienna Convention on Road Traffic; introducing a registration scheme for trailers; and introducing the capability of issuing permits. The 1968 Vienna convention was, I believe, signed at the time but not ratified. I got married in 1968 and that is a long, long time ago. It is difficult to understand why we have not ratified this convention earlier. My studies tell me that we depended on the 1949 Geneva convention before that.

The Vienna convention is now being ratified, which includes a process in this House—not that it is easy to notice that. The convention was laid in both Houses on 8 February this year and it will be dealt with under the Constitutional Reform and Governance Act 2010. This is a most unsatisfactory process because the only way you would know it had been laid is if you had picked up the Lords business and minutes of proceedings documents, for the fact that it was being laid was publicised on one day only, as is the convention of this House. The 2010 Act allows 21 sitting days for any Peer to pray against it. This is not the same as a negative instrument but it would create a debate. Because I would have to take the debate, I shall not pray against it. Why are the Government doing that? I quote from their own Explanatory Memorandum:

> "The UK signed the 1968 Convention on 8 November 1968, and has now decided to ratify it for reasons of uniformity, to increase safety and to facilitate international traffic".

One of the foolish things I did was to get a copy of the convention. It is quite long and in oldish language, but I assume the key paragraph is paragraph 3 of Article 3, on page 7, which states:

> "Subject to the exceptions provided for in Annex 1 to this Convention, Contracting Parties shall be bound to admit to their territories in international traffic motor vehicles and trailers which fulfil the conditions laid down in Chapter III".

It then goes on to specifics. But essentially, it seems to be the technical requirements to allow a vehicle to move internationally, and includes specifications about licences and what is to be accepted as a licence. A consequence of our decision to ratify that, as I understand it, is that it implies that trailers should be registered. This brings me to the Bill, which covers the two other things I mentioned: the registration of trailers and the issuing of licences.

As a generality, we will support the Bill, simply because, as with motherhood, you cannot deny somebody who is trying to create a contingency. It is an absolutely mad situation, but you still have to support the necessary procedures to cover the contingency. The registration of trailers more widely would seem quite a sensible thing to do. I would be interested in the extent to which registration of trailers includes the safety requirements that the registration of tractors does. It seems to me that it would be an anomaly if trailers are not required under British law to be as safe as their tractors. I cannot see, more widely, why one should be allowed to pull a trailer that does not meet the same safety standards as the vehicle you are pulling it with, although that may be outside the Bill.

We come now to the more significant part of the Bill and the fact that the Government propose to create an administration scheme for the issue of permits. It would have been irresponsible not to but, frankly, it is far from desirable. It is undesirable because it will create costs in an industry that works on very small margins and because requiring a new permit to be carried will invite friction at borders. All we learn about this industry is that friction at borders will be a significant hazard to successful operation.

What does the future hold for us? There is a contrast between the United Kingdom and the European Union here. In the United Kingdom, we have weekends at Chequers; in the European Union, they have a Commission. The Commission does not seem to know about weekends at Chequers, but just gets on and pumps out this stuff. One of the things it is doing now is pumping out documents called "Notice to Stakeholders". I have in front of me the one created by the Directorate-General for Mobility and Transport,

dated 19 January this year in Brussels, and titled, "Withdrawal of the United Kingdom and EU Rules in the Field of Road Transport". Its tone is hardly friendly. I quote:

"In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, road transport operators within the meaning of Article 2 of Regulation (EC) No 1071/20094 are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country. Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of road transport no longer apply to the United Kingdom. This has, in particular, the following consequences in the different areas of road transport".

This four-page document goes into a number of areas, but in the part entitled, "Access to the profession/to the market", there is the following statement:

"As of the withdrawal date, a Community licence issued by the competent authorities of the United Kingdom will no longer be valid in the EU-27. Hauliers established in the United Kingdom will no longer have access to the internal road haulage market in the Union".

That is the document's only bright spot in its four pages. It also states:

"However, the multilateral quota system managed by the European Conference of Ministers of Transport (now International Transport Forum) would apply at that point".

Hurrah, there is a fallback—until we look into what the fallback is. It is a convention or agreement—I am not sure of the right term—between 43 states, which includes all the EU states except Cyprus. The mechanics of that are laid out in an International Transport Forum document; that organisation now runs this scheme. Its document has many pages but I shall quote from one small part of it. Chapter 3, entitled "Issuing and limits of ECMT licenses", states:

"ECMT licences … are multilateral licences, delivered by the ITF/ECMT, for the international carriage of goods by road for hire or reward by transport undertakings established in an ECMT Member country, on the basis of a quota system, the transport operations being performed: between ECMT Member countries; and in transit through the territory of one or several ECMT Member country(ies) by vehicles registered".

Apparently, we have a process that we can fall back on.

However, the magic word is "quotas". The quotas, we are told, have a maximum number—1,224—of multiple-use annual permits. The Lords Library briefing suggests that there are 30,060 certified copies of the Community licences. As far as I can see, that is the equivalent of the permit. The only problem is the difference between them—that is, the number of permits that would be available in this quota are some 4% of the certified copies that have been issued. The effect of this would clearly be catastrophic. Clearly, the Government anticipate the problem of not having enough permits, because they include in the Bill—in Clause 2(2)—a reference to how they will manage a situation where there are insufficient permits. They go on to say that the Bill will,

"include random selection and first come, first served".

I cannot think of anything more terrifying than that system.

The Government anticipate failure and I have to say, with their present attitude to the customs union and single market, it seems that there is a very steep hill to climb. Failure would be unacceptable. Society could not exist. The noble Earl, Lord Attlee, pointed out that, normally, societies avoid catastrophic situations. Sadly, looking back over the past century, often they did not. This could be just such a situation, be it in road haulage, air transport or maritime.

My only real question for the Minister is: can she set out how the Government plan to achieve transport agreements that will leave us with a viable and flourishing road transport industry?

6.45 pm

Baroness Sugg: My Lords, as always, the experience and knowledge in this Chamber has been extremely insightful, and I thank all noble Lords for their contributions. Many noble Lords have pointed out the importance of the Bill to ensuring that there is no disruption to the haulage industry when we leave the EU, and of course I entirely agree. This is responsible planning to ensure that we are ready to deliver the outcome of the negotiations, whatever that may be. I think we all agree on our aim to retain the existing liberalised access for commercial haulage. I welcome that agreement; it may be one of the few that we have during the progress of the Bill.

I apologise that the Bill was not announced in the Queen's Speech, as highlighted by the noble Lord, Lord Bassam, and the noble Baroness, Lady Randerson. The gracious Speech outlined that alongside the EU (Withdrawal) Bill there would be complementary legislation and that is what this is, but I apologise that it was not explicitly pointed out then.

Many noble Lords, including the noble Lords, Lord Bassam and Lord Teverson, asked about costs and fees for both haulage permits and trailer registration. As I said in my opening words, the Bill provides powers for the Government to set and charge the administration fee. We are consulting on the details of the fees and charges for haulage permitting later this year. Again, as I said, we are doing this in order to minimise any additional burdens and costs for business. We are fully aware that this is going to be a cost for large and smaller haulage firms. The fees will be in line with the current international permit schemes. The noble Baroness, Lady Randerson, asked for some examples. An ECMT permit for one year currently costs around £133 and a bilateral permit for one journey costs around £8, so that is the kind of ballpark figure that we are looking at. However, the exact nature and costs of the permit scheme will depend on the outcome of the negotiations, so we will be setting that out.

On the question of trailer registration, the Bill again provides the powers to set the fees to cover the administration. Again, we are aiming to minimise those as far as possible in order to reduce any burden or cost to businesses. There will be no ongoing annual fees associated with trailer registration. I think the noble Lord, Lord Teverson, asked about numbers; we expect around 80,000 or so will be registered. Once the trailer is registered, the only further fees would be for any subsequent reissue. The system for that is still in development and the cost is still to be determined. We have been doing quite a lot of exploratory work on this and are confident that the registration fee will be significantly below that of the current vehicle registration fee, which is £55.

[Baroness Sugg]

On caravans, a subject raised by the noble Baroness, Lady Randerson, the scheme will apply only to commercial trailers over 750 kilogrammes. We are speaking to the caravan society, as the noble Baroness mentioned, to further clarify that.

I raised the issue around horses and whether, if a horse was travelling to race abroad on a commercial basis, that would count. I was reassured that horses in that case would be in an all-in-one vehicle; I do not quite know what to call the vehicles, but they would not be in a trailer horsebox. My colleagues tell me that a horsebox is an all-in-one vehicle, rather than a horse trailer, so they would be covered. However, I am going to go back and clarify that further.

The noble Lord, Lord Bassam, asked about the permit application process and how it will work, and the noble Lord, Lord Berkeley, mentioned HMRC. We are working with an existing organisation, the Driver & Vehicle Standards Agency, on the system to allocate haulage permits. That will be building on existing IT systems to create an online permit application system. Obviously hauliers are already familiar with applying to the DVSA for paperwork related to domestic and international travel, so we hope that they will welcome this. Again, we are committed to trying to minimise any additional requirements, and we are working closely with industry to develop those plans. The aim is absolutely that we will be able to take applications and issue permits in advance of exit day, and we are on track to be able to issue permits in late 2018.

Lord Bassam of Brighton: My Lords, are the Government so well advanced in their thinking on the permit scheme that they have scoped out an IT system with one of the providers? Are they in negotiation with companies that do outsourcing on data and so on to try to work out exactly what sort of system they might want to put in place and think about what sort of contract they might want to set?

Baroness Sugg: We are working with the existing IT system at DVSA, so there would be no additional contract. I can certainly provide the noble Lord with further details on that.

The noble Lord, Lord Teverson, asked about the implementation period. Obviously, this is being discussed. The Government have been clear that the implementation period will be based on existing rules and regulations. I hope that we will reach agreement on that soon, which should provide some reassurance to industry.

The noble Lord, Lord Bassam, asked about the recognition of driver qualifications. The treatment of drivers' certificate of professional competence will—again—depend on the outcome of negotiations with the EU, but our objective is absolutely to ensure that following our exit from the EU, CPCs will continue to be recognised.

The noble Lords, Lord Teverson and Lord Berkeley, asked about access for foreign hauliers, including cabotage. These, again, are important issues for negotiations that we are considering carefully for any future arrangement. In any scenario, there is existing domestic legislation to provide appropriate access for foreign hauliers coming to the UK, so the Bill does not address that specifically. However, as the noble Lord, Lord Berkeley, pointed out, it is an important part of the negotiations, and it will obviously be part of the discussions.

The noble Lord, Lord Tunnicliffe, and others mentioned ECMT permits. The permitting system operated by the European Conference of Ministers of Transport is an international agreement entirely separate from the EU and will not be part of our negotiations. The ECMT permits currently allocated to the UK are little used and we have absolutely no intention of allowing them after we leave the EU.

As much as I would love to give the noble Lord, Lord Bassam, a timeline for our transport negotiations, I am unable to do so. We are working closely with industry to understand its requirements and priorities, and have been doing so since the result of the referendum. We represent those views to the Department for Exiting the European Union. That department and the Department for Transport stand ready to move forward with the transport negotiations as soon as they begin.

The noble Lord, Lord Snape, spoke about optimism. I agree with him that we do not want to return to rationing. We are optimistic in these negotiations and am pleased that at least my noble friend Lord Attlee shares that optimism. It is absolutely to the mutual benefit of us and the European Union that we maintain liberal access; 84% of the freight transported between the UK and continental Europe is operated by EU hauliers, and it is in both our interests that we have a successful outcome.

Lord Berkeley: If this goes ahead and we have licences here for drivers and trucks to operate on the continent, we will presumably need some approval process. Perhaps it would not be a taxing system but it could work alongside the customs declaration for all the 80% of foreign trucks coming into the UK—either into Northern Ireland from the Republic or from the continent. Has that been taken into consideration?

Baroness Sugg: Certainly not in the context of the Bill. I apologise for going back to this, but exactly what that will look like is a matter for the discussions with the European Union as part of the negotiations.

The noble Lord, Lord Snape, asked about the reservations to the Vienna Convention on Road Transport. We will be making reservations in respect of six sections of the convention, relating to jaywalking, parking direction and so on. They apply only domestically and will not affect the other countries. It is usual practice for countries, on ratifying the convention, to put forward such reservations. We do not expect there to be any issue on that.

Lord Snape: If that is the case and it is all so simple, why have we not endorsed the Vienna convention over the past 50 years?

Baroness Sugg: We have been relying on the agreement that we have with the European Union, and because we are leaving the EU we have to bring forward something else.

The noble Lord, Lord Tunnicliffe, asked questions around the convention process. We are following the usual process for Command Papers and have done our best to highlight this issue. The convention is detailed and the Secretary of State has offered a meeting with all Peers and MPs to discuss the Bill and the convention. As the noble Lord pointed out, there is a process to discuss the matter further on the Floor of the House and I would be delighted to do so if anyone would wish to.

The noble Lord also raised the issue of safety for trailers. I do not believe there is a safety requirement in the Bill, but I will take that suggestion away and look at it further.

Earl Attlee: My understanding is that the tractor unit is subject to the plating and testing regulations, as is the trailer, and they are also subject to type approval regulations that are already in place.

Baroness Sugg: I believe that to be the case, and that therefore the Bill will not affect safety, but I will clarify that and write to my noble friend.

My noble friend Lord Attlee asked about penalty drafting within the Bill. We have drawn up the penalty levels from the original 1975 legislation so the offences are consistent with that. I am told that Clause 8 puts the offence in respect of a permit scheme in the Bill along with the penalties, which are summary only. Clause 17 enables regulations to be made which include the offences and penalties. Clause 17(6) restricts those regulations to include summary offences only, but perhaps I can write to my noble friend further on that.

On Ireland, the noble Lords, Lord Berkeley and Lord Whitty, and the noble Baroness, Lady Randerson, all rightly highlighted the importance of ensuring that we get the legislation right for the island of Ireland, and I should like to say a few more words about that. The Bill does not create a permit regime or a hard border on the island of Ireland. Again, the Government are committed to ensuring that there is no hard border. We want trade and everyday movements over the land border to continue as they do now. Half of the imports and exports by road are to and from Ireland and 89% of this trade is going between Northern Ireland and Ireland. There is no history of restrictions on road haulage, and that must remain the case.

To make clear the commitment not to create a hard border on the island of Ireland, we included Clause 1 explicitly to provide that permit regulations may not apply to journeys on the island of Ireland unless there is an agreement on the provision of permits between the UK Government and Irish Governments. To reiterate, trailers travelling between the UK and Ireland will not need to be registered. I very much agree that this is an important issue and something we need to keep in mind as the Bill progresses.

The noble Lord, Lord Tunnicliffe, and many other noble Lords mentioned borders. The provision of a permit scheme, whatever its detailed design, is intended precisely to ensure that there will be no delays for UK hauliers at our borders or any other borders in relation to their permission to travel. The haulage permits part of the Bill relates to UK hauliers, but, as noble Lords mentioned, EU hauliers also benefit from hauling to and from the UK. The DVSA already carries out checks on vehicle operating standards on our road network rather than at the borders and we would expect that to continue and include checks for permits if those are required as part of the deal with the EU.

The noble Lord, Lord Campbell-Savours, raised an interesting point on corruption. It is certainly something we must avoid. I will make sure that I am fully briefed on previous issues with the system ahead of Committee so that we can avoid them.

Lord Campbell-Savours: Perhaps I may make a suggestion: that the department bring in operators who were operating in the 1960s and 1970s. There will be some around and they will remember what happened.

Baroness Sugg: If we can track them down, we will certainly get them in. I thank the noble Lord for that suggestion.

Lord Bassam of Brighton: Perhaps I can take the noble Baroness back to an earlier point about trailer registration. I do not know whether she has looked at the department's impact assessment, but it says that one of the indirect benefits will be improvements for road safety, and trailer registration is part of that. It strikes me that this is an opportunity, if the department wants to look at it that way, to secure some long-term benefits from trailer registration, and the Government might want to focus on it in their post-Brexit evaluation of road safety issues.

Baroness Sugg: I thank the noble Lord for that suggestion and will go back and study exactly where the safety requirements fall, and whether there is an opportunity within the Bill to further improve safety. I know that there is quite a lot of work on trailer safety going on in the department at the moment.

Earl Attlee: Perhaps I can assist the House. There is already a system of trailer identification to make sure that trailers are properly tested. The issue is whether there should be registration and therefore a number plate on the rear of the trailer.

Baroness Sugg: I thank my noble friend for that clarification.

The noble Lord, Lord Tunnicliffe, and the noble Baroness, Lady Randerson, mentioned the Commission's paper setting out its general approach to the options for future partnership on rail, maritime and road transport. We think that is an opening position from the Commission, drafted with its own interpretation of EU red lines. We welcome its recognition of the importance of keeping transport flowing after we leave the EU. This is clearly part of the EU's internal preparatory discussions and will not necessarily represent where negotiations will end up. The proposals are designed to be thought-provoking, and we are pleased that they will at least ensure that member states focus on transport issues.

Baroness Randerson: I understand the Government's view that these EU papers are just an opening position, but actually they are a factual statement. How we move forward from that is another issue, but the papers are making a factual statement. Will the Minister address the fact that those papers cover rail and maritime as well as road? My question was: how will the Government deal with rail and maritime? Will there be legislation similar to this Bill?

Baroness Sugg: We do not currently believe that there needs to be legislation for the maritime and rail sectors. Obviously there is preparatory work going on, but we do not have any further updates for the noble Baroness on that. As and when we need to bring forward legislation to prepare ourselves, we absolutely will, in the same way as we have done with this.

The Government have introduced this Bill as part of the preparations for the UK's withdrawal from the EU. I say again that we are committed to ensuring that liberal access continues for the commercial haulage sector. We all agree on how important it is that that continues. We are confident that a future partnership between the UK and EU in this area is in the interests of us all, and we are optimistic about the negotiations.

This legislation shows that this Government are acting responsibly—I hope noble Lords will welcome the preparations, as many have, in various tones—in case preparations are required as we move from our current membership of the EU to our future partnership. My noble friend Lord Attlee rightly called this a sensible precaution, and I will pass on the congratulations of the noble Lord, Lord Whitty, to the department for being so well prepared. Of course, there are many wider issues relating to leaving the EU that will be of much interest to noble Lords. Many of them are being debated at length in the EU (Withdrawal) Bill. I hope that the sensible measures in this technical Bill will help ensure that the UK is prepared for all eventualities and I welcome noble Lords' broad agreement on this, and their contributions to delivering it as the Bill proceeds through the House.

I thank again all noble Lords for their contributions to the debate this afternoon—in particular the noble Lord, Lord Tunnicliffe, and the noble Baroness, Lady Randerson, who, like me, are on their third piece of transport legislation today. We will carefully consider all the points raised, and I look forward to discussing them further in Committee. I ask the House to give the Bill a Second Reading.

Bill read a second time and committed to a Grand Committee.

House adjourned at 7.03 pm.

Grand Committee

Tuesday 27 February 2018

Arrangement of Business

Announcement

3.30 pm

The Deputy Chairman of Committees (Lord Rogan) (UUP): If there is a Division in the Chamber, the Committee will adjourn for 10 minutes.

Social Security Benefits Up-rating Order 2018

Guaranteed Minimum Pensions Increase Order 2018

Considered in Grand Committee

3.30 pm

Moved by ***Baroness Buscombe***

That the Grand Committee do consider the Social Security Benefits Up-rating Order 2018 and the Guaranteed Minimum Pensions Increase Order 2018.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) (Con): My Lords, these orders were laid before the House on 15 January. In my view, the provisions in both orders are compatible with the European Convention on Human Rights.

I will start by touching briefly on the Guaranteed Minimum Pensions Increase Order. This order provides for contracted-out defined benefit occupational pension schemes to increase members' guaranteed minimum pensions that accrued between 1988 and 1997 by 3%, in line with inflation as measured by CPI.

Moving on to the Social Security Benefits Up-rating Order 2018, this Government are once again making good on our guarantee to the country's pensioners that we will continue to apply the triple lock to the basic state pension and the full rate of the new state pension for the duration of this Parliament. For 2018-19, this means an increase of 3%, in line with inflation. The rate of the basic state pension for a single person will thus rise by £3.65 to £125.95 a week from April 2018. Pensioners who receive this rate will from April 2018 be £1,450 a year better off than they were in April 2010. The basic state pension will be worth around 18.5% of average earnings, which is one of the highest levels relative to earnings for over two decades. The full rate of the new state pension for people reaching their state pension age from 6 April 2016 onwards will rise by £4.80 to £164.35 a week, which is around 24.2% of average earnings.

With regard to pension credit, we are making sure that the poorest pensioners in the UK will see the full benefit of the triple lock by increasing the standard minimum guarantee in pension credit by £3.65 to match the cash rise in the basic state pension. This is a year-on-year increase of 2.29%, marginally exceeding annual growth in earnings of 2.2%, which we will fund by raising the savings credit threshold. From April 2018 the standard minimum guarantee for single people will be worth £163 a week, while the equivalent rate for couples will rise by £5.55 to £248.80 a week. With regard to the additional state pension, state earnings-related pension schemes will rise by 3%, in line with inflation, as will protected payments in the new state pension.

With regard to disability benefits, we continue to support carers and those with additional needs as a result of disability and will increase the benefits they receive by 3%, in line with inflation. These include: disability living allowance; attendance allowance; carer's allowance; incapacity benefit; the personal independence payment; disability-related and carer premiums paid with pension credit and working-age benefits; the employment and support allowance support group component; and the limited capability for work and work-related activity element of universal credit.

In conclusion, total government spending on uprating benefit and pension rates in 2018-19 comes to an extra £4.2 billion. This is £4.2 billion that we are using to support pensioners, disabled people and carers. On this basis, I commend the orders to the Committee and I beg to move.

Baroness Lister of Burtersett (Lab): My Lords, I had not planned to speak this afternoon, since I was supposed to be in two different places. But then I had this horrible memory of reading *Hansard* from our most recent debate on the uprating order, and of my noble friend Lady Sherlock naming and shaming me, in the nicest possible way, for not being there. I thought that I could not let this happen two years running, so here I am.

The Minister rightly said that the orders are compatible with the European Convention on Human Rights. However, there are other international obligations with which I do not think they are compatible. I would like to talk about the elephant in the room—those benefits that are not being uprated. This happened last year and the Minister very fairly accepted that it was a reasonable thing for us to do, because we cannot talk about uprating the benefits without thinking about benefits in the round.

As the Minister is aware, the European Committee of Social Rights recently issued a report, saying that levels of contributory benefits to the sick and unemployed are inadequate and therefore do not conform with Article 12 of the European charter. That was based on 2015 levels on benefits, so they would be even more inadequate now because of the benefits freeze in most working-age benefits.

In a report published last week the Resolution Foundation said that,

"in every year from 2016-17 to 2022-23 the UK is projected to miss its international commitment—through the 2030 Sustainable Development Goals".

Those goals apply to us, as well as to poorer countries. The report said that it will fail,

"to deliver higher growth for the poorest 40 per cent of the population than for the population as a whole".

Inequality is projected to rise to record highs by 2022-23. The Resolution Foundation says that this is,

"a story of the poorest working-age households being left behind".

[Baroness Lister of Burtersett]
A key driver is the freeze in most working-age benefits. This is a policy choice. The Minister will talk about the living wage and personal tax allowances at some point but all this is taken into account. The fact is that the poorest people are falling behind, largely because of the benefits freeze.

According to the Resolution Foundation report, by 2020 jobseeker's allowance and child benefit beyond the first child will be worth less than 32 years ago and child benefit for the first child will be at its lowest real-terms level in 20 years. I am sure that the noble Lord, Lord Kirkwood, will feel the same as me: as someone who has been working in this area for so long I find it very depressing to see how seriously we are going backwards.

The Minister gave us the welcome news about how pensions are improving relative to average earnings, but child benefit for a two-child family is less generous that at any previous point in the almost 40 years since it was fully introduced. It is set to fall even further over the next five years. Jobseeker's allowance—unemployment benefit as was—was around a fifth of average full-time pay in the 1970s. It is now around 11% and is on track to fall to 10% by 2022, which will be a new low.

Does the Minister have the figures for what these key benefits, for people of working age and their children, would have been had they been uprated in line with prices since 2010? If she does not have them here—I would not expect her to read them all out anyway—would she be able to send them to Members of the Committee? It is important that we know what effect this freeze is having.

Given the way benefits are falling behind, it is hardly surprising that more people are turning to food banks and that poverty, especially child poverty, has started to rise again and is projected to increase by more than 1 million by the next decade. It is quite shocking. We are happy to allow the poorest to pay the price of increased inflation while the better off continue to enjoy cuts in taxation which do nothing for those whose income is too low even to pay income tax. I was very struck by reading in the paper yesterday that the Archbishop of Canterbury has said:

"Austerity is a theory for the rich and a reality of suffering for the poor".

As the Resolution Foundation and others have said, these are choices. How we have responded to the financial crisis has been a matter of choices. I believe they are the wrong choices and that those with the narrowest shoulders are being asked to carry the burden. With inflation continuing to be significantly higher than it was projected to be at the point when the benefit freeze was first announced, is it not time that the Government think again about that policy and come back at the next available opportunity to say that they will now lift the benefit freeze?

Baroness Primarolo (Lab): My Lords, I shall briefly follow the points that my honourable friend made and developed to ask the honourable Lady—I beg their pardon; I am not in the other place and should say my noble friend and the Minister—some specific questions about the Social Security Benefits Up-rating Order with regard to child benefit and child tax credit, which are not in the order, and in particular how it fits with previous decisions by this Government to cap uprating at 1% between 2013 and 2015 and subsequently to put a freeze on the vast majority of social security payments.

I want to address rising child poverty and, in particular, the rise of absolute child poverty. I am sure that the Minister will be aware that the evidence shows that money paid through child benefit and tax credits directly to the parent, mainly the mother, is spent directly on children, yet in this period we have seen a shocking increase in child poverty in a country which has the sixth largest economy in the world, notwithstanding the points that my noble friend made. While the price of food and energy is rising at 4% and more, the poorest families will see their income drop as they struggle to balance feeding their children and heating their home, and many of them will fall prey to loan sharks.

Does the Minister accept that, as CPAG has said, as a result of the cumulative cuts to social security, which are pushing more people into poverty, the failure to uprate benefits in line with inflation is the single biggest driver of child poverty? What is her assessment of the impact of the decisions contained in this uprating order on poverty levels and, in particular, child poverty? Does she accept the CPAG's analysis that 1 million more children will be pushed into poverty? One million! I mean, one child would be awful; I cannot think of a word to describe adequately the prospect in our society of 1 million more children in poverty as a direct result of this Government's policies and the cuts to universal benefit.

3.45 pm

By continuing the freeze on social security payments that are not included in this area, 10.5 million households will see their average yearly income cut. That simply is not sustainable. So the obvious question is: why target children? Why allow the Treasury to benefit by something like £4.7 billion in savings by cutting these benefits while seeing the appalling prospect of more children being pushed into poverty? What are the Government seeking to achieve here with regard to child poverty targets? Do they have a target or a strategy and, if they do, how will they reduce child poverty? It is a test of our society not only how we treat our pensioners and those vulnerable in our community but how we treat our children, who are the potential for the future.

I would be very grateful if the Minister could touch on those points and, if she cannot because of time constraints today, I will be more than happy for her to write to me explaining exactly what the Government's strategy is here.

Lord Kirkwood of Kirkhope (LD): It is a pleasure to follow the noble Baroness, Lady Primarolo, who did some excellent work on child poverty when she was a Treasury Minister, and I agree with everything she has said. I am pleased to join with the noble Baroness, Lady Lister, in that my reason for being here is that my public last year discovered that I was not here either. So here I am—but I am escaping the hour and a half of the consideration of the Secondary Legislation Scrutiny Committee by being here, and I have more friends in this Committee than I have upstairs.

I have not had a chance to say this, but I am very pleased to welcome the Minister to the Dispatch Box; I was dismayed by the wholesale shift of the ministerial team at the DWP recently—the only bright spot was that she survived. But I make a serious as well as a flippant point. With a change of that scale at a stage like this, in the middle of all sorts of huge policy changes, and—I am going to mention it once, because every meeting is allowed to mention it only once—the EU withdrawal process, it is very difficult to be confident that any Minister, no matter how engaged and diligent, can really grasp the full complexities of this subject area. It makes my heart sink when I think about exactly what the chances are facing the department, but I am pleased that the Minister is here. I know that she will make a contribution and listen carefully to today's debate.

I award the DWP employee of the month prize to Mr Ben Pugh who at paragraph 7.7 of the draft Explanatory Memorandum to the statutory instrument came up with this marvellous sentence, which I shall keep as a special uprating debate moment:

> "These amounts will therefore be increased by 3.0085%—the difference between £159.55 and £164.35 as a percentage of £159.55, taking account of the rounding of the new full rate to the nearest 5p".

I think the paperwork we are presented with in consideration of these orders is becoming less useful. The noble Baroness, Lady Lister, asked a couple of really pertinent questions which would be much more relevant to understanding where we have been and where we are going, in terms not just of the spend that we have seen in the past but the affordability of what is going on, and a comparison. Anybody who has a Twitter account can see that the Resolution Foundation is drop-dead marvellous at putting these things in graphs—it makes them so much clearer and so much starker. Admittedly, the Government's opening statement concentrated on the welcome additions to the pensions, the disability premium and all the rest, at 3%. I think they are right to do that and it is very welcome, but when you look at some of the disparities in the other spendings and you factor in the cuts, caps and freezes, some of these situations are much easier to understand if seen visually.

This is not making the Government's job any easier but I make a plea that in future, we have an intelligent discussion about affordability, even if it is one of the little round tables that we often have and the Minister is kind enough to arrange. That is what I am driving at, because I am very nervous. In terms of the demographic change, I do not think we can afford the triple lock. I am not saying that it is my party's policy to abolish it but if I have my way, it will be, because after 2020 the thing becomes impossible to sustain if you look at the economic picture over 20 years.

The Office for Budget Responsibility *Welfare Trends Report* was very instructive about the fragility, if I can put it that way, of the basis of universal credit. At the end of the day this will be a £60,000 million spend, covering 7.7 million households across the country. If the OBR cannot say one way or the other whether this is going to work properly—it is a very interesting report if that is what it is saying—that has to be taken into account in considering these orders, because we are setting the policy for the next few years. It is something we need to think more carefully about. We need to try to get better value for the spend we are making in these orders.

One of my most recent visits to universal credit—it is something I am thinking more clearly about and organising some extra visits, with the Minister's help—led me to think about our ability to support families, not just with money but with signposting and warm handovers. There is a big difference between the two, but that can and should develop so that we are not just offering people a guarantee of 3% or whatever it is. We need to get better value for money by, for example, liberating the ability of people who are recently retired and are still relatively healthy: the longevity bonus, if you like. We need to take a community approach and offer them some incentives, to operate alongside families with chaotic lifestyles.

We need a long-term plan. Before the end of 2020, I would like us to structure a social protection system that is open about what percentage of the national wealth should be devoted to it. Then, if the economy goes up, we all enjoy the benefits; if it goes down, I think people would be prepared to accept that that is the way the world works. That is much fairer than imposing cuts, caps and freezes between now and 2019-20. The evidence indicates that low-income households will be assessed in a much harsher context than I have seen in my time in public life. I am older than I look and I have been round the block, but, seriously, come 2020, that will be the result if the benefit freeze is allowed to continue. The evidence is clear. My two colleagues earlier referred to their takes on this issue. We have the IFS, the Joseph Rowntree Foundation and the End Child Poverty coalition. The United Kingdom is blessed with an experienced and trusted research community that can be relied upon to carry out this work.

Of course, no one has the ability to foretell the future but all the indicators suggest that this situation will get a whole lot worse before it gets better. I do not think that it is sensible merely to tackle this from year to year and stick with policies crafted when inflation was 1%. It is now 3% and we are told that local authorities are contemplating putting up council tax by 6%. That just will not work. The End Child Poverty campaign has said that the poverty premium is now £1,700 a year for some households in some parts of the United Kingdom. That is a much higher figure than I have ever seen, so this is all pointing in the wrong direction. It is not safe to leave this freeze in place without thinking very carefully about where it is going and what we are going to do at the end of it. My honest opinion is that public opinion will not put up with the consequences of the current policy if it continues to 2020 and 2022.

I know that the Minister will think about this issue sensitively and carefully and will use her influence as one of the most senior Ministers in the DWP to twist people's arms. I hope that she will kick down the door of the Treasury to try to inject a bit more realism with regard to what the department is facing. If she does not, the consequences will be picked up by low-income households and children living in poverty, as we heard

[Lord Kirkwood of Kirkhope]
earlier. They do not deserve that. We as legislators should pay more attention to putting these things right before they get too out of hand.

Lord Jones (Lab): My Lords, I thank the Minister for her exposition, which was, as ever, very precise, and welcome my noble friend on the Opposition Front Bench. I also welcome both these orders. The triple lock is welcomed by millions of people. Looking at the complexity of these two orders and at the long list of the Committee's business today, I might be forgiven for expressing the personal view that perhaps they should have been taken on the Floor of the House. We have discussed a huge range of benefits in a short period of time. We have had a short debate, yet the issues are huge, the moneys are mighty and they all relate to the citizenry—our people. All of us want better things for the people of our nation.

In Part 2, the DLA is increased by £2.50 a week. That is surely welcome, but will the Minister say why the increase could not have been bigger, given the difficult times that are experienced by so many people, who are just getting by or not even getting by? Part 2 also refers to bereavement benefits and the bereavement support payment. The latter is not to be increased. Will the Minister, in the fullness of time, say why not? Surely that is worthy of an increase.

4 pm

Schedule 5, on page 29, refers to the carer premium, the total of which is £36. Will the Minister comment on this? Is it more? Is it new? Perhaps she can say a few words about it. We would all agree that carers in society save the state billions of pounds and, in many cases, make sacrifices to be a good carer. It might be reasonable to ask the Minister to make some observations on that.

Lastly, in this Siberian winter spell, as the beast from the east makes itself known most forcefully, particularly in the north of my homeland, will the Minister say whether any component of these generally welcome upratings is a response to these terribly icy conditions? People on benefits have no spare money and, this week, tens of thousands of our fellow citizens on benefits are facing difficulties in heating their houses, which may well be old and not necessarily draft-proof. The choice may be to pay either the rent or the heating bill or to pay either for meat or for heat. These are troubling days for many people and the Minister might have a view on that when she gives her summation.

Baroness Sherlock (Lab): My Lords, I thank the Minister for introducing the orders and all noble Lords who have spoken today. It is a delight to be reunited with my noble friend Lady Lister and the noble Lord, Lord Kirkwood. I assure my noble friend that I was far from intending to name and shame her; I was in fact paying tribute to her years of service and those of the noble Lord, Lord Kirkwood, in coming back year after year to address these issues in defence of the poor in our society. I commend her for that.

It is also a delight to see my noble friend Lady Primarolo here. It is great to be reunited with her, in a different way. I had the privilege of being able to support her and other Ministers when she was doing such good work as Paymaster-General in developing tax credits, which have been so important in supporting working families and children in this country.

It is a delight also to hear my noble friend Lord Jones battling from the Back Benches. We are glad that he is here. He made a good point. I understand that, in the Commons, this order is always taken on the Floor of the House and not in a Delegated Legislation Committee. The order is of such importance to so many of our citizens that I commend that suggestion to the Government for next year.

I will deal first with the benefits uprating order. As we have heard, its purpose is to uprate those social security payments that are fortunate enough to have escaped the clutches of the Government's damaging benefit freeze, of which we have heard so much. We will see them uprated by 3%, as that is the level of the CPI. That also applies to the new state pension, in accordance with the triple lock, and the pension credit. But the main means-tested working age benefits are not covered so, although I welcome the uprating of those elements that are being uprated, I am deeply concerned to see the value of the main means-tested working age benefits being cut yet again.

By way of background, the principle should be that all social security benefits should be uprated by the rate of inflation so that they retain the value that Parliament voted to set them at, unless Parliament decides to do something different. Anything other than that is undemocratic, as well as being unfair in its consequences to recipients. Of course, before 2011 they were tied to the RPI—or in fact to Rossi, a variant on RPI that excludes housing and council tax—then in 2011 it shifted to the CPI. That saved the Treasury a lot of money. Although that was contested, at least it retained the concept that benefits should retain their value year on year.

In 2013-14, the coalition limited most working-age benefits to a 1% annual increase. This Government then went further and froze them in cash terms at 2015-16 levels for four years, so they will not rise again in cash terms until 2020. That includes some of the benefits on which the poorest of our society depend, including JSA, ESA, income support, housing benefit for those under women's state pension age, and LHA, as well as the benefits for children, a point made clearly by my noble friends Lady Lister and Lady Primarolo. While I welcome the uprating of disability premiums, the support group component of ESA and the limited capability for work and work-related activity element of UC, I express deep concern that nothing else has been included.

As we have heard, the freeze of payments and support is having a damaging impact on millions of people on low incomes across the UK. Inflation is now far higher than when the Welfare Reform and Work Bill was passed. I went back again to the impact assessment for that Bill, which cited the OBR's forecasts for CPI inflation for each year of the freeze period. At the time, they varied between 0% and 1.9%. The forecast when Parliament passed the Bill was 1.7% for this year. In fact, the CPI 12-month rate was 3% last month. That difference is good news for the Exchequer, which is saving a lot of money, but that money is

coming directly out of the pockets of those who would have got and depend on these benefits. David Finch of the Resolution Foundation points out that his team's estimate is that by 2020 the freeze will save the Exchequer £4.7 billion. That is £1.2 billion more than previously forecast.

Of course, inflation for the poor is always higher. Food prices are up 4.1% and transport costs up 4.5%. The Joseph Rowntree Foundation has shown that the price of essentials has risen three times faster than wages over the last 10 years. Of course, the context for this freeze has been a whole range of other cuts to social security benefits and tax credits. We have already seen the cuts in the work allowance for universal credit: the Government scrapped the severe disability premium in UC, cut help for the self-employed, limited benefits and tax credits for the first two children—I could go on. As a result, UC is already failing to make work pay. Instead of reducing poverty, as we were promised, it is exacerbating it. The final straw is the Government's plans to change the way free school meals are provided to those on universal credit, which will introduce the mother of all cliff edges, but I will come back to that another day.

By continuing the freeze on social security payments not in this order, as my noble friend Lady Primarolo said, the Government are subjecting 10.5 million households to an average cut of £450 a year up to 2020. The order underscores the fact that, because the Government are choosing to uprate some discretionary payments, they recognise that some benefits need to increase because inflation is increasing. Yet we have not seen any such increase for the ones that are most needed by many people in our country. When the Minister replies, could she give us a reason why some of those need increasing and some do not? These are choices, as my noble friend Lady Lister clearly expressed. The point was well made because austerity, as she pointed out, as experienced by the poor is a choice made by the Government.

The noble Lord, Lord Kirkwood, raised the question of affordability. He is right. The best indicator of the affordability of our social security system is the spend we have on social security as a proportion of GDP. That has been broadly similar for decades now, but I have no doubt that the Minister will be aware of the work done by Ruth Lupton et al, who looked at the coalition's social policy record. She found that overall on the decisions made the welfare cuts and more generous tax allowances balanced each other out, contributing nothing to deficit reduction.

The *Welfare Trends Report* from the OBI states that by 2021 social security support for children will be at the lowest share of GDP since 1990-91. I do not think that the affordability arguments work. These are choices and I suggest to the Minister that they are bad choices, so I would like to ask her some questions. I am very much with my noble friend Lady Primarolo in wanting to know what assessment the Government have made of the impact of the social security freeze on poverty levels. I would also like to know the Government's latest estimate of the savings to the Exchequer of this four-year benefit freeze, over and above the amount originally scored and showed to Parliament in the impact assessment when we were asked to vote through these measures in the Welfare Reform and Work Bill. Do the Government have a view about how big that gap would have to get before they felt obliged to revisit the question?

In my final point on the Social Security Benefits Up-Rating Order, I am very much with the noble Lord, Lord Kirkwood, on the nature of the information that we now get. I have been doing this work for quite a long time, but we are now at a level of such complexity, where some benefits have to be uprated, some are discretionary and some are not being uprated, that just by reading the order and the Explanatory Memorandum it is not easy to find out what falls into what category, let alone its impact. Will the Minister be willing to go back and have a think about how that information is presented and about ways in which it will be more accessible? There are a fair few geeks on social security in this Room and, if we are struggling, I suspect that others may be finding it even less appealing. Perhaps she can dwell further on that.

Moving on to the pensions element, we welcome the uprating of the state pension by the triple lock, but I want to put on record concerns about levels of public understanding about the new single-tier pension. We know that there are winners and losers as a result of the Government's changes and we also know that most new pensioners will not receive the full single-tier pension. Before its introduction, it was estimated that only around 22% of women and half of men reaching state pension age would be entitled to the full single-tier pension. Can the Minister update the Committee with any figures on this point?

I also note that, in addition to the various social security payments that are subject to the freezes and are not uprated in this order, there are other omissions in this area. While the state pension is being uprated, people with frozen pensions are excluded from the uprating and will not see an increase in their state pension in line with inflation. Also, the Government have still failed to address the injustice faced by many millions of women born in the 1950s. At the very least, they should bring forward retirement for women born in the 1950s and enable an early draw-down of their pension. If that were possible alongside our proposals to extend pension credit, they would at least have the option to retire early with some much needed financial support.

Turning to the specifics of the Guaranteed Minimum Pensions Increase Order 2018, we support the uprating of the guaranteed minimum pension in line with inflation as set out in this order, but I have some questions for the Minister. They were raised by my honourable friend Debbie Abrahams when this order was considered in another place but they received no reply. I am sure that the Minister can do better than that, not just because, obviously, the Lords is a marvellous place, but because, one hopes, she will have had an opportunity to read the exchanges in another place and so will know the questions that are coming.

Under the old state pension, there were two main components: the basic state pension and SERPS. People who paid national insurance contributions at the full rate built up a basic state pension, but an option was

[Baroness Sherlock]
created in 1978 in which somebody could contract out into another pension scheme if the scheme met certain criteria. Schemes taking on such new members were required to provide a guaranteed minimum pension, but the scheme was discontinued by the Government in 1997. In 2016, the Government's introduction of the new state pension ended contracting out by replacing the additional state pension with a single pension. Working-age people now have their existing state pension entitlement adjusted for previous periods of contracting out and transferred to the new state pension scheme. For people who have guaranteed minimum pension rights under an old scheme but who reach retirement age after April 2016, when the new system kicked in, the Government no longer take account of inflation increases to guaranteed minimum pensions when uprating their new state pension. That means that any guaranteed minimum pensions accrued between 1978 and 1988 will not be uprated and the scheme provider will uprate guaranteed minimum pensions built up between 1988 and 1997 only, up to a maximum of 3% each year.

The National Audit Office investigated the impact of the changes in a report in 2016 and concluded that there would be winners and losers under the new arrangements depending on the amount of time that people were contracted into a scheme. Those whose state pension has been pushed back because of the rise in state pension age will lose out on the guaranteed minimum pensions inflation-linked increases that they would have received under the old rules. But it noted that those who lose out under the new rules might be able to build up additional entitlement to the state pension. The issue was one about lack of information. The NAO said in its report:

"Some people are likely to lose out and they have not been able to find the information they need".

How did that come about? The NAO concluded:

"We are concerned that the Department has limited information about who is affected by the impact of pension reforms on Guaranteed Minimum Pensions … It … will need to help people identify how they are affected and provide them with accurate and more complete information so that they can make informed decisions about their future pension arrangements".

In the light of that, I ask the Government two questions. Can the Minister provide an update on the numbers of people affected since the new legislation came into effect? Secondly, what help is currently available to support people in their understanding of the changes? I hope that the Minister will take the opportunity to address those issues and I look forward to her reply.

4.15 pm

Baroness Buscombe: This has been a really lively and interesting debate. It is right that I emphasise that these orders are not about the benefit freeze and a fair number of other issues raised by noble Lords. However, having said that, I shall attempt to do my best to reply to noble Lords.

I have some news, also, for the noble Lord, Lord Kirkwood. He was here last year. Indeed, there are some similarities in his speech. I have to say that some aspects of it I have enormous sympathy with, so I shall come to that, and I welcome his contribution to this debate.

I shall cut straight to the issues of benefit freeze. It is not a cut—it is a freeze—and it is part of a package of welfare reforms designed to incentivise work, which we know is the best route out of poverty. I want to talk about the things that we have done that are really positive, because I fear that if one listened just to noble Lords opposite one would have a sense that somehow everything is going completely wrong—but that simply is not the case. However—and I shall come to this again in a few minutes—the noble Lord, Lord Kirkwood, and the noble Baroness, Lady Sherlock, touched on the issue of affordability, which is a really tough and prescient one. Indeed, it has exercised my mind and thoughts since I arrived at the Department for Work and Pensions, given the huge sums of money that we are spending on welfare. We are spending more on pensions alone than we are spending on education and defence put together—£100 billion a year out of a total government budget of £750 billion. That is a huge proportion. Yes, there are some really difficult choices; it is all about choices—so are we making the right ones? We believe that we are, but we will have disagreements, of course. Indeed, there will be disagreements not only across the House but in another place as well, which is entirely laudable. But as the noble Lord, Lord Kirkwood, said, all of us need to keep thinking in terms of the future sustainability of the welfare system which really looks after those who are most in need.

The benefit freeze is part of a package of welfare reforms that are designed to incentivise work, which is the best route out of poverty. We have brought in 30 hours a week of free childcare for working families in England, cut income tax for 30 million people and provided the lowest earners with their fastest pay rise in 20 years through the national living wage. So yes, that is one choice that that we have made, but we have to support those who are earning and those on low wages to the best of our ability. We see that welfare reform is working. The employment rate is at a near record high and there are fewer households where no one is in work than at any time since comparable records began. However, I will say, 14.5% of all households in the UK are still workless, which is far too many.

The noble Baroness, Lady Lister, referenced the Resolution Foundation saying that inequality is projected to rise to record levels in the coming years. We simply do not believe that that is the case. There are choices. We have to make difficult choices and believe that we should focus our spending on those who need it most.

On the question raised by the noble Baroness, Lady Lister, of the burden falling on the poorest, Her Majesty's Treasury published a cumulative distributional analysis alongside the Budget in November 2017, showing the impacts on household income of tax, welfare and public expenditure changes implemented or planned to be implemented since the 2010 general election. This analysis shows that the state is highly redistributive. On average, the 10% of households with the lowest incomes receive more than four times as much support in spending as they contribute in tax, while the 10% of households with the highest incomes contribute more than five times as much in tax as they receive in spending.

The noble Baroness, Lady Primarolo, asked whether we will lift the freeze on working tax credits, child tax credits and child benefit. I respond by simply saying that the Treasury is responsible for these benefits and it announced the 2018-19 rates at the same time as the Budget in November 2017. The noble Baroness talked a lot about children and families. We are committed to supporting families and tackling the root causes of child poverty and disadvantage. If you are a child growing up in a household where no one is in work you are almost twice as likely to fail at all stages of your education than if you lived in a working family. Children in households where no one is in employment are five times more likely to be in poverty than those in households where all the adults work. Nearly three-quarters of children from families where no one has been in employment moved out of poverty when their parents entered full-time work. That is why we are supporting parents to find and stay in work.

We have made the childcare element of universal credit more generous. Parents on universal credit can now claim back up to 85% of eligible childcare costs, compared with 70% in working tax credit, a change that is benefiting 500,000 working families. This Government are investing record amounts in childcare. By 2019-20 we will be spending more than £6 billion per year to support working families in this way. For families who face additional, complex barriers to finding work, we set out our framework for action when we published our strategy, *Improving Lives: Helping Workless Families* in April. I can tell noble Lords that we are doing a huge amount of work on this in the department. As I said earlier, the number of households where no one is working is actually at a record low: it is 954,000 households lower than it was in 2010, which means 608,000 fewer children in such households than seven years ago. We believe we are on the right trajectory. On a before-housing-costs basis, there are now 200,000 fewer children living in absolute poverty than in 2010.

I want to confirm for the noble Baroness, Lady Primarolo, that inflation is not at 4%; it is actually at 3%. Indeed, that is something that I double-checked with our researchers at the department. The noble Baroness, Lady Lister, asked for figures on the poverty rate since 2010 and the impact of the benefit freeze. We do not actually have those figures but the benefit freeze is part of a package of welfare reforms designed to incentivise work and support working families, including, as I have said, increasing the national living wage, reducing income tax and, of course, the rollout of UC. I will write to the noble Baroness with those figures.

Lord Kirkwood of Kirkhope: Is there any programme to evaluate the work-incentive point? Of course it is a perfectly obvious point and it may be working, but the only place where the data can be found is in the department. Is the department doing any work that will evaluate whether the powerful work incentive point that she has just made is actually making a positive difference?

Baroness Buscombe: Yes. Work is being done and I am very conscious of the fact that we should be talking more about that. We have been saying that work pays— I prefer to say that work transforms lives. The noble Lord is right. We need to do more to articulate our belief and the reasons why we are confident that we are right and that work transforms lives. It relates hugely to outcomes. It is not a simple, overnight back of the envelope matter, but we are working on it.

The noble Baroness, Lady Primarolo, asked about targets for child poverty. The income-related targets set out in the Child Poverty Act 2010 have been replaced by two new statutory measures of parental worklessness and children's educational attainment. This will drive continued action on the areas that can make the biggest difference to children's outcomes now and in the future. The noble Baroness also asked whether the Government would lift the freeze on working tax credits. The answer is that the Treasury is responsible for working tax credits.

The noble Lord, Lord Kirkwood, made his point with feeling, and I can only say that we are working hard and thinking about our policies going forward. The huge question is affordability. We are spending £95 billion—that is, ninety-five thousand million pounds—a year on benefits for people of working age. For how long is that sustainable? Our department accounts for 25% of the whole of the Government's budget, which in terms of expenditure is now the size of Chile or similar, I understand. The noble Baroness, Lady Lister, referred to some overseas organisation, saying that we are behind the curve in terms of our expenditure. I simply do not recognise that, in terms of how much other countries are spending or of the choices that they have made. For example, are they paying the similar amount of 0.7% of their national income, which is what we are paying, on overseas aid?

Baroness Lister of Burtersett: I am sorry to interrupt. I may not have made myself clear. I was not referring to some international organisation. The Resolution Foundation pointed out that we will not be meeting our obligations under sustainable development goals not because of overall expenditure levels but because the lowest 40% are going to do worse than the population as a whole. That goes against what we have signed up for under the sustainable development goals. We think of the SDGs as being for the poorer countries, but they are for us as well.

Baroness Buscombe: I accept that, but it has to be comparative in terms of the goals that we have set. In the back of my mind I have the response to that particular figure that was quoted and we do not recognise that as being correct. I think that I have said that on the Floor of the House in another debate.

The noble Baroness, Lady Sherlock, raised a number of questions, the first of which was about contracting out. If a person was previously contracted out for a long period they may have a lower starting amount for a new state pension than someone who had built up some additional state pension. This is because they paid lower national insurance when they were contracted out and have built up an occupational pension as a result of these arrangements. Part of their occupational pension replaces the part of the state pension they were contracted out of. People who were previously contracted out are therefore not missing out. Although

[Baroness Buscombe]
some people will get a lower starting amount from the state, many will have more than the new full rate in total if they add their state pension and their contracted-out private pension together. If no adjustment was made, people who had been contracted out would be paid twice for the same national insurance contributions. The transitional arrangements ensure that everyone who qualifies for the new state pension will get at least as much as they would have done under the old system, based on their own national insurance contributions to 6 April 2016.

4.30 pm

With regard to the GMP indexation, the transitional arrangements in the new state pension are particularly beneficial to people who have been contracted out. People with pre-2016 national insurance records have a starting amount calculated for them based on their national insurance position at 6 April 2016, which includes a reduction to account for the GMP. People can build on this starting amount either until they reach the full rate of the new state pension, which is £164.35 from April 2018, or until they reach state pension age. For some, this can be up to an additional £38 a week. People with a new state pension starting amount will also have benefited from the triple lock of the basic state pension. People with 30 pre-2016 qualifying years will from April 2018 be just under £13 a week better off than if the basic state pension had been uprated by earnings since 2010, when the triple lock was announced.

With regard to communications, the Government have run a comprehensive advertising campaign on the new state pension, including advertisements in the press and on radio and social media. Something called the Check your State Pension forecast service has had more than 7 million visits since it was launched.

The noble Baroness, Lady Sherlock, asked about state pension uprating for people living overseas. The policy on uprating the UK state pension overseas is a long-standing policy of successive Governments. It has been in place for around 70 years. The Government uprate the UK state pension where there is a legal requirement to do so, such as for state pension recipients living in the European Economic Area, Switzerland, Gibraltar and countries with which there is a reciprocal agreement that provides for uprating. Restoring the pension to UK levels for all overseas pensioners, where we do not currently uprate, would cost more than £500 million extra a year. Here we come to affordability: my note says categorically that there is no money available for this.

The noble Baroness also referenced what we colloquially refer to as WASPI, which is the proposal allowing early draw-down of state pensions for women affected by changes to the state pension age. Evidence submitted by the Government Actuary to the Work and Pensions Select Committee in April 2016 showed that it would be extremely complex to accurately predict the costs of such a policy. At the very least it would involve bringing forward significant amounts of expenditure, with the associated burdens on the taxpayer, and would risk leaving pensioners with an inadequate income in later life. Even if it were actuarially neutral, the option of allowing people to retire early and receive a reduced state pension would result in additional costs to the state from the loss of taxes. There would be further costs from the wider impact on the economy, as adding one year to working lives would result in sustained increases to annual GDP of over 1%, which is worth around £20 billion at current levels of GDP. We also understand that these proposals do not have the support of the WASPI campaigners.

Those are a number of questions that I hope I have managed to respond to. In addition, I thank the noble Lord, Lord Jones, for welcoming these upratings. I think that he was alone in doing that.

Lord Jones: I am grateful, but they should have been much bigger.

Baroness Buscombe: My Lords, I would love to concur with the noble Lord. The following point is certainly not in my brief but is something that I think about a lot. The children we have referenced today will sooner or later become the working young. I think of my three children, who are all working now but do not earn very much. The issue is how the working young will afford pensions in the future. In probably about an hour's time we will debate the order on auto-enrolment, which shifts the culture in terms of people contributing to their future pensions. There is very much a cross-party consensus on working out how we can make pensions sustainable in the long term. However, in the short term, I hope that the noble Lord will accept that, notwithstanding the fact that we would like to be ever more generous, it simply is not possible.

Lord Jones: That is a fair answer. Has the Minister answers to some of the questions that I posed? If she does not have them to hand, she may wish to write to me. However, she may wish to answer one or two of the questions.

Baroness Buscombe: I thank the noble Lord. I have just found the answers in my array of papers. He asked about different benefits, particularly disability and carer benefits. We now spend over £50 billion a year on benefits to support disabled people and people with health conditions, which is over £7 billion more than in 2010. The noble Lord asked about disability living allowance and benefits for carers. We are increasing benefits for the additional costs of disability and for carers in line with inflation. Recipients of carer's allowance will now get £550 more per year than in 2010, while the monthly rate of disability living allowance paid to the most disabled children will have risen by more than £104. On a before-housing-cost basis, the absolute poverty rate among people living in a family where someone is disabled has fallen to a record low.

I am sorry that I have not been able to respond to noble Lords' questions, particularly those of the noble Lord, Lord Jones, in relation to cold weather payments. That was discussed in the department yesterday, but I will write to the noble Lord.

Baroness Sherlock: I am grateful to the Minister for giving me quite a lot of information about the way the GMP system will work. The specific questions that I raised were raised by the NAO—whether the department

had enough information about who would be affected in terms of the GMP and what it was doing to tell people about that. I am happy for the noble Baroness to write to me, but perhaps she could have a look at the specific questions in the record and write to me on those. I do not know whether I missed it, but will she confirm that she told the Committee what the latest estimate is of the savings to the Exchequer of the four-year benefit freeze over and above the amount originally scored? I apologise if I missed that.

Baroness Buscombe: I apologise to the noble Baroness; I had hoped that I would be able to reply to those questions today but, given the time as well, it is much better that I write to her and copy in others.

To conclude my closing remarks, the Government are maintaining their commitment to the triple lock for both the basic state pension and full rate of the new state pension, increasing the pension credit standard minimum guarantee so that the poorest pensioners see the full benefit of the increase in their basic state pension and increasing benefits to meet additional disability needs and carer benefits in line with inflation. I commend these orders to the Committee.

Motions agreed.

Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2018

Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 2018

Considered in Grand Committee

4.39 pm

Moved by ***Baroness Stedman-Scott***

That the Grand Committee do consider the Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2018 and the Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 2018.

Baroness Stedman-Scott (Con): My Lords, I am required to confirm to the Committee that these provisions are compatible with the European Convention on Human Rights and I am happy so to do.

These two statutory instruments will increase the value of lump sum awards payable under the Pneumoconiosis etc. (Workers' Compensation) Act 1979 and the diffuse mesothelioma scheme, which was set up by the Child Maintenance and Other Payments Actusb 2008. These two schemes stand apart from the main social security benefits uprating procedure and there is no legislative requirement to review the level of payments each year. None the less, I am happy to increase the amounts payable by the consumer prices index of 3%. This is the same rate that is being applied to industrial injuries disablement benefit and certain other disability benefits under the main social security uprating provisions. These new amounts will be paid to those who first satisfy all the conditions of entitlement on or after 1 April 2018.

The Government recognise that people who have contracted one of these diseases as a result of exposure to asbestos or one of a number of other listed agents may be unable to bring a successful claim for civil damages. This is mainly due to the long time lag between exposure and onset of the disease, which can make it impossible to trace those responsible or their insurers. Therefore, by providing these lump sum compensation payments through these two schemes, we fulfil an important role to people with these dust-related diseases. As well as compensating people who cannot make civil claims, another aim of the schemes is to ensure that people with these diseases receive compensation in their lifetime, while they themselves can still benefit from it, without first having to await the outcome of civil litigation.

Although improved health and safety procedures have restricted the use of asbestos and provided a safer environment for its handling, the legacy of its common use is still with us. That is why we are ensuring that financial compensation from these schemes is available to those affected. I will briefly summarise the specific purpose of the two compensation schemes.

The Pneumoconiosis etc. (Workers' Compensation) Act 1979 scheme, which for simplicity I will refer to as the 1979 Act scheme, provides a lump sum compensation payment to those who have one of five dust-related respiratory diseases covered by the scheme, who are unable to claim damages from employers because they have gone out of business and who have not brought any action against another party for damages. The five diseases covered by the 1979 Act scheme are diffuse mesothelioma, bilateral diffuse pleural thickening, pneumoconiosis, byssinosis and primary carcinoma of the lung, if accompanied by asbestosis or bilateral diffuse pleural thickening.

The 2008 mesothelioma lump sum payments scheme, which I will refer to as the 2008 scheme, was introduced to provide compensation to people who contracted diffuse mesothelioma but were unable to claim compensation under the 1979 Act because, for example, they were self-employed or their exposure to asbestos was not due to their work. The 2008 scheme allows payments to be made quickly to people with diffuse mesothelioma at their time of greatest need. Under both schemes, a claim can be made by a dependant if the person with the disease has died before being able to make a claim.

Payments under the 1979 Act scheme are based on the age of the person with the disease and the level of their disablement at the time they are diagnosed. The highest amounts are paid to those diagnosed at an early age and with the highest level of disablement. All payments for diffuse mesothelioma under the 1979 Act scheme are automatically made at the 100% disablement rate—the highest rate of payment—to reflect the seriousness of the disease. Similarly, all payments under the 2008 scheme are made at the 100% disablement rate and based on age, with the highest payments going to the youngest people with the disease. In the

[Baroness Stedman-Scott]
last full year, April 2016 to March 2017, 3,620 people received payments under both schemes, totalling just over £50 million.

4.45 pm

I am well aware that in previous debates on the subject of increasing the value of these lump sums noble Lords have asked about equalising the payments to dependants who claim after the death of someone who had the disease with those made to people who actually have the disease and claim in their lifetime. However, I must tell noble Lords that we do not intend to equalise payments this year. We will continue to keep the matter under review but I think that it is right to focus resources on people who are actually suffering from these diseases.

I am aware that the incidence of diffuse mesothelioma is a particular concern of noble Lords, with the number of deaths in Great Britain at historically high levels. Diffuse mesothelioma has a strong association with exposure to asbestos; current evidence suggests that around 85% of all male mesotheliomas are attributable to asbestos exposures that occurred through work. Those diagnosed with diffuse mesothelioma usually have a short life expectancy, with many people dying within 12 months of diagnosis. The number of cases currently occurring reflects the long latency period of the disease, which can take decades from the time of exposure to become apparent. Latest available information suggests that there will continue to be around 2,500 diffuse mesothelioma deaths per year for the rest of this decade, before annual cases begin to fall, reflecting a reduction in asbestos exposure following its widespread use between 1950 and 1980.

These regulations increase the level of awards made through the two statutory compensation schemes. I am sure that we all agree that, while no amount of money can ever compensate individuals and families for the suffering and loss caused by diffuse mesothelioma and the other dust-related diseases covered by the 1979 Act, those who have them deserve some form of monetary compensation. These statutory schemes deliver an essential part of that. I commend the increase of the payment scales for these schemes, I ask approval to implement them and I beg to move.

Lord Kirkwood of Kirkhope (LD): My Lords, I welcome these regulations and congratulate the Minister on getting all the names right: they are not easy to say and I am going to say none of them. I have three quick questions. First, will she acknowledge that the success of the scheme has been the speed at which the decisions have been taken and the process that has managed the one-off, upfront payments to the people suffering these grievous illnesses and to their dependants, in the cases where that applies? Is there a follow-up procedure to the sending of the cheque? That is to say, is there an evaluation of the needs of the families? It seems to me that common themes might emerge, in terms of other support that might be offered to them, should they want to take it. I think that the process is part of the success of this scheme.

It is a shame that the disparity between the sufferers and their dependants is not being addressed. My information—the noble Lord, Lord McKenzie, did a lot of work on this in his time in government—is that it would cost, if I can put it like this, a mere £2 million to fix in the long run. Over a period of time, it should be possible out of the departmental expenditure limit to phase this in until we get to a position of equality. I think that the Minister said that it is still actively under review. I hope that that is the case and that it will bear fruit in next year's uprating.

Is anything more being done to prevent further injury from this terrible affliction? New iterations of it are emerging in small pockets here and there year on year. The information and the communication necessary to try to prevent further injury are important.

Finally—we were talking about this earlier—is there any way to evaluate whether the 2008 and 1979 schemes are working properly? Will the department do some work to see whether they meet all the needs that the families are experiencing? Other than that, I welcome these regulations and I hope that the Government will continue to take them as seriously as they have in the past.

Lord Jones (Lab): My Lords, I thank the Minister for her introduction and I acknowledge the great expertise of my noble friend Lord McKenzie from all the years of his work. He puts the rest of us on this side of the Committee in the shade. I welcome the regulations and the 3% increase.

In the late 1960s, factory workers in Hebden Bridge were playing snowballs with deadly blue asbestos. At that time and later, medical experts and legislators began to take an interest in this dreadful problem and its dreadful consequences. I was alongside the late Mr Michael Foot in Prime Minister Harold Wilson's Administration as long ago as 1975 when he introduced his historic health and safety at work legislation. The legislation got through, but it was strongly opposed. Good things have arisen from Michael Foot's historic measure.

One welcomes the reference at paragraph 2.1 of the Explanatory Memorandum to dependants, although I have a point of issue. Like a previous speaker, I wonder whether the Minister might enlarge on how that paragraph might affect dependants—that is, the conditions of entitlement. Surely the Government might look again at this matter and reconsider their decision not to increase.

There are historical references in relation to the Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations. This legislation arose out of the interest of a former Leader of the Opposition in the House of Lords, the late Cledwyn Hughes, who was of course for many years Member of Parliament for Ynys Môn—Anglesey—the activity and interest of a distinguished solicitor in Anglesey, Sir Elwyn Jones, and that of a leader of the Transport and General Workers' Union in north Wales, based in Caernarfon, Mr Tom Jones. Their intervention on the worries of quarrymen in north Wales led directly to this legislation, which we are now renewing. I had the honour of serving in Harold Wilson's Administration alongside Mr Cledwyn Hughes. With Sir Elwyn Jones and Mr Tom Jones, we worked hard on getting a fair deal for those quarrymen.

It is a matter of social history. In north Wales, the quarrymen who went underground had to bring their own candles into the caverns before they hacked out the slate that roofed the world—the new world and the old world. This is the origin of the struggle of the quarrymen. Ultimately, this legislation gave them some recompense—those who survived, of course.

There may be Members of your Lordships' Committee who from time to time go to Penrhyn Castle in north Wales, a National Trust property. The owner was a quarry owner. He built it on the massive profits made from roofing the world. There was a great dispute between the quarry owner in a mighty mansion and the poor striving quarrymen who had to bring their own candles underground and who suffered injury and disease. That was history. I make these remarks with regard to the late Michael Foot and fellow Welshmen from my homeland because, although the Minister may well know these details that I put before the Committee, her youthful advisers in the department may not know them. It is important for the passage of legislation that the people who power the department know the history and the origin. Too often, they do not.

I have previously asked why this lengthy agenda cannot be taken on the Floor of the House, because the issues, the values and the money are mighty in total. It is not good enough that we know that there are the usual channels. We know that. I thought it only right that I should intervene.

I say to conclude that there was that great quarry owner in that great castle in Penrhyn and there were the quarrymen with very little, who, to use a common phrase now, were barely getting by. It may be of interest that at the end of the strike many of those quarrymen buried their hammers and chisels and left for ever and we were left with terrible bitterness. It is only right that this Committee should know from whence the legislation came and those who brought it about.

Baroness Finlay of Llandaff (CB): My Lords, that very powerful speech by the noble Lord, Lord Jones, has certainly put the history of north Wales into the context of this measure. I shall bring us up to the present day and I am sure that the noble Lord will agree with me that there is ongoing concern, particularly in Wales, where we know that there is still asbestos in schools. I have asked a lot of questions about asbestos in schools in Wales, and there has been a real problem about who actually has responsibility for dealing with it because it seems to fall between the devolved Government and the Westminster Government. I do not expect the Minister necessarily to have an answer to that today. I would love it if she did because I worry that we may be sitting on a future epidemic, another cohort. One of the problems in schools is that if you bang nails into the wall or children fall very heavily against a wall that is cracked, you will get a shower of asbestos dust coming out from the hole or the crack. The children are running around, breathing fast and inhaling the dust, and it will sit in their lungs for many years. We know perfectly well that not everybody who inhales asbestos fibres goes on to develop mesothelioma, but a significantly large percentage does.

5 pm

This is indeed a horrible tumour. Speaking from a professional point of view, it is worth remembering that even today the mean survival time in this country is just over eight and a half months from diagnosis to death. We are not doing very well compared with some other countries, particularly across Europe. The condition has a nasty invasive feature and therefore you get severe pain with it which needs to be managed with specialist palliative care. It is not straightforward and may require complex nerve blocks and so on, so these people really do need specialist care.

Having said that, on behalf of my noble friend Lord Alton and the noble Lord, Lord Wigley, I welcome these regulations. I have spoken to mesothelioma patient groups, which welcome the fact that these regulations are coming through and that the provision is being updated. That sends an important message—namely, that the Government recognise the importance of the compensation and acknowledge the importance of recognising that people who have worked hard to the best of their ability have in so doing become victims. The harder they have worked when exposed to an asbestos environment, the higher the risk they face. As I said, we welcome the regulations and are grateful that the Government have listened. We have had several debates during the course of this Government and the previous Administration, for which we are grateful.

The Minister looks as if she may be able to answer my question about asbestos in schools. Can she assure me that the payments we have discussed will not be included in assessments of eligibility for social care during the last phase of a person's life? This is a nasty tumour and people can require a lot of social care. If they want to be at home, this provision will fall to their local social services to deal with. If the tumour invades around the spinal cord and they lose motor function in the legs, the arms or both, they certainly will need help with intimate care as well as other aspects of daily living. It is important that we do not see a situation in which the Government give generously without ensuring that their generosity cannot be eroded in providing for people's specific needs.

Lord McKenzie of Luton (Lab): My Lords, I welcome the first scheduled visit of the noble Baroness, Lady Stedman-Scott, to the Dispatch Box. I think this is the first set of regulations to which she will respond. There is a substantial degree of consensus around the Committee on this very important issue, as we have heard in this brief but inspired debate.

It is always a pleasure to listen to my noble friend Lord Jones speak on these occasions, not only because of the manner of his presentation but because he knows the history of this subject. He gave us a history lesson today, particularly in regard to quarrymen.

The noble Baroness, Lady Finlay, referred to the very important issue of asbestos in schools. The HSE may have proposals and procedures for dealing with that but that does not address the circumstances that she identified. It is good to know that we are on the same page as the noble Lord, Lord Kirkwood, in supporting these changes. However, I have one or two questions. We know that these are appalling diseases,

[Lord McKenzie of Luton]
particularly mesothelioma, with its long latency but, once diagnosed, as we have heard, there is a very short life expectancy. Because of that a good deal of work has been done by some noble Lords, including the noble Baroness, and the noble Lords, Lord Alton and Lord Wigley, to make sure that medical research is appropriately focused on this. The hope was that that would be paid for in substantial part by the insurers which escaped liability way back when these diseases were being contracted. So my first question for the Minister is: how is that research project proceeding?

As far as pneumoconiosis is concerned, I think we had some aggregate figures on the contributions that were being made but what is the actual level of payments under that scheme, perhaps for the most recent years? Can it be analysed between the various different diseases? How is that programme funded? I will come on to the 2008 Act scheme in a moment. Is it just direct government funding or is there some other cost recovery arrangement under procedures which operate for the 2008 Act?

Perhaps I might ask also about the tracing office. One of the problems with this is the extent to which insurers of the liability insurance can be identified and contacted. A lot of work was done, particularly by the noble Lord, Lord Freud, when he was Minister, to try to change the arrangements and accelerate circumstances in which the employers' liability insurance could be identified. Obviously, that is relevant for where there is an employment nexus. It does not work particularly well for the 2008 Act. I think there were various iterations to try to improve the tracing but it recognises that where there is an employment situation, the obligation on employers, going back to the 1970s, was to have employers' liability insurance. To the extent that there was, and that can be identified, that should bear the costs of this. Perhaps we could have an update on the tracing office.

Similarly, on the 2008 Act diffuse mesothelioma scheme, could I have an update—the noble Baroness may have given it to us—on how many cases were involved and the most recent cost figures for the year that is just about to end? As I understand it, that was being funded, in part if not wholly, from cost recoveries from pursuing those who should be making payments. I think there are two bits to the issue of equalisation: equalisation between sufferers and dependants. I join those who say that there should be an equalisation. But at the start of the 2008 Act scheme there was a fear that there was not going to be enough money in that to pay compensation levels which equated with the 1979 Act scheme. Ultimately, there was enough money so those two are equalised, at least at the sufferer level, but I am interested in whether the recovery has gone beyond that needed just to make the payment and whether there is a surplus which could be deployed in a different way to increase the payments. That is an issue that we need to try to get to the bottom of.

The orders do not touch upon the 2014 mesothelioma payment scheme—the brainchild of the noble Lord, Lord Freud, who did an excellent job in bringing it to fruition. Here we were dealing with circumstances in which there was an employment connection and simply an inability to trace the employer liability policies. The rationale for the scheme was that the insurers should have been bearing the cost of this. They escaped by one means or another. Suggestions that they were then not aware nor back in the 1960s even of the effects of the asbestos are not wholly borne out. The point was to get insurers to cough up and deal with matters for which they were responsible. When that scheme was introduced payment levels were less than 100% of the general tariff of compensation under the 1979 Act scheme. It was subsequently increased and the limit on that was that insurers were not prepared to pay more than 3% of the growth rate in premiums of employer liability insurance. I am interested in an update on that scheme. Are full compensation levels now being met? Are the insurers meeting their full 3% agreement under those arrangements?

I am sorry that those are some detailed points for the Minister, but this is an occasion to focus on this very important matter. I thank the Government for the updating that is before us today, continuing in the spirit of co-operation that there has been on this issue.

Baroness Stedman-Scott: I thank all noble Lords who have spoken in the debate for their many helpful contributions—and the generous number of questions. This is designed to keep one on one's toes. This is my first time doing an SI. I can only plead noble Lords' indulgence. If I do not answer something properly or I fail to answer it at all, please will noble Lords tell me and I will make sure that they get the answer as quickly possible.

These two schemes play a most important part for these people who have these terrible diseases and it is the very least we can do to get the help that they so rightly deserve. In trying to answer just some of the points—and, again, your Lordships will keep me on my toes to make sure that I do that—I say to the noble Lord, Lord Kirkwood, that I acknowledge that the success of the scheme is in the speed that it is dealt with. That is quite right. Is there a follow-up procedure for the payment of the cheque? I am told that there is not. I do not know if that means that I need to talk to the officials to see if there should be or if it is even possible. I am not promising anything but the point has been made.

On the disparity in equalising the payments, we estimate the cost of equalisation to be around £5 million per year. Following on from the previous debate, there is an affordability issue, although when people are suffering like this it is even more acute. At the moment we are trying to get resources to where they are needed most, to people actually living with the disease. We will keep this under review. I can be clear about that. I hope that that answers the question.

Lord McKenzie of Luton: How is the £5 million split between the 1979 and 2008 arrangements, or does it all relate to 1979?

Baroness Stedman-Scott: I am advised that I should write to the noble Lord on that. I do not have the information, so I will make sure that he gets an answer to that question.

Is anything more being done to prevent the disease? It is. A grant of £5 million from liable funds was awarded to Imperial College in 2016 to establish a national centre for mesothelioma research. The Government

have also committed to a number of other measures to stimulate an increase in the level of mesothelioma research activity. The Department of Health's National Institute for Health Research undertook a priority-setting exercise to stimulate an increase in mesothelioma research. As a result, five studies are under way following an NIHR themed call, with total funding in the region of £2.6 million. The first two are due for completion this year, although we would not expect results to be published for some time after the completion date. From the fact that noble Lords are nodding, that seems pretty reasonable, which is good.

5.15 pm

Funding continues to be available from the NIHR and the Medical Research Council, as well as from other sources. The British Lung Foundation recently launched the UK's first mesothelioma research network, with the involvement of key stakeholders, including the Department of Health. In 2016-17, expenditure on research directly relevant to mesothelioma by the Medical Research Council was £2 million. So work is going on to try to find out more about this disease.

The noble Lord, Lord Kirkwood, asked whether anyone had evaluated whether the schemes were working properly. The answer is no, but I shall make sure that we have a talk about that and see what can be done. On prevention, the Health and Safety Executive continues to do what it can, including having campaigns to try to prevent disease as a result of this awful thing. In 2014-15, the campaign was focused on helping at-risk workers recognise that asbestos is relevant to them, encouraging them to seek reliable information about how they can protect themselves, and encouraging and enabling safer working with asbestos through behaviour change.

I think that I gave a response on equalisation. It will cost about £5 million a year, and at the moment we are keeping it under review and prioritising where the money needs to go to have the biggest effect.

As for the noble Lord, Lord Jones, I have never been to north Wales—there is a confession—but the noble Lord has inspired me. I shall go in the summer; I do not fancy going right now.

Lord Jones: The Minister mentioned visiting north Wales. She should note that it rains a lot.

Baroness Stedman-Scott: I had heard the rumour, but I did not want it confirmed as being true—but there we are. I shall do my best to do that. The noble Lord mentioned Elwyn Jones, Tom Jones and then a third person. Was it Ted?

Lord Jones: Cledwyn.

Baroness Stedman-Scott: Cledwyn, okay. I was not quite quick enough to get there. I am glad that the legislation has helped, and I appreciate the noble Lord's thanks and the comments of other noble Lords that what we are doing is right. As for the debate on the Floor of the House, that is a bit above my pay grade.

The Earl of Courtown (Con): The usual channels.

Baroness Stedman-Scott: The usual channels. I will find out who they are now I am in my new role.

The noble Baroness, Lady Finlay, expressed an ongoing concern about asbestos in schools. I had a good look at this, because I thought it was important, so I can tell noble Lords that the Department for Education and the Health and Safety Executive are proactive in promoting good asbestos management in schools. They run an asbestos in schools steering group made up of experts and campaigners. In 2015, they published a policy review on asbestos management in schools which says what the Government are going to do; developed better and more targeted guidance; published refreshed guidance in 2017; and enhanced the scrutiny on duty holders for managing asbestos in schools by asking all responsible bodies to provide an assurance on schools compliance. An assurance process is now being developed with an aim to publish in early spring 2018—so any minute now. We are looking at ways in which to improve the evidence base and are continuing to fund the removal of asbestos where appropriate, directly and indirectly through our funding programmes for rebuilding and refurbishing schools. The final point on this is about encouraging more academies to join the risk protection arrangement, which is a government-backed alternative to commercial insurance for academy trusts.

Baroness Finlay of Llandaff: I take this opportunity to thank the Minister for the way she is handling our questions and to congratulate her on her role. I shall make a small point and ask a question. The scheme she is talking about relates to England. The problem we have is who is responsible for paying for refurbishment in Wales. The Welsh Government believe that it is the Health and Safety Executive, which covers England and Wales, and the Westminster Government have said that this is a devolved issue because it comes under education, which is devolved. There is a problem there and somewhat of a gridlock. I do not expect the Minister to give me an answer today, but I would be most grateful if we could pursue this outside the Committee. Oddly enough, I think it fits completely into the need for there to be national frameworks for issues that are covered between the devolved Governments and the Westminster Government, which we will be dealing with in a much larger context in relation to the European Union (Withdrawal) Bill.

Baroness Stedman-Scott: I am very happy to undertake to meet the noble Baroness and others to discuss that and, I hope, to resolve it without it costing lots of money. I am told that the social care disregard is complex, but in broad terms the lump sum is treated as capital, not income, and is disregarded for income-related benefits for a period of 52 weeks. I think I have dealt with asbestos in schools.

I think I have touched on the point made by the noble Lord, Lord McKenzie, about research. I will have to write to the noble Lord on the actual level of payments. I think the answer is in my notes, but I will keep Members of the Committee for ever if I try to find it. The combined cost of the 1979 Act scheme and the 2008 scheme payments outweighs the money received from compensation recovery. There is an overall cost to the Government. In 2016-17, £27 million was recovered

[Baroness Stedman-Scott]
and just over £50 million was paid out. Civil damages under the new tariff compensation payments have risen to match 100% of average civil claims, which is up from 80%. I was asked how the 1979 Act scheme and the 2008 scheme are funded. The 2008 scheme was set up on the basis that it would be funded by compensation recoveries from civil claims and the 1979 Act scheme is funded partly by civil compensation recoveries and partly by the department. The net cost to the department of making payments under both schemes in the past financial year was £23 million, which is the difference on that.

If I have missed anything out—I am sure I will find out—I will come back to noble Lords. In the meantime, I commend the uprating of the payment scales for these schemes and ask for approval to implement them.

Motions agreed.

Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2018

National Employment Savings Trust (Amendment) Order 2018

Considered in Grand Committee

5.24 pm

Moved by ***Baroness Buscombe***

That the Grand Committee do consider the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2018 and the National Employment Savings Trust (Amendment) Order 2018.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) (Con): My Lords, I am pleased to introduce these instruments, which were laid before the House on 29 January and 31 January 2018. Subject to approval, the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2018 reflects the conclusions of this year's annual review of the automatic enrolment earnings thresholds required by the Pension Act 2008. It has considered both the automatic enrolment earnings trigger, which determines the point when someone becomes eligible to be automatically enrolled into a qualifying workplace pension, and the qualifying earnings band, which determines those earnings which the enrolled employee and their employer have to pay a proportion of into a workplace pension. This order sets a new lower and upper limit for the qualifying earnings band and will be effective from 6 April 2018. The earnings trigger is not changed with the order and remains at the level set in the automatic enrolment threshold review order 2014-15, so no further provision is required.

Subject to approval, the National Employment Savings Trust (Amendment) Order 2018 will facilitate the effective operation and development of the NEST pension scheme and improve the way the scheme operates for participating employers and scheme members. From 6 April 2018, the proposals will allow the NEST trustee to accept people who are contractually enrolled by their employer, give the trustee the discretion to remove members with empty accounts, allow bulk transfers in with consent, and require NEST Corporation to carry out research. I am satisfied that the orders are compatible with the European Convention on Human Rights.

Automatic enrolment has been hugely successful in achieving its aim of getting millions more people saving into their pensions. Since its launch in 2012, more than 1 million employers have complied with their automatic enrolment duties and more than 9 million people have been successfully enrolled into a workplace pension. The vast majority of people who have been automatically enrolled are choosing to continue saving, with opt-out rates remaining consistently low at around 9%. Such progress and success, supported by all sides of the Committee, is truly to be commended and celebrated.

This is a big year for automatic enrolment and one which marks several key milestones for the policy and programme. First, the final and most challenging phase of rollout concludes this month when the last month group of the smallest employers take on their duty to automatically enrol all staff. These employers will have to declare their compliance by the end of July 2018. This means that all established employers are now subject to automatic enrolment. From last October, the duties also began to apply to all new employers as a matter of course.

Secondly, in April this year, the first of the two planned increases in minimum contribution levels for automatic enrolment will occur with contributions rising to 2% and 3% of band earnings for employers and jobholders respectively. Automatic enrolment continues to be a programme that works. It is re-establishing a culture of saving and making workplace pension saving the norm for a new generation. However, the Government recognise that there is still more to do as they continue to work towards their commitment of improving retirement outcomes for millions of savers.

This time last year we were embarking on the early stages of the 2017 review of automatic enrolment. Last December, the report from this work, *Maintaining the Momentum*, was published—I think we should change the name—setting out a clear path for the future of workplace pension saving. The comprehensive and balanced package of proposals that it detailed are intended to build on the remarkable success of automatic enrolment to date, increasing the number of people saving and the amount that they will save. We are now embarking on the process of building consensus around these proposals. It is my Government's ambition to implement these changes in the mid-2020s, subject to discussions with stakeholders around their detailed design, learning from the contributions increases in 2018-19 and finding ways to make the changes affordable. I am sure noble Lords will join me in welcoming and supporting our continued progress with this crucial agenda.

Turning now to the orders of the day, I will first describe impacts of the automatic enrolment thresholds order. As signalled by the Minister for Pensions and Financial Inclusion in his Written Statement in another place on 18 December 2017, the order will, as previously, align the both the lower and upper limits of the

qualifying earnings band with the national insurance lower and upper earnings limits of £6,032 and £46,350 respectively, ensuring stability and consistency in the light of the key milestones already highlighted. By continuing to align the limits to the national insurance thresholds, the changes relating to payroll systems are kept to a minimum. Simplicity is maintained and this approach helps employers to manage costs while they adjust to the overall increases in contributions from April. Setting the thresholds at these levels will also ensure that contribution levels continue to be meaningful for savers.

5.30 pm

It is important to be clear that the proposal outlined in the 2017 review of automatic enrolment to remove the lower earnings limit is setting the direction for the future of the policy and is not reflected in a current-day change; neither does the proposal to remove the lower earnings limit in future pre-empt or prejudice any future annual statutory review of the automatic enrolment earnings thresholds.

The order does not change the earnings trigger, which remains at £10,000, striking a balance between bringing in those most likely to benefit from pension saving and maintaining affordability for employers. By continuing to bring in lower-paid workers, we continue to address the savings needs of those traditionally underrepresented in workplace pension saving. We have gained the greatest ground on participation among younger workers and low earners, and seen gender parity in participation achieved among eligible men and women in the private sector. By 2019-20 an extra £20 billion a year is estimated to go into workplace pensions as a result of automatic enrolment.

Maintaining a stable trigger is hugely important with the upcoming rollout of phased increasing contribution rates. As these contribution rates increase, consistency and stability are key for both employers and jobholders. Due to anticipated wage growth and with the maintenance of the existing trigger, the effect is a real-term lowering of the trigger. We expect that an additional 100,000 individuals, the majority of whom are women, will now meet the earnings criteria and be brought into the automatic enrolment population. Individuals earning below the £10,000 earnings trigger but above the lower earnings threshold will still have the option to opt in to a workplace pension and benefit from their employer contributions, should they wish.

To conclude on this point, the decision to maintain the earnings trigger at £10,000 will increase the number of low earners who meet the earnings criteria and who are therefore automatically enrolled into a workplace pension, and will therefore increase the total numbers saving into a pension, and total savings. In addition, the decision to maintain the alignment of the lower and upper earnings qualifying bands with those for national insurance contributions maintains simplicity and consistency and minimises burdens on employers. Taken together, these changes will mean that total pension saving is expected to increase by £48 million.

On the second instrument we are debating, the National Employment Savings Trust—commonly known as NEST—was established to support automatic enrolment by ensuring that all employers have access to a low-cost workplace pension scheme with which to meet their duties. NEST was specifically designed for, and targeted at, low to moderate earners and smaller employers that the wider pensions market had historically failed to serve adequately. It has a public service obligation to admit any employer that wishes to use the scheme to meet its automatic enrolment duties. NEST has also been a tremendous success. So far, it has more than 6 million members, in excess of 554,000 participating employers and over £2.4 billion of funds under management.

All the measures in this amendment order will improve the way in which the scheme works for participating employers and members. There are four minor and technical changes, which I will briefly outline. The first is contractual enrolment, which describes a process whereby a worker is enrolled into a scheme by their employer through contractual agreement—usually via their employment contract. The order will make it possible for participating employers to enrol their workers into NEST whether or not the automatic enrolment duties apply to the employer. Currently, an employer may enrol their workers into NEST only before these duties apply. This extension of contractual enrolment into NEST will enable employers to enrol all their workers into NEST and thus consolidate provision through the use of a single scheme.

The second change is to the research duty. The order will require NEST Corporation to carry out research with scheme members and participating employers or their representatives in connection with the operation, development or amendment of the NEST pension scheme. Research is an integral feature of the administration and management of any pension scheme, including NEST. All the major pension schemes have insight or research teams that reach out to employers and savers to improve their service and inform management and administrative decisions on product development, investment et cetera. NEST's research will focus on underresearched groups, such as NEST members on low to moderate incomes. The introduction of a duty is designed to align NEST's operation to changes in data protection law as a result of implementing the General Data Protection Regulation—GDPR—and provide it with a clear basis on which lawfully to process data going forward.

The third component in this instrument will give NEST Corporation the ability to remove a member with an empty account from the scheme where certain conditions are met, including that the account has been empty for at least 12 months. These accounts are of no value to the member and incur administrative costs for other members. In April 2017, NEST had around 60,000 members with no funds in their accounts. Making the change will reduce administrative burdens on the scheme and will not impact on individuals whose accounts are closed, as they can still be automatically enrolled again in future.

Fourthly, the final part of this instrument will clarify that individuals may join NEST in the event of a bulk transfer with consent. Previous wider restrictions on transfers into and out of NEST were removed on 1 April 2017, and this measure complements NEST's

[Baroness Buscombe]
ability to accept bulk transfers without consent. In doing so, it will facilitate the scope for NEST members to consolidate their pension savings into NEST.

I finally turn to what the evidence shows. All the changes are deregulatory and positive for employers, but minimal, are not expected to have a material impact and will also mitigate NEST scheme inefficiencies. The changes should give NEST the freedom to continue to serve its employers and members in a straightforward and efficient manner and also bring NEST into line with the rest of the pensions industry. I commend these instruments to the Committee and beg to move.

Lord Kirkwood of Kirkhope (LD): My Lords, it is getting later in the afternoon and there are some important debates following this, so I will be very brief on these two orders. The Minister is quite right to declare that the auto-enrolment provisions have been successful. She is also right to say that this year there are two, if not more, big changes and reforms in the existing system as it relates to small employers and to 3% contributions for employees and employers. We wish these changes well. These orders are perfectly sensible in promoting the agenda. She is also right to say that *Maintaining the Momentum* is a less than appropriate name for any kind of government report at the moment, but it was a good solid document and it gave confidence that there is a real prospect of delivering this scheme and building on the progress that has been made. Speaking for myself, I wish it well. I agree that the new opportunities for women in future are a signal and ambitious plan that we hope works in the way that the Minister set out, so I am very happy with the automatic enrolment order.

I have one or two pedantic questions about the NEST order. I spend a lot of time looking at secondary legislation. Paragraph 8(1) of the Explanatory Memorandum states:

"The Department for Work and Pensions consulted on the National Employment Saving Trust (Amendment) Order from 7 November 2017 to 27 November 2017".

According to my arithmetic, that is a 20-day consultation. The next sentence is shorter: "It received five responses". It occurs to me that one may be a consequence of the other. I understood that government consultations had to be slightly longer than that. Of course, it is a technical matter, I understand that, and the stakeholders involved might not be that numerous, but if it received five responses it is a bit rich to claim that, "the majority of the respondents were in favour" of the consultation as set out. Is that 3:2 or 4:1? I am being slightly facetious, but it is an important issue and consultation is an important part of getting these statutory instruments correct.

Coming to the substance, I think that the noble Baroness's four recommended changes are entirely sensible. I am particularly interested in the revisions for research, because I have been involved as a trustee of schemes in the past and it is a struggle to keep the data up to date. Will the research function assist the trustee in being able to ensure that the data is as clean as it can be? Sometimes with some of these schemes, particularly involving bulk transfers, the data gets out of date—the members change their addresses, their occupations and their other personal details.

I did not know that there was no ability to carry out research as a trustee, but I think that making it explicit is a very good idea. Contractual enrolment is absolutely sensible, and removing empty schemes and accounts makes perfect sense as well. I think that NEST is also a success, as far as it has gone, so more power to its hand. I hope that both these orders work, and I will be watching developments, as I am sure everyone will be, in this important area of auto-enrolment over the rest of 2018 as these significant events come to pass.

Lord McKenzie of Luton (Lab): My Lords, I thank the noble Baroness for her introduction of these two orders. I shall start with that relating to auto-enrolment. As the noble Baroness and the noble Lord, Lord Kirkwood, said, auto-enrolment has, by any measure, been an important policy success. It was founded on the independent work of the Pensions Commission, legislated for by a Labour Government, first implemented by the coalition Government and sustained by the current Conservative Administration. The broad consensus and robust analytical underpinning has been key to its success thus far, along with a design and implementation approach that encompassed government, regulators, employers, payroll firms, intermediaries and the pensions industry. This does not mean that there has always been an identity of view across parties or that the job is complete. It is not.

The noble Baroness referred to the big year 2018, which indeed has some important matters to consider but, as the earnings triggers and qualifying bands analysis for 2018-19 sets out, as at the end of November last year more than 9 million people have been successfully auto-enrolled and more than 900,000 employers—possibly now a million—have met their auto-enrolment duties. By the time the staging process is complete, the government analysis estimates that around 10 million people will be newly saving or saving more.

However, we know that just as the staging process is being completed, we are entering the year when the first phased increase in minimum contributions is to take place, leading eventually to 8% minimum contributions. Notwithstanding this, the *Automatic Enrolment Review 2017* refers us to the Pensions Commission work that estimated that 8% of relevant earnings, together with the state pension, would deliver about half the level of income needed for an adequate retirement income. That is, around 12 million individuals will still be under-saving for retirement and, of these, 87%—10.4 million—earn more than £25,000 a year, so 13% earn less. While the 2017 review sets out a package of reforms to address this, it does not propose to see these completed until the mid-2020s. This package will include lowering the age threshold from 22 to 18 for young people, removing the lower earnings limit to help those with lower earnings and multiple jobs, as well as seeking to improve the retirement outcomes of the self-employed. These are worthy ambitions, but why do we have to wait for so long? Why is the current review concluding that the lower limit of the qualified earnings band should be raised, while arguing for it to be removed? Are the Government to find time for a full debate on this 2017 review in fairly short order? The review came out in December and it is very important. We ought to have the opportunity to debate it in Parliament.

5.45 pm

As for the 2018-19 review, we note the retention of the earnings trigger at £10,000, which is a minor real reduction. While we support the Secretary of State in resisting the alignment of this with the income tax threshold, it leaves too many of the lower paid having to opt in to take the benefits of pension savings. However, we see the need for a smooth transition from the post-staging period as contribution increases are the order of the day. Maintaining affordability is a key function of the earnings trigger in the qualifying earnings band, but we agree that the overriding factor should be to enable individuals to build up greater security in retirement.

We would raise again the disparity of income tax arrangements under the net pay arrangements and relief at source. In brief, those earning below the personal tax threshold and contributing to a pension receive more tax relief under a relief at source system than under an NPA. Higher-rate taxpayers receive less tax relief under an RAS system.

Keeping the earnings trigger frozen at £10,000 while the personal allowance increases will increase the number of individuals who would not benefit from tax relief on their contributions if a net pay arrangement is used. The numbers involved mean an increase from 50,000 to 340,000 people who would be missing out. The Government say that this is difficult, but what options have they looked at to date?

As has been said, NEST was established in 2010 to support automatic enrolment and address a market failure for low to moderate earners and smaller employers. We accept that all the measures in the order seek to improve the way the scheme can operate for employers and members. We will of course support the order, but we have a few questions.

On contractual enrolment, can the Minister say something about the emerging scale of the push for contractual enrolment emerging from employers? As far as research is concerned, it is noted that the change is primarily about compliance with the GDPR. Can the Minister say how far adrift NEST's current arrangements are in the new requirements? It seems to be the case that a member can be removed if 12 months have elapsed, starting from the date on which the members are admitted to the scheme, but when the member's account has been zero over that period. We accept that empty accounts are inefficient and understand that there were about 60,000 that had been empty for 12 months, presumably from first admittance. Can the Minister say what it is about the enrolment process that may have given rise to the scale of the build-up of those accounts? It is noted that the Government have set their face against formalising the requirement that employers should be notified when NEST pension accounts are closed. Can we take it from the consultation response that this will nevertheless be part of the implementation design?

As for bulk transfers, it is understood that there is a clarification of the changes made a year ago facilitating the opportunity for NEST members to consolidate their pension savings into NEST. We support that and we support both these orders.

Baroness Buscombe: I thank the noble Lords, Lord Kirkwood and Lord McKenzie, for their contributions to this debate and for their incisive questions. I also thank the noble Lord, Lord Kirkwood, for saying that the whole concept of automatic enrolment and the process through to its delivery and implementation has been successful. As the noble Lord, Lord McKenzie, said, this came about through a considerable amount of consensus. We hope that the changes—albeit fairly minor—that we have made to NEST will work well. Certainly for us, the whole process has been a huge success, and we hope that it will also work well into the future.

One reason why we have brought forward this order on NEST is that it is important to keep tidying up the legislation to ensure that certain requirements make sense—for example, in relation to research, as the noble Lord, Lord Kirkwood, said. He asked a question which I asked of officials while I was learning about this issue in recent weeks. Why were there only five responses to a small consultation? The truth is that of the five responses, four said, "Thank you so much for asking us but we really have no comment". The fifth was a little bit negative, and that was it.

Lord Kirkwood of Kirkhope: Not a bad score.

Baroness Buscombe: I am glad that the noble Lord has said so. I take that as a very good sign that we are doing the right thing. Let us hope that it continues. We will ensure that we keep tidying up where necessary to keep this whole process—the implementation, the work of NEST and the work of developing auto-enrolment—as simple as possible while retaining an important balance between what is fair for the employer and what makes sense for us in communicating changes and developments in the whole programme.

The noble Lord, Lord McKenzie, asked some questions about automatic enrolment and the review proposal, including why we are not doing anything until the 2020s. Our review proposal is a comprehensive and balanced package, recognising that costs will be shared between individuals, families and businesses, who need time to plan for change. Over the coming year, we will work to build a renewed consensus to deliver the detailed design and implementation of our proposals. We need to learn from the implementation of the contribution increases, starting from this April. The support of employers and their advisers has been key to the success of automatic enrolment. We recognise the importance of giving them and savers sufficient time to plan for further changes. Our ambition is to implement changes to the automatic enrolment framework in the mid-2020s, subject to discussions with stakeholders around the detail of the design, learning from the contributions increases in 2018 and 2019, and finding ways to make the changes affordable, followed by formal consultation with a view to introducing legislation in due course.

The noble Lord, Lord McKenzie, asked about the timing of the implementation. It is important to put on the record that through the 2017 review we have set a clear direction to build a more robust and inclusive savings culture, specifically supporting younger generations with the opportunity to save for a more secure retirement.

[Baroness Buscombe]

The noble Lord, Lord Kirkwood, raised the issue of women. Increased gender parity is something that we are very pleased about, and it is making such a difference. Automatic enrolment was designed specifically to help groups who historically have been less likely to save, such as women and lower earners. The decision to freeze the trigger again for 2018-19 is estimated to bring an additional 100,000 individuals into workplace pension saving, of whom 72% are expected to be women. The gender gap in private sector pension participation has now been closed. In 2012, 65% of women employed full-time in the private sector did not have a workplace pension. As of 2016 this had fallen to 31%. I hope noble Lords will agree that that is real progress.

The noble Lord, Lord McKenzie, asked about net pay arrangements versus relief at source. Pensions taxation policy is a matter for Her Majesty's Treasury—that sounds as if I am proposing a get-out clause. We continue to work with the Treasury and officials on this matter but a straightforward or proportionate fix has not yet been identified. However, alongside further work on the automatic enrolment changes outlined in the recent automatic enrolment review, the Government will examine the processes for payment of pensions tax relief for individuals to explore the current difference in treatment and ensure that we can make the most of any new opportunities that emerge, balancing simplicity, fairness and practicality, while engaging with stakeholders to seek their views.

I was asked why NEST needs to offer contractual enrolment. Contractual enrolment was raised in a response to the DWP call for evidence on the policy framework underpinning NEST, *NEST: Evolving for the Future*. Contractual enrolment is where workers are enrolled with their consent into a pension scheme under a contract and by reference to the rules of the scheme. By contrast, automatic enrolment is where workers are enrolled automatically into a qualifying scheme in accordance with the Pensions Act 2008. Contractual enrolment often covers groups of workers who do not qualify for automatic enrolment, such as those earning less than £10,000 per year or those aged under 22.

The majority of respondents who mentioned it in the call for evidence thought that any qualifying scheme should be open to all of a participating employer's workers, including those who are contractually enrolled into it, as is normal in the industry. The Government expect that this change could ease administrative burdens on some employers who are already using NEST, and could result in small increases in the number of workers benefiting from workplace saving and an employer contribution. This change is minor and technical in nature and supports the delivery of the service of general economic interest defined in the approval granted to NEST.

The noble Lord also asked about empty accounts. Very briefly, it is just an issue of churn. Some people fall out of the system; more come in. We wanted to make sure that we tidied up the process. In fact, we are reducing the number of schemes, which will make it easier to administer. It is not anything that we feel we should be particularly concerned about, it is just a general issue of churn.

I hope that I have been able to answer all noble Lords' questions. If I have failed in any way, I would be very happy to write. The long downward trend in pension saving has reversed. The number of workers saving into a workplace pension scheme has increased to almost 9.3 million. In practice, the changes will be delivered largely by the payroll and advisory communities, which have worked hard to support the introduction of automatic enrolment, providing a range of products to help employers comply with their automatic enrolment duties. NEST is playing its vital part in this success story and we need it to continue to do so.

Motions agreed.

Waste Enforcement (England and Wales) Regulations 2018

Considered in Grand Committee

6 pm

Moved by ***Lord Gardiner of Kimble***

That the Grand Committee do consider the Waste Enforcement (England and Wales) Regulations 2018.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, these regulations are a single composite statutory instrument which applies to both England and Wales but is made by the UK Government in relation to England and by the Welsh Government in relation to Wales. The Welsh Assembly is due to debate the regulations on 6 March. These regulations will strengthen the regulators' arsenal to deal with non-compliant activity at waste sites by providing them with a further two powers: the power to restrict entry of persons and further waste to the site, and the power to require the removal of all waste at a non-compliant site.

Your Lordships are aware that, to minimise waste, our aim is to have a more circular economy so that resources are used more efficiently and kept in use for longer. A well-functioning waste industry, operating within a regulatory framework and in accordance with environmental permits or registered exemptions, is essential to achieve this. A small number in the industry hamper resource efficiency, damage the environment and seek to gain profit illegitimately by operating outside the regulatory framework. Ensuring that the regulators have a full range of enforcement powers is essential to bear down on that non-compliant part of the industry to ensure that waste is managed properly with no damage to the environment or to local communities.

Over the past 25 years, the nature of the waste industry has changed and government action has been needed to meet the challenges. As well as ensuring that the regulators have robust powers, since 2014 we have given the Environment Agency an additional £60 million for waste enforcement, and have recently published a consultation on proposals to tighten up the waste permitting and exemptions regime.

The two powers before your Lordships today are technical in nature. The development of these regulations included a public consultation in both England and Wales with a range of organisations, including various parts of the waste industry, the regulators, local authorities, householders and NGOs. The regulations insert new sections into the Environment Act 1995. It is a power just for the Environment Agency. If a waste site currently stockpiles more waste on its site than its permit allows, the Environment Agency is able to restrict access in certain circumstances. This can be done only in order to remove waste that is causing a serious pollution risk and only after giving a waste operator five days' notice. This clearly limits the agency's ability to act quickly to stop further waste entering a site and does not put the onus on the waste site operators to be responsible for waste on their site. The agency can also revoke a permit and close down a site, therefore restricting access, but it is not always proportionate to close down a waste site immediately if it does not comply with its permit.

This first new power will therefore fill this gap. The Environment Agency will be able to act immediately to restrict access by locking the gates or barring access to stop more waste coming on to a site. The Environment Agency will be able to issue an immediate restriction notice for up to 72 hours where there is a risk of serious pollution to the environment or harm to human health as a result of the waste on the site and action is necessary to prevent the risks continuing. The Environment Agency will also be able to apply to a magistrates' court for a restriction order for an initial period of six months when there is a risk of serious pollution to the environment or harm to human health, or when an offence, such as a breach in permit conditions, has been committed which is resulting in pollution. No legitimate waste operator should fear the introduction of this new power. It has been drafted in a proportionate way and includes a right to appeal a restriction order within 21 days of the order being made. Access will remain restricted pending the determination of the appeal.

The regulations also introduce new sections into the Environmental Protection Act 1990. The second power will be available to the Environment Agency and local authorities in their capacity as waste-collection authorities, because both the agency and local authorities are responsible for different aspects of waste management regulation under the Environmental Protection Act 1990. As with the previous power, the Environment Agency and local authorities' ability to require the clearance of waste at non-compliant sites needs strengthening. Currently, the Environment Agency and local authorities can require an occupier or a landowner to remove only waste that has been illegally deposited at a non-compliant site; for example, waste not deposited in line with the conditions of a permit. We are therefore extending the scope of the current power to enable the Environment Agency and local authorities to require operators or landowners to clear all the waste at a non-compliant site, so no waste is left at the site. The power will not be applied retrospectively and will include a two-month transition period. Like the previous power, we think it is proportionate for operators and landowners to have the ability to appeal. Giving the regulators these two additional powers will bear down on the non-compliant part of the waste industry with rigour, as part of our quest for a healthy environment for future generations. That is why I commend the draft regulations to your Lordships. I beg to move.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I am grateful to the Minister for his detailed introduction of this waste enforcement SI. There are many SIs coming down the track and a great deal of detailed and complex information for your Lordships to get their heads around. It is estimated that there are currently around 600 illegal sites operating in England, Wales and Northern Ireland. The Environment Agency already has the power to shut down illegal waste sites due to the damage they cause to their surroundings.

In 2016, the Environment Agency prosecuted 110 businesses and individuals for offences related to illegal waste sites. In some cases, landowners caught by this illegal activity were unaware of it taking place. Illegal waste sites are a blight on communities and undermine legitimate landfill operators. It is to be welcomed that the Government have listened to concerns raised by businesses and local communities and are taking action to tackle this crime—a crime which not everyone in society will recognise, but doubtless it goes towards the ever-increasing crime figures, which are regularly published.

In 2015, waste crime cost the English economy more than £600 million. This included lost landfill tax revenues and clean-up costs. It creates severe problems for people who live or work nearby, with odour, dust, litter, vermin, fly infestations, pollution and fires blighting lives. These criminals undercut genuine businesses that dispose of waste responsibly. The new powers introduced for the Environment Agency to lock the gates or block access to problem waste sites to prevent thousands of tonnes of waste illegally building up are very welcome. The powers will also enable the Environment Agency to force operators to clear all the waste at a problem site, not just the illegal waste, as the Minister has just said.

I have consulted with my local waste authorities and they report that there is little or no problem in Somerset with either waste sites operating without a licence or in breach of their licence. That is good news, but it would appear that the north of England and London are the worst-hit areas. During 2016-17, more than 850 new illegal waste sites were discovered by the Environment Agency. While an average of two illegal waste sites are shut down every day, they continue to create problems for local communities and businesses, as well as posing a risk to key national infrastructure. In 2013 a fire at a waste site in Stockport resulted in the closure of the M60 and three weeks of disruption to traffic, residents and businesses.

I am grateful to the Minister for sending me the sentencing guidelines for the offences committed by these environmental criminals. I found them most interesting. The range of classifications gives due consideration to whether the offence was deliberate, reckless, negligent or of no culpability; in other words,

[Baroness Bakewell of Hardington Mandeville] those who deliberately and knowingly flout the law and cause the most harm to the environment can expect the penalty to be severe, whereas those who find they are the subject of a breach of the law through no fault of their own, and little harm ensues, will be penalised at a much lower level. The range of fines, from £100 to £3 million, gives plenty of scope to the Environment Agency to ensure that culprits, both unwitting and serial offenders, realise that they cannot continue to flout the law and pollute the countryside.

However, I am concerned that the extra £30 million over four years that is to be made available to the Environment Agency to tackle waste crime, in the form of illegal sites and misclassification of waste, may not be enough. That sum sounds a lot but equates to only £7.5 million a year. Given the scale of the problem in recent years, I am not convinced that this sum will be adequate. I seek assurance from the Minister that sufficient resources will be made available to the Environment Agency to enable it to carry out its new legal duties to the degree that we all wish to see. That apart, I am happy to support this very important statutory instrument.

Baroness Jones of Whitchurch (Lab): My Lords, I am grateful to the Minister for introducing these regulations and for our earlier meeting to talk through the proposals, which I found very useful. We support these new powers: obviously, they will help tackle illegal activity at waste sites and will be an important additional tool for waste regulation and collection authorities in tackling the growing menace of waste crime. As we know, this takes many forms, from fly-tipping by builders and illegal dumping on farmland to large-scale criminal activity involving illegal sites and operators misclassifying waste to evade millions of pounds of tax, and so on. It is definitely time to take action.

Diverting waste from landfill, and increasing our capacity to store, sort and treat it for recycling and recovery, has to be an essential element of a future circular economy based on the waste hierarchy. If it is done well, it will bring economic and environmental benefits. In that context, the majority of waste sites play within the rules and understand their responsibilities. Unfortunately, there appears to be a sizeable minority of sites which seem to take pleasure in stretching the rules or operating completely outside the legislation. Not only is this illegal but it creates an unfair advantage over the more responsible operators. As the Explanatory Notes make clear, illegal waste sites can cause pollution to the environment as well as endanger public health. They pose a risk of fire, water pollution and other irritants such as odour, litter and fly infestations, which can cause misery for nearby communities. All too often, it is left to public bodies and owners of land to clear up the mess.

The recent Environmental Services Association Education Trust report, *Waste Crime: Tackling Britain's Dirty Secret*, estimates that waste crime costs the UK £560 million a year. The Chief Fire Officers Association estimates that the cost of dealing with fires at waste sites across the UK is around £16 million a year. By any measure of cost-benefit analysis, it makes sense to crack down on the gangsters who are creating the problems in the first place, rather than leaving it to the public purse to clear up the mess. So these measures to restrict access to sites and to enforce clean-ups, as well as to fine and in more serious cases to jail those involved, have to be welcomed.

6.15 pm

In this context, I have a few questions for the Minister. First, he referred to £60 million for waste enforcement—the noble Baroness mentioned £30 million, but I am pretty sure the Minister said it was £60 million. Either way, I reiterate the noble Baroness's question. Is the Minister convinced that that is enough to give the Environment Agency additional resources so that it is able to use these powers quickly and effectively, so that communities will see real benefits? It does not seem a great deal if it is spread across the whole of the waste enforcement role, over a number of years.

Secondly, what plans do the department or the Environment Agency have to publicise these new powers to the public, so that the public themselves can become the eyes and ears of the regulators and report suspicious behaviour more quickly? I think I read in the Explanatory Notes that no additional resources were being set aside for communications, but I would have thought that that was an essential part of extending these powers.

Thirdly, is the Minister convinced that the courts will recognise the enormity of many of the clean-up costs and be prepared to set fines which will truly act as a disincentive for illegal operators? It does seem that many of the people involved are repeat offenders. Again, like the noble Baroness, I am grateful to the Minister for sending through the sentencing guidelines, which I found very interesting reading, but they are dated July 2014. It seems to me that if we are serious about enforcement, maybe we need tougher penalties to act as proper deterrent. We know that so far there has not been sufficient deterrent. Is there a case for reviewing and updating the sentencing guidelines to make sure that they truly become a deterrent?

Finally, what can be done to help legitimate owners of waste sites avoid becoming victims of crime? It is often difficult to identify who is doing the illegal dumping, and whether it is being done covertly or overtly with the support of the owner of the land or whether it is something that they themselves are a victim of. I know that the noble Lord talked about this when we met earlier, but will these regulations help the many thousands of farmers each year who are victims of illegal dumping? Obviously, some of them are landowners; others, as we know, just find fly-tipping on their land when they were never intending to operate waste sites in the first place. Either way, they are being left to pick up the cost of clean-up from their own resources. Can the Minister guarantee that the farming community will not be caught by these new powers, particularly when farmers are the innocent victims of crimes by others? Will proving who created and caused the illegal waste in the first place be an issue?

There are a few questions there, but I very much welcome these measures and hope that, at the end of the day, the Environment Agency has enough resources to make a real difference to people's lives.

Lord Gardiner of Kimble: My Lords, I am most grateful for the endorsement of these regulations by the noble Baronesses. As I said, we so want to enable the Environment Agency and local authorities to act more quickly, but we also want to ensure there that is no adverse impact on compliant waste businesses. Clearly it is important that landowners are vigilant in leasing land to responsible waste operators and that these measures are part of a range to tackle all forms of waste crime. Indeed, the focus of our forthcoming resources and waste strategy is on preventing, detecting and deterring waste crime.

I was pleased to hear from the noble Baroness, Lady Bakewell, that the situation in Somerset is good, but I am conscious of the cost to the economy. That is why, when we consider spending on waste crime and the enforcement yield, it is interesting to note that there is a £5 benefit to society for every £1 spent by way of investment. On resources, let me repeat that since 2014 we have given the Environment Agency an additional £60 million for waste crime enforcement work up to 2022. We gave the Environment Agency £30 million in the 2017 Budget, which brings the total spend on waste crime to £25 million a year. Of course, as a responsible Government we always need to ensure that we keep these matters under review, but the Environment Agency now has extra resources—we recognised the need for them—to address this problem. The noble Baroness, Lady Bakewell, was also right to say that the penalties involve imprisonment and a range of fines depending on the severity of the crime. When we had our meeting I was able to outline some of the detail, which demonstrated that there are actually a number of people who are in prison for quite a considerable period.

The noble Baroness, Lady Jones of Whitchurch, was absolutely right to say that we need to tackle waste crime not only because it is an assault on local communities and the environment, but because of the very considerable evasion of tax. That is why in 2015 the cost of waste crime in England was more than £600 million. HMRC estimates that around £100 million of landfill tax revenue is lost each year through the misdescription of waste and other evasions. Not only Defra but a number of other departments are keenly interested in this issue, and I suspect that that may be one of the reasons why there has been additional resource because it is important that we take action.

The noble Baroness, Lady Jones, was also right to talk about "the minority" and the advantage that they are taking in causing pollution, fires, odours and vermin infestations and generally making the lives of those in communities around these sites unbearable, so we need to address that. That is why a number of points have arisen about awareness. I understand that the Environment Agency takes a sophisticated intelligence-led approach which involves local residents and businesses having direct communications with the agency. I also understand that aerial drones are now being used quite widely as part of surveying land for illegal waste activity. That is an interesting use of drones, for instance.

The noble Baroness also highlighted how we deal with the repeat and persistent offender. That is why we want to deal with the core of people who are behaving badly and causing such problems. We are taking these extra powers in order to be able to take immediate action so that communities have this proliferation of waste. Indeed, we can insist and require that all waste is removed.

The noble Baroness also raised a side issue to this issue, but it is hugely important. She referred to landowners who have to deal with fly-tipping. I should perhaps express a personal interest in that on my farm people arrive and leave rubbish and waste. It is extremely distressing and extremely costly. I have not had a major incident, I hope, but I know that it is extremely aggravating.

Separate to these regulations because they are about the Environment Agency and the waste sites that have been mentioned, we are conscious of the need to do more about fly-tipping. That is why, in the consultation we have just published, we will give local councils the power to issue fixed penalty notices to householders who pass their waste to a fly-tipper. That is because two-thirds of fly-tipping incidents involve household waste. We are also giving local councils in England the power to issue fixed penalty notices for small-scale fly-tipping. For instance, more than 56,000 fixed penalty notices were issued against fly- tippers in 2016-17. That is a frightening number of people who received these notices. What on earth were they doing in blighting their communities with their waste?

We are doing a number of things on littering from vehicles. A Member of our House did much to pioneer this work. I know he was frustrated by the length of time it took to secure this advance, but I am pleased that we have ended with a positive result. We have also recently strengthened the powers of local councils to search and seize the vehicles of suspected fly-tippers.

The noble Baroness, Lady Jones of Whitchurch, was right to highlight the cocktail of problems that face people, communities and the countryside—including the matters for which these two additional powers to enable more speedy action have been introduced—and the great problems that landowners, public and private, up and down the country face with people who are behaving criminally and badly. Whether it is fly-tipping, waste or litter, we need to do all we can to transfer words into action. I know the noble Baronesses often say, "There are a lot of fine words from the Minister but what we want is action this day", but no one could be more keen than I am to achieve better results in deterring and confounding those who undertake waste crime. That is why I commend these two extra powers to the Committee.

Motion agreed.

Human Fertilisation and Embryology (Amendment) Regulations 2018

Human Tissue (Quality and Safety for Human Application) (Amendment) Regulations 2018

Considered in Grand Committee

6.28 pm

Moved by ***Baroness Chisholm of Owlpen***

That the Grand Committee do consider the Human Fertilisation and Embryology (Amendment) Regulations 2018 and the Human Tissue (Quality and Safety for Human Application) (Amendment) Regulations 2018.

Baroness Chisholm of Owlpen (Con): My Lords, today we are debating two regulations which are part of a wider set of European Union directives that set quality and safety standards for human tissues and cells that are used in patient treatment.

It is vital that UK patients should have every opportunity to access the kind of life-changing therapies covered by these regulations, such as stem cells used to treat blood cancers, corneas to restore sight, heart valves to treat heart conditions or skin grafts to treat burns. As noble Lords are probably aware, these tissues and cells may be donated in the UK or anywhere in the world and of course we need to know that they are safe to use.

I will touch on the history of the European tissues and cells directives. As the world leader in tissue banking, the UK welcomed the proposals to introduce a European tissue and cells directive. The Government supported the directive because it meant the voluntary accreditation scheme for tissue banks in operation at that time was placed on a statutory basis. The first directive included provision to make four Commission directives setting out the detail of the procedures needed to meet the prescribed standards. The coding and import directives are the final two of these Commission directives which we are discussing today.

6.30 pm

Traceability of tissue and cells from the donor to final use in a patient's treatment is important for identification purposes. If a patient suffers a serious adverse reaction, donors and other recipients can be traced quickly to minimise the risk of further harm. Tissue and cells now regularly move across borders, making the need for an international, recognisable identification code. This is essential to mitigate future patient safety risk. While UK legislation largely achieves the aims of the coding and import directives, it does not meet all the specific requirements. These regulations transpose the provisions in the coding and import directives, making us consistent with the EU. With exit negotiations ongoing, our priorities are to maintain the high standards for safety and quality after our exit from the EU and to find a way to continue to share tissues with EU countries.

One possible outcome of the negotiations is that the UK decides to maintain equivalence with the EU provisions in this area. In that situation, we need to demonstrate that the coding and import directives have been implemented. Because of pre-existing UK legislation, we have drawn up two sets of regulations, the Human Fertilisation and Embryology (Amendment) Regulations 2018, for reproductive cells, and the Human Tissue (Quality and Safety for Human Application) (Amendment) Regulations 2018 for all other human tissues and cells. Both regulations will come into force on 1 April 2018. That is what leads us here today.

Let me explain the two directives. First, the coding directive establishes the single European code, designed to provide important basic information on the origin, properties and use-by date for the tissue of cells. As I mentioned, the primary purpose of the code is to enable material to be traced throughout its journey from the donor to final use in treatment of the recipient patient. Effective traceability is vital to investigating any serious adverse reaction to the tissue suffered by the recipient, or any serious adverse event that may have compromised its quality or safety.

Secondly, the import directive ensures that tissues and cells imported from countries around the world meet equivalent quality and safety standards to that of tissue procured within the EU. It also determines what documentation must be provided to the importing country's competent authorities to enable them to be satisfied as to the quality and safety of the imported tissues and cells.

Ahead of where we are now, a range of consultation activities have taken place to consider how these provisions would work in the UK. The Department of Health and Social Care set up an advisory group which included representatives of professional bodies, tissue banks and service providers. The competent authorities consulted their licensed establishments and a public consultation exercise ran from 10 March to 7 April 2017, receiving 15 responses. While there are gains for the UK in transposing the directives, there will be a cost to licensed establishments, including those in the NHS, in implementing these regulations. Importantly, the regulations have been drafted to ensure that no unnecessary administrative burdens or costs are placed on the UK's licensed establishments. They simply transpose the directives while avoiding any add-ons.

These regulations fulfil a UK obligation as a current member of the EU. Importantly, they bring into UK law provisions to enhance our existing robust controls that ensure donated human tissue and cells used in the treatment of others meet the highest quality and safety standards. These tissues and cells are increasingly travelling between countries. We want a safety system that protects patients and supports wide access to treatments. These regulations do just that.

Baroness Thornton (Lab): My Lords, I thank the Minister for explaining these regulations with clarity. I have to confess that I have form with regard to the Human Fertilisation and Embryology Authority and its regulations which goes back to when I first arrived in your Lordships' House 20 years ago. I have been involved in the development of these regulations at each stage as a Back-Bencher or a Health Minister

or in opposition. The meticulous attention that this House has given to these matters at each stage is one of the reasons why we are a world leader in the use of embryos and human tissue to advance medical and fertility science, and we should be proud of that.

Like my honourable friend Sharon Hodgson in the Commons, we on these Benches will be supporting the updating and tightening of the regulations that these statutory instruments contain. It is important that these objectives support our aim of making sure that human tissue is stored and used safely, ethically and with proper consent, and is moved properly. I am pleased that the chief executive of the Human Tissue Authority, Allan Marriott-Smith said:,

"We are committed to working with our stakeholders to ensure a smooth transition and proportionate approach to implementation".

I have two questions for the Minister. First, how will that implementation be monitored by the Government? I am not actually expecting her to answer my second question today but I would like the Government to address it. Her remarks and those of her honourable friend the Minister in the Commons show, in almost their first sentence, that these regulations are being laid as a result of a European directive, so she will not be surprised that my question relates to that. In the Commons, the Minister' said:

"the regulations fulfil a UK obligation as a current member of the European Union. More importantly, they bring into UK law provisions to enhance our already robust controls",—[*Official Report*, Commons, Third Delegated Legislation Committee, 31/1/18; col. 4.],

and so on. The Minister must therefore have anticipated that my question is: what will happen to these regulations and to this function after Brexit? Are those discussions in hand? What is their timescale? If the Minister does not have those answers to hand, I am very happy for her to write to me about them.

Baroness Jolly (LD): My Lords, I thank the Minister for her introduction. I do not intend to detain the Committee long. These two regulations are, I suspect, the first of many health regulations that transpose EU law into UK law. I shall outline my understanding. As the Minister has just outlined, there are two key directives: the coding directive and the import directive, the first to ensure traceability and the second to ensure imported tissues and cells meet quality and safety standards. As I see it, the aim of these SIs is to transpose these provisions in the coding and import directives. For many patients, it is critical that this is right. What was particularly interesting in the briefings were the impact assessments that accompanied them. The transition tables enable clarity about how elements of EU legislation are put into UK law and allow us to match one for one to ensure that nothing has been altered or omitted. As far as my inexperienced eye could tell, that has been achieved. Another interesting point is the cost to the sector of the work to achieve this.

I have a few questions for the Minister, of which I have given her prior notice. Will she tell the Committee what consultations were done and with whom? What practical changes will the sector see and how long is the sector allowing for such changes to take place, if any? What cost implications are there for both organisations? Much work has been done. Was it budgeted for in their income when they were funded or has the cost had to be found from existing budgets?

As I said earlier, these are our first regulations, and I wonder whether the Minister could tell us how many more to expect and the likely total cost of this exercise to the NHS. Does she anticipate that we will be able to process these changes before leaving the EU? Does she have any indication of whether this exercise is prioritised, or do the regulations come as they are available? I spoke to both the HFEA and the HCA and they are both content with these regulations, so we are also happy to endorse them.

Lord Deben (Con): My Lords, I congratulate my noble friend on the elegant way in which she dealt with a very difficult issue. The only reason why I am speaking is that on every occasion we should draw the attention of the House to the fact that merely taking EU legislation into British law does not actually meet the case, because that is of no use unless there is equivalence. We cannot in future operate as if we could operate on our own, because the whole purpose of this legislation is that we can pass these things without difficulty across the whole of the EU.

I do not expect my noble friend to answer what I have to say. As I said, I thought her presentation of this difficult situation was as elegant as it is humanly possible to be. But we cannot escape the fact that this is another example where leaving the EU does not solve problems but causes really serious ones. When she said that we are looking for equivalence, I have to say that there is nothing else that we could look for because nothing else would meet the needs. Anything else would cease to enable us to use these very important elements across the whole of the EU; we would have our own system.

I have just spoken to the Society of Motor Manufacturers and Traders, and again I had to say that the idea that Britain is going to have her own rules about the carbon exhausts of vans is just barmy because we are not big enough to do that. Here, similarly, what we are seeing in reality in this SI is the serious damage that is being done by this whole enterprise. Although it may bore Ministers and some of my colleagues on this side of the House to be reminded of it, I do not think any of these should be passed without reminding people of the huge cost, the vast inconvenience and maybe even the lives that will be endangered by behaving as stupidly as we are by believing that we can operate without a connection with our neighbours. Indeed, we do not believe that; that is why the answer is that we will look for equivalence. If you look for equivalence, of course, what you are really doing is saying that the rules will be made by someone else and we will merely accept them.

Baroness Chisholm of Owlpen: I thank all noble Lords for taking part in this debate. It is a great pleasure to have the noble Baroness, Lady Thornton, here, because she is a great expert on these regulations. The reason why we in this country are so expert on these particular issues is probably that the noble Baroness helped to take the regulations through in the first place.

[Baroness Chisholm of Owlpen]

The noble Baroness asked whether we monitor. The department meets the HFEA and the HTA, and implementation will be on the agenda for discussion on a regular basis. On her other question, I might have to write to her if that is all right.

The noble Baroness, Lady Jolly, asked several questions, including one on the consultation. As I mentioned in my speech, the Department of Health and Social Care set up a stakeholder advisory group that included representation of professional bodies, tissue banks and service providers to give guidance on transposition and the potential impact on licensing establishments. I am also aware that the regulators, the Human Tissue Authority and the Human Fertilisation and Embryology Authority, have done a lot of work on the development of these regulations and preparing licensed establishments for implementation, and I am grateful to them for that.

6.45 pm

There was also a public consultation exercise which ran from 10 March to 7 April 2017. The question in the consultation document focused on practicalities and implementation, such as whether new IT systems would be required for coding and what the potential cost of compliance would be. Fifteen responses were received, largely from the non-reproductive cell sector. The responses made useful suggestions on a number of operational issues, including the practical implementation of exemptions.

The noble Baroness asked about practical changes. Licensed establishments will now use the single European code, so for the first time any licensed establishment anywhere in the EU will be easily able to read the code and know what tissue is in the package, where it came from and its use-by date. Licensed establishments will also now have written agreements with exporters outside the EU that spell out who is responsible for each safety requirement. For the first time the regulators must be allowed to inspect the exporter's paperwork and even the premises themselves. These provisions come into force from 1 April 2018 and the regulators have been supporting the sector to prepare for the implementation.

The noble Baroness also asked about costs. We expect that most establishments in the fertility sector will fall under the exemptions and therefore expect the cost to the HFEA will be negligible. In the non-fertility sector, the HTA reviews fees on an annual basis to reflect the costs of licensing and any marginal costs associated with the implementation will be included in this assessment. She asked how many more regs were necessary. The main regulations on the safety and quality of tissues were introduced in the UK in 2007 so the regulators and the sector are very familiar with implementing safety and quality standards. The main directive sets out the overarching framework and makes provision for four further commission directives to set out detailed provision of the requirements. These regulations are the final tool in that series.

The noble Baroness mentioned timing and benefit. These regulations will come into force this April and are not being introduced as a result of the decision to leave the EU.

Baroness Jolly: I did not mean to mislead the Minister, I just anticipated that many more regs would need a similar sort of exercise to that we have done today—in the NHS health sphere and in general. The question was really about workload: how many more do we expect to come down the track, when do we expect them to come and are we anticipating that they will be finished by Brexit date? Is there any indication that they are being done on a slightly ad hoc basis or are some being prioritised over others? I am sorry if the Minister is unable to answer that now, but if she wants to write to me, that will be fine.

Baroness Chisholm of Owlpen: I cannot give a timing on that now so I will have to write. These regulations needed to be dealt with anyway and they are slightly late, partly due to a general election, so we have to put them in place now. It actually has nothing to do with Brexit. We have to put them in place now, otherwise we would have heavy fines. In a way, that slightly answers the question from my noble friend Lord Deben about why we are doing it. We are making sure that our standards are as high as those of other EU countries, so this is actually transposing existing regulations and making us consistent with the EU; we are not adding anything new.

Lord Hunt of Kings Heath (Lab): The logic is that if the EU then changes regulations in this area, the UK will also change the regulations here, because of the point made by the noble Lord, Lord Deben. Or are we, having established that currently we will remain with European regulation, going to go out in Dr Fox's brave new world and develop our own provisions?

Baroness Chisholm of Owlpen: No. We have to do these regulations anyway, that is the point. They should have been implemented on 29 April 2017 and, as I said, the delay was due in part to the complexity of the directives themselves—other member states have also experienced delays—and the initial timetable to make the regulations before the Summer Recess was paused because the general election was called in March 2017 and we then had a recess period. That is why we are doing the regulations now.

I think I have answered all noble Lords' questions, so I commend the regulations.

Motions agreed.

Representation of the People (England and Wales) (Amendment) Regulations 2018

Representation of the People (Northern Ireland) (Amendment) Regulations 2018

Representation of the People (Scotland) (Amendment) Regulations 2018

Considered in Grand Committee

6.51 pm

Moved by ***Lord Young of Cookham***

That the Grand Committee do consider the Representation of the People (England and Wales) (Amendment) Regulations 2018, the Representation of the People (Northern Ireland) (Amendment) Regulations 2018, and the Representation of the People (Scotland) (Amendment) Regulations 2018.

Lord Young of Cookham (Con): The purpose of the draft regulations is to make registering to vote anonymously more accessible for those who need it most. They will also strengthen the integrity of the electoral register and improve the registration system for electors. The changes affect both the parliamentary and local government registers across the UK, with the exception of the local government register in Scotland. As local government electoral registers are a devolved matter in Scotland, the Scottish Government have brought forward similar legislation in the Scottish Parliament.

This year we celebrate 100 years since legislation was passed to give some women the right to vote in the UK. This was the first step to equal franchise in the UK, but the journey to maximise electoral registration still continues. For some, the fear of having their name and address appear on the electoral register is a barrier to registering to vote and engaging in democracy.

Anonymous registration was first introduced in Great Britain by the Electoral Administration Act 2006 and provided for the overall structure of the scheme. It was extended to Northern Ireland in 2014. The scheme protects those whose safety would be at risk if their name or address appeared on the electoral register: for example, victims of harassment or stalking, as well as some witnesses in criminal court cases.

An applicant must provide evidence to their local electoral registration officer which demonstrates that their safety would be at risk. The evidence accepted is prescribed in legislation as either a live court order or injunction from a set list of orders and injunctions or an attestation. An attestation is a signed statement certifying that the applicant's safety would be at risk if the register contained their name or address. It can be made only by professions listed in the legislation as qualifying officers, such as a police superintendent or a director of social services.

About two years ago, Mehala Osborne, with the support of Women's Aid, started a petition to make anonymous registration more accessible for those who need it most. After consultation, the Government proposed changes that make the scheme more accessible to those who need it.

The draft regulations update the list of court orders and injunctions which can be provided to an electoral registration officer as evidence to demonstrate that an individual's safety would be at risk if their name or address appeared on the register. As evidence, applicants would be able to use domestic violence protection orders made under the Crime and Security Act 2010 or the Justice Act (Northern Ireland) 2015, once that is in force. They would also be able to use female genital mutilation protection orders made under the Female Genital Mutilation Act 2003. These are new and relevant orders that have been created since the anonymous registration scheme came into force.

The draft regulations will also broaden those who can provide attestations that an individual's safety would be at risk. The seniority required for an attestation from a police officer would be lowered from the rank of superintendent to inspector. Medical and health practitioners registered with the General Medical Council or the Nursing and Midwifery Council and refuge managers would also be able to act as attesters. Including these professionals will make it easier for applicants to obtain an attestation, as they are frequently in contact with survivors and are qualified to assess the level of risk to an individual's safety. These changes make the evidence required to register to vote anonymously more reflective of the experiences of survivors of domestic abuse.

The Government have consulted widely with stakeholders and there is general agreement that the changes being brought forward are desirable to ensure that those whose safety would be at risk if their name or address appeared on the electoral register are able to engage in our democratic system. Women's Aid strongly welcomed the changes made by this statutory instrument, saying:

> "The proposed new measures send out a clear message to all survivors of domestic abuse: that their voices matter, and their participation in politics matters ".

I turn briefly to the changes to the wider registration system, which relate only to Great Britain. The first two changes address recommendations 12 and 14 in Sir Eric Pickles's review into electoral fraud. The others have been identified through extensive consultation with the electoral community. The first proposed change adds a statement to the application form which states that persons who are not eligible electors are ineligible to register to vote and that in relation to nationality, applicants may be required to provide additional information or checks may be carried out by the electoral registration officer against government records. This change seeks to enhance the deterrent against applicants providing false information in respect of their nationality.

The second proposed change adds another statement to the application form which informs applicants that their application may be delayed if they do not provide the previous addresses at which they have ceased to reside within 12 months of the date of their application. This statement aims to minimise the number of incomplete applications being submitted on paper forms to ensure that electoral registration officers can remove redundant entries from the register, thus maintaining accuracy.

The third proposed change brings England and Wales into line with Scotland by ensuring all the publicly published monthly changes to the register will be taken into account when an electoral registration officer is checking the eligibility of an attester. This change is being made only in the regulations that cover England and Wales and ensures consistency across the registration system.

The fourth proposed change expands the number of sources of information which an electoral registration officer can use to remove deceased electors from the electoral register. Where electoral registration officers have not been able to obtain a death certificate or a registrar's notice, they will be permitted to use four further sources of evidence to support their decision to remove a deceased elector. They are: information from a close relative; a canvass form; a care home manager; or other local records. I am sure that noble Lords would agree that using this information is an appropriate response to avoid unnecessary distress for the relatives of any deceased elector. It balances the

[Lord Young of Cookham]
need for evidence with the sensitivity of providing a service to the citizen that they would expect. It also helps effectively to maintain the accuracy of the register.

The final proposed change to the registration system streamlines correspondence that electoral registration officers are required to send to electors. These changes are designed to reduce the cost of the registration system and provide greater discretion to electoral registration officers to tailor their approach based on the needs of local electors.

The draft regulations make sensible and proportionate changes to the wider registration system. Making it easier to register to vote without a name and address appearing on the electoral register may be a small thing, but it makes a big difference. It means the freedom to live your life, cast your vote and make your choice. As Mehala Osborne said:

"Survivors in the future will not be denied their voice and democratic right to vote".

I commend the draft regulations to the Committee and beg to move.

7 pm

Baroness Seccombe (Con): My Lords, I welcome these regulations. I understand the fear of somebody who has been a victim of harassment and domestic violence, and not wanting to see their name and address appear on a public document. For people who have been subjected to that sort of treatment, anonymous registration is an excellent idea. The point I want to make is that the men—we must remember that one in three victims of domestic violence is a man—are very often the good guys, who want to leave the family in the domestic home and move on to get somewhere where they can be away from the family. It is very important that that offer is open to men and is known to be open, because all the blurb refers to women, women's refuges and so on. In this year of 100 years of women having the vote, we must not forget that families are made of male and female. Long may it be so.

Lord Hodgson of Astley Abbotts (Con): My Lords, I too support these regulations, but I will probe my noble friend Lord Young on them and their position in the reform of electoral law that we are proposing to undertake, or have been talking about for some time.

First, on the change to the anonymous registration scheme, I of course absolutely support the widening of this gate. The fear of being bullied, threatened or attacked is very real. Therefore, people should be provided with the appropriate anonymity to protect their democratic right. But, of course, there is a balance to be struck because the transparency of the electoral roll is a very important part of our democratic system. Therefore, we need to bear in mind the extent to which the gate is being widened and the appropriateness of it being widened.

As my noble friend explained, the attestation procedure has now been widened quite a lot. While I absolutely understand about the police and the reduction of the rank to inspector, where it is quite an impersonal relationship, the other two categories move to a much more difficult and much closer relationship in the sense that a registered healthcare professional, as listed in the regulations, will be under a lot of moral pressure, come what may, to look after their patient. They will perhaps find it difficult to make a completely dispassionate judgment about whether anonymity should be granted in a particular case. That is referred to in paragraph 7.7 of the Explanatory Memorandum.

Paragraph 7.8 concerns refuge managers. That is an even wider category of individuals. It is clear from reading the Explanatory Memorandum that the Electoral Commission was concerned about this. Paragraph 8.2 says that it was concerned about,

"how widely the definition of a refuge manager may apply".

The Government's response is that its concerns were addressed,

"through a tightening of this definition".

It would be helpful if my noble friend could give us a little bit of information about what took place in that regard. The problem is that it is not really clear how controlled that category may be. Obviously, refuge managers have a particular position and role to play, but we need to know that they are being properly watched over. There is a mention in paragraph 7.8 of the register of refuge managers. It says:

"The Electoral Registration Officer can then confirm that the refuge is registered on the 'Routes to Support' directory, a UK-wide online database".

Do they have to be on that database to be permissible or is it at the discretion of the local electoral returning officers? My concern is that the gate is being widened. I understand why—my noble friend Lord Young made a powerful case for it, which I understand—but I hope that the Government will perhaps take a look at the situation in a couple of years and see to what extent it is being used properly in achieving the balance between this very proper area and the need to have a properly transparent electoral roll.

Turning to the changes to the wider registration system, I understand the need to simplify it and tighten it up against misrepresentation and fraudulent behaviour. It was not entirely clear to me why individuals should not be allowed to be told. This relates to paragraph 7.16: the Government have decided that they should not be told whether they are to be included on or excluded from the register, and that paragraph says:

"There is no added benefit to the elector of this letter".

It seems to me that people should be told whether they have been successful or unsuccessful, as opposed to just finding out from examining the electoral roll themselves. There are some issues about how the local returning officer and the Electoral Commission work together.

Before I conclude, I want to draw my noble friend's attention to two further points. I do not ask him to respond to them today but, as he pointed out in his opening remarks, we are all agreed that we need to maximise voter registration and participation. There is a strange anomaly where if you seek to register to vote in person, you can use a pretty wide range of identity documents, such as your passport or driving licence. But if you choose to register online, you have to use your national insurance number and no other document will do. I do not know about other noble Lords but my knowledge of my national insurance number and my accessibility to it is a great deal less

than for my driving licence, which is probably in my wallet, or my passport, which will be to hand. So I wonder why we have that strange anomaly where online registration, which we are trying to encourage people to use, can be done only if you have your national insurance number to hand. I suspect that many people do not have it to hand and have some difficulty finding it out. As I say, I am not asking my noble friend to reply to that today but perhaps he could write to the Members of the Committee about it.

My very last point relates to where this fits into the situation for the reform of our electoral law. These are some welcome and important bits of sticking plaster but there is a large Law Commission Bill on electoral law, which it says is shovel-ready. You have only to consider the headings of the chapters in that important document to see how it goes to the heart of our electoral system. Those headings include: "Management and Oversight", "The Registration of Electors", "Manner of Voting", "Absent Voting", "Notice of Election and Nominations", "The Polling Process", "The Count and Declaration of the Result", "Electoral Offences"—that includes the important issue about bribery and treating which we debated in this Room not so long ago, and where we are working from a Victorian statute which is now not really fit for purpose—and "Regulation of Campaign Expenditure". Those are some serious issues, raised by an apolitical body which has a chance to bring our system up to date and in line with modern practice. At a time when people have concerns about the way our system is working, we should make every effort to make it as clear, transparent and modern as possible.

My noble friend will forgive me if I refer to an Answer he gave to a Question I tabled just before Christmas on whether the Government planned to introduce any Bills in the current Session using the Law Commission procedure. On 8 January, he very kindly responded, saying that the Government work closely with the Law Commission and support its work to improve the statute book, and that the introduction of new Bills would be announced "in the usual manner". I am sure my noble friend will forgive me if I say that I do not find that an entirely satisfactory Answer.

Lord Rennard (LD): My Lords, in our various debates on electoral registration issues our usual mantra is about the accuracy and completeness of the electoral register. The measures before us may be of some marginal help in improving the completeness of the register and its accuracy, but in very small ways. They may mean that some of the victims of domestic abuse, or people who are vulnerable as a result of other serious criminal activity, will now register to vote when they may not be able to do so otherwise. There is certainly evidence that some of these people may have feared the consequences of registering and this may have deterred them from complying with their obligation to co-operate with the electoral registration process. We need to safeguard the interests of such people and guarantee their democratic rights.

My only concern about the new rules for anonymous registration is that some people may feel that they have to pay a charge to a GP as part of the process. If someone is a victim of domestic violence, or under any threat of violence which means that they should be registered to vote without publication of their address, I cannot think that it would be right for them to be charged by anyone in return for certifying their status and enabling them to register anonymously. It would effectively be a charge to register to vote.

Of course, GPs are very hard pressed and there may be better routes for people to secure a statement confirming that anonymous registration is necessary. I cannot believe that many GPs would feel it necessary to make a charge for confirming the status of a victim of domestic violence, or of someone living in fear of violence, if their address can be identified from the electoral register. The evidence submitted by the Cabinet Office suggests that 90% of GPs will not make a charge, but that of the 10% who might, their charges might range from £30 to £63. It seems potentially misleading for that evidence to suggest, therefore, that the average charge may be around £4, based, I assume, on the estimate that 90% of GPs will not make such a charge and the charges made by 10% of GPs is averaged out across all of them. It would be equally true to say that of those GPs who might make a charge, the average could be over £45.

There are, of course, many other health professionals, refuge managers or police inspectors able to attest to the need for anonymous registration without someone going to their GP. However, going to a GP to secure anonymous electoral registration may also help identify significant health issues that need to be addressed, so there could therefore be many benefits in going to the GP to discuss these issues. The suggestion that such vulnerable people might be expected to pay to secure anonymous registration via a GP seems utterly wrong to me. Therefore, I hope that the Minister will comment on this issue and say what guidance may be issued to GPs on informing some of their patients that anonymous registration may be necessary for them, and on how the GP can attest to their status, if appropriate, without such people being expected to pay for it.

Other issues that have been set out may be considered relatively minor, in my view. Explaining on registration forms who may not be entitled to vote if they are not qualifying Commonwealth citizens, citizens of the Irish Republic, citizens of the UK, et cetera, is not something with which one can argue, but the need to explain this highlights the complexity of the franchise issues. As we prepare to extend the franchise to people who have moved abroad for longer than 15 years, it is high time that we looked again at the franchise issues, including extending the franchise to those who are legally entitled to live and work here permanently. I believe that that should include many of the 3 million EU citizens who currently enjoy the right to live and work here. Does the Minister agree that there should at least be a debate about such issues?

7.15 pm

Making it easier for electoral registration officers to sensitively remove from the electoral rolls the names of people who have died should not require much debate, but in terms of preventing abuse of the electoral system, I believe that the impersonation of dead people is probably not very common in the UK. A much bigger problem remains the fact that about one in six

[Lord Rennard]
people who are living and are entitled to be on the electoral register are not included on it. According to the Electoral Commission, most people believe that the process of electoral registration is automatic and they do not understand that they may need to act to ensure that they are registered and that failure to comply with the process may lead to fines or civil penalties. Will the Minister assure us that the Cabinet Office is working with the Electoral Commission to make sure that all relevant forms in the electoral registration process make this clear and follow standardised best practice to promote the completeness of the electoral register?

Lord Hunt of Kings Heath (Lab): My Lords, I, too, welcome these provisions as far as they go. Clearly, it cannot be right that survivors who face a physical, emotional and psychological impact from abuse are then silenced from our democratic process because it is too dangerous for their names and addresses to be listed on the electoral register and too difficult for them to register anonymously under the current provisions.

I take this opportunity to thank Women's Aid, which has been at the forefront of shaping and co-ordinating the responses to domestic violence and abuse for over 40 years, including the legislation before us. The question is whether these measures go far enough. One of my concerns is that survivors will have to re-register to vote anonymously year on year, and those who move home will have to repeat their applications. For many survivors, anonymity is a matter of life or death, and they will often be on the run from domestic abuse for the rest of their lives. I know that Women's Aid has been calling on the Government to use the domestic violence and abuse Bill to pass legislative changes to make anonymous voter registration for survivors valid indefinitely so that they can vote in safety for life. What is the Minister's position on that proposal?

I also want to raise a point that Mr Stephen Doughty raised in the other place about credit reference agencies. His concern was the interaction of individuals with credit reference agencies once they had registered anonymously. From examples in his constituency, he knew that individuals who had registered anonymously had then had significant difficulty in getting agencies such as Experian, Core Credit and others to acknowledge their anonymous registration without going through cumbersome processes. Many of the people we are talking about today are in a vulnerable situation; they need to be able to access credit and to do so without being disadvantaged. Will the Minister say a little more about whether the Government will work with the agencies to ensure that the process is as transparent and easy as possible? We know that in some cases agencies have refused to accept anonymous registration certificates, and clearly that is not right.

I would also like to pick up a point raised by the noble Lord, Lord Rennard. I welcome the proposals to remove entries from the register as a result of death—clearly that is a sensible measure. However, I would also have liked to see some provision for taking steps to increase voter registration and turnout. A question I put to the Government is this: why can they not examine the use of government data to automatically place eligible electors on the electoral roll, given that the integrity and accuracy of that roll is so important? In welcoming these provisions, I hope that we will hear a bit more about how the Government are going to increase the number of eligible people on the electoral register.

Lord Young of Cookham: My Lords, I am very grateful for the general support for the measures before us and for all the contributions. I will try to respond to the points that have been raised, starting with that of my noble friend Lady Seccombe. She rightly pointed out that, if you look at the latest figures from the ONS, you will see that 1.9 million adults between the ages of 16 and 59 experienced domestic abuse in the past year—1.2 million women and 713,000 men—a statistic that many people will find surprising. When I first became involved in this issue, back in the 1970s, I was on a Select Committee dealing with violence in the family. That was in the era of Erin Pizzey and the first refuges. At that point, the focus was almost exclusively on women who had suffered physical violence. Over the past decades, the definition of domestic violence and abuse has broadened: it now includes psychological as well as physical abuse; sexual, financial and emotionally controlling behaviour; and coercive behaviour. That has broadened the range of people who might be susceptible to domestic violence. Men are victims, and the new provisions that we debate this evening cover both men and women—and rightly so.

My noble friend Lord Hodgson was worried that broadening the range of people who can attest might open the scheme to some abuse. It is important to keep this in perspective. At the moment, 2,300 people are anonymously registered—an infinitely small proportion of the total voting population. The estimate we have made is that, as a result of the changes we debate this evening, that figure might triple to 6,900. If one puts that in the perspective of the millions of people who are entitled to vote, one will see that the possibility of abuse is relatively small.

We consulted the Electoral Commission about the process. My noble friend asked whether refuge managers have to be in the directory. The answer is that they do not. However, the definition was restricted by being narrowed to managers of refuges, in direct response to the Electoral Commission's concerns.

On the issue of telling people whether they have been removed from the register, the statutory instrument gives the electoral registration officer the discretion to include in the first communication information that they will not get a further one later on. It is discretionary and it is open to the electoral registration officer whether to follow it up, and there will be guidance from the Electoral Commission on how that discretion should best be used.

My noble friend asked also why one had to provide a national insurance number, given that, if one registered online, one did not have to. My noble friend is certainly different from me in having his driving licence and his passport information as accessible as his national insurance number. As far as I am concerned, all three have to be looked at in some database. I will write to him, if I may, about why there is that discrepancy between the

information you have to provide if you register in person and the information you have to provide if you register online.

My noble friend raised some broader issues, which were touched on also by others who contributed to the debate, about the progress that the Government are making in their review of electoral law. I am not sure that my reply this evening will take my noble friend much further than the reply that I gave him but a few weeks ago, but we are working closely with the Law Commission in bringing forward a programme of reform using secondary legislation. It is hoped that the work can lead to the consolidation of 10 statutory instruments and 25 amending instruments into two, an affirmative and negative SI respectively. These will cover local, PCC and mayoral elections as well as local planning and council tax referendums. The Law Commission will then utilise its in-house parliamentary counsel to oversee the drafting process. On top of that, Cabinet Office staff will form part of an inner circle alongside representatives from the Electoral Commission, Solace and AEA—the Association of Electoral Administrators—to oversee the drafting process and participate in necessary policy decisions. So work is under way on broader reforms.

The noble Lord, Lord Rennard, asked about GPs and whether they would charge those who want the attestation form signed. I entirely agree with him that those in a vulnerable position should not have to pay. The Electoral Commission will provide revised guidance in the light of the changes we debate. We hope that GPs will choose not to charge for attestations but, as the noble Lord said, other avenues will remain open for electors to seek attestations. It strikes me that somebody who perhaps has just moved into a new refuge will have to go and see a GP anyway to register. That is the point at which the patient could provide the attestation form and just ask the GP to sign it. If it was in that context, I honestly do not see that the GP would need to charge.

On automatic registration, I think that this was looked at some time ago; it may even have been when there was a coalition. The Government did not introduce automatic registration, as it went against the underlying principle of IER—namely, that individuals should take ownership of registering to vote and deciding where they want to register. I shall come in a moment to what we are doing to improve take-up. There are no plans to introduce a system of compulsory registration; that has been looked at before. It is up to all of us to explain to people the importance of registering to vote.

The noble Lord, Lord Hunt, raised a question asked in the other place about why those who register anonymously have to re-register each year. It is a valid question. The provisions on yearly renewal are in primary legislation and could not be addressed through the SIs before us today. The intention of Parliament when the scheme was introduced in 2006 was to enable individuals with a current risk to register anonymously. If one had it automatically carrying forward year after year then, by definition, the risk might not be "current". However, I think that the principal reason was that you simply cannot do it by secondary legislation; you need primary legislation.

The noble Lord then raised the valid point that, if you are not on the register, credit reference agencies cannot check that you are who you say you are. There is a certificate of anonymous registration, which can be used as evidence to overcome some of the restrictions to which the noble Lord referred. He implied that this was bureaucratic and not always acceptable to the credit reference agencies, and that again is something that I would like to take away and reflect on.

I have tried to answer all the points that were raised. If I have not answered all of them, I shall write to noble Lords.

Motions agreed.

Immigration and Nationality (Fees) (Amendment) Order 2018

Considered in Grand Committee

7.30 pm

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

That the Grand Committee do consider the Immigration and Nationality (Fees) (Amendment) Order 2018.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, this fees order is to be made using the charging provisions in Sections 68 to 70 of the Immigration Act 2014 and its purpose is to make only a relatively small number of changes to the Immigration and Nationality (Fees) Order 2016, which, along with the Immigration and Nationality Fees (Amendment) Order 2017, remains in place. The changes are needed to ensure that the charging framework set out in secondary legislation for immigration and nationality fees remains current and supports plans for the next financial year.

The Committee will wish to be made aware that there is an error in the draft order and its Explanatory Note. Following further review of the section of the order that deals with circumstances in which a fee may be set in respect of the provision of biometric identity documents, it has been identified that the change we were seeking to make by Article 2(4)(a) has no effect. This is because of the way in which the related legislation—the Immigration (Biometric Registration) Regulations 2008—operates. The intention was to permit the Home Office to charge a fee when a person fails to collect their biometric residence permit within the required time limit, which is not intended as a penalty or fine, but is in line with fees charged for replacement biometric residence permits, where the department incurs extra production costs. However, the Immigration (Biometric Registration) Regulations do not in fact require an application in those circumstances—hence there is no service for which a fee could be charged. Though the Explanatory Note states that Article 2(4)(a) does have an effect, this is incorrect. Before such a change can take effect we will need to amend the Immigration (Biometrics Registration) Regulations 2008. In the interests of transparency for all, the accompanying Explanatory Memorandum has also been amended to clarify the issue.

The 2016 order continues to set out the overarching framework and maximum amounts that can be charged

[Baroness Williams of Trafford]
for immigration and nationality functions over the current spending review period, as previously agreed by Parliament. Changes made by this order are intended to clarify existing powers in connection with entry clearance to the Bailiwick of Guernsey, the Bailiwick of Jersey and the Isle of Man. The order will update powers to charge fees when offering premium services in relation to the islands and also make clear that the current definitions of a "sponsored worker", "unsponsored worker", "sponsor" and a "certificate of sponsorship" apply in respect of applications to the Isle of Man. Two further changes will delete obsolete provisions, for which no fee is currently set within regulations.

The 2016 order also permits a fee to be set for the acceptance of applications at a place other than an office of the Home Department. This provision currently allows the Home Office to charge a fixed fee when delivering an entirely optional, premium service to enrol biometrics at a place of convenience to service users. Under plans to modernise services offered, the order will now allow for fees to be set at an hourly rate. This will provide greater flexibility and allow a fee to be charged at a level that is commensurate with the time taken to deliver such services.

To be absolutely clear, this change does not affect the Home Office's basic services, for example, as provided to applicants who enrol their biometric information at a local post office. The amendment is applicable only to those who seek to enrol their biometrics at a place of convenience that they themselves want to specify.

Finally, the order will also update the power to charge for services offered on behalf of certain Commonwealth countries and British Overseas Territories, where such services may not be offered within consular premises.

To recap, we are seeking to make a small number of changes to the 2016 order and maintain the framework for immigration and nationality fees. We are not seeking to make changes to the overarching charging framework, nor to the maximum fee levels that were agreed by Parliament and set out in the 2016 order, other than in respect of the premium service fee about which I have spoken. Individual fee levels to be charged over the course of the next year will be set by new regulations that are due to be laid before Parliament in March 2018.

I commend the order to the Committee.

Lord Paddick (LD): My Lords, I thank the Minister for explaining the order and for her confession about the error in it. We have a fundamental objection to the approach that the Government are taking to move to a position where fees are charged to cover the costs of providing border, immigration and citizenship services. The security of the UK border is one of the most important mechanisms by which the Government keep us safe and we should not expect those who want to do the right thing and apply for leave to remain and, eventually, citizenship, some of whom come to this country as destitute refugees, to be forced to fund what is fundamentally the duty of the Executive.

Having said that, I understand that these regulations make only one change to the overall fee structure, where the biometric capturing part of an application comes to you and where the eye-watering fixed fee of £10,500 is to be replaced by an extraordinary hourly rate of £2,600. Will the Minister confirm that this is not the actual cost of providing the service, but a fee based on what the market can bear? Will she also explain why the Home Office is not maximising the profit from such a service to enable it to reduce fees in other areas, rather than giving this lucrative money-earner away to a private company? I understand that there needs to be two people to carry out the biometric capture, but if this is purely on the basis of cost recovery are we paying Home Office officials £1,300 an hour? Can I apply for a vacancy?

We support these regulations as far as they go and we look forward to the main event, when the actual fee levels for 2018 are set out in the forthcoming regulations next month. I give the Minister notice that those regulations are likely to be a completely different ball game.

Lord Hunt of Kings Heath (Lab): My Lords, I too thank the Minister for setting out the reasons behind this order and for the clarification she gave in her opening remarks. I too was fascinated by the level of fee charged changing from an overall maximum fee of £10,500 to a fee of £2,600 per hour. Some of us have occasionally done per diem work—I suppose we are not unused to it now—but our eyes can only water at the thought of such an hourly rate. It would be good to know where the justification comes from.

I also add to a point made by the noble Lord, which is that essentially a commercial provider is going to do the work. Although the Home Office will retain full oversight and jurisdiction, the relevant fee will relate to the cost associated with the commercial partner travelling to the location of choice as requested by the applicant. The mind boggles. Can they go anywhere? Without detracting from the quality of the people who will be applying for this service, it makes one wonder what exactly the commercial provider is there to do. Is this rate seriously based on the cost of that commercial provider? Does it build in a profit? It must. I must say that the Explanatory Memorandum begs more questions than it answers on those details.

Baroness Williams of Trafford: I thank the noble Lords, Lord Hunt and Lord Paddick, who both asked questions about the rather lucrative £2,600 hourly rate. I absolutely understand why the noble Lords asked that question. It is not the actual fee; it is the maximum. The actual fee will be set in regulations later this year, but it is important to understand what the amount is modelled on. It is modelled on existing costs and location of customers using the current service. The average time is two hours and for security reasons it requires two members of staff actually to do the work. It is a maximum amount and that needs to be borne in mind in the context of what noble Lords are asking.

As regards the organisations working with vulnerable people suggesting that the destitution assessment applied to those who make applications on the basis of private and family life is too stringent, our policy states that a fee waiver will be granted to applicants who demonstrate with evidence that they are destitute. That may well

bring in the point that the noble Lord, Lord Paddick, made. The onus is on the applicant to demonstrate by way of evidence, which I am sure that a refugee or asylum seeker could, that they meet the terms of the fee waiver policy. It is open to such individuals to re-apply for a fee waiver on the evidence that supports their request.

The question about the supplier ensuring that they give value for money and account strictly for the time taken in each case was a very valid one. The Home Office's chosen commercial provider will be required to demonstrate a clear and transparent method of calculation of the service cost, based on the applicant's location, to deliver an on-demand service. This is an on-demand and premium service to a customer at a location of their choice. The contractual clauses will require that partner to undertake open book accounting to allow visibility of costs and charges for services provided to customers, which in turn will be reviewed by robust commercial oversight. I hope that that answers the noble Lord's two very simple questions.

Motion agreed.

Committee adjourned at 7.42 pm.