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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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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 17 April 2018

2.30 pm

Prayers—read by the Lord Bishop of Coventry.

Oaths and Affirmations

2.35 pm

Lord Mogg took the oath, and signed an undertaking to abide by the Code of Conduct.

Growth Deals: North of Tyne and Borderlands

Question

2.37 pm

Asked by Lord Beith

To ask Her Majesty's Government whether they have completed their consultation with local authorities and others about growth deals for (1) North of Tyne, and (2) Borderlands.

The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, the North of Tyne authorities have completed their consultation on the devolution deal that the Government have announced they are minded to agree. The authorities' summary of their consultation is with the Secretary of State for his consideration. Discussions on the borderlands growth deal are progressing well. The local area is working with the United Kingdom and Scottish Governments to develop a strong set of proposals for a growth deal that will drive growth and productivity in the region.

Lord Beith (LD): My Lords, can the Minister tell us in what year those in charge of each of these projects will get the power to make decisions about what money can be spent in Northumberland? Why is the North of Tyne deal conditional on the creation of an elected mayor, when the borderlands deal has no such condition? Why have Northumberland residents, whatever consultation it is claimed there has been, not been sent any detailed information or consultation document about either the North of Tyne deal or the borderlands deal, even though they are supposed to be covered by both of them?

Lord Bourne of Aberystwyth: My Lords, they are very different in kind. The North of Tyne deal is clearly a combined authority mayoralty deal; it was always the case that it would come with a metro mayor. No date can be attached to it at the moment because, although we are minded to agree it, it is with the Secretary of State to consider the consultation—which has taken place and has been largely positive. As I have indicated, the borderlands growth deal is progressing well; there have been good discussions between the local authorities, the United Kingdom Government and the Scottish Government on where the deal is going. Subject to a robust business case being developed, we could expect funds to follow.

Viscount Ridley (Con): My Lords, is my noble friend aware that Northumberland is one of the few counties without a university in it and that the Conservative-controlled county council has ambitions to put that right? Does he think that that should be encouraged?

Lord Bourne of Aberystwyth: My Lords, I had not given particular thought to that question until the noble Viscount addressed it to me. Of course, there are two terribly good universities in Newcastle, as we know, but I am pleased to hear about the consideration being given to a university in Northumberland.

Lord Watts (Lab): My Lords, are the Government not making a mess of this? Some areas have mayors; others do not. Some have powers that others do not. Should we not bring them all together so that there is some common sense in this issue?

Lord Bourne of Aberystwyth: My Lords, the noble Lord has gone in this direction before. It is clear that some metropolitan areas are well suited to mayors, as we have seen from Birmingham, Manchester and others developing metro mayors. Other areas do not lend themselves to that, so we would not expect one size to fit all.

Lord Clark of Windermere (Lab): My Lords, can I come to the aid of the Minister? The difference between borderlands and the others is basically that borderlands encapsulate two nations: if you had a mayor, your mayor would have to cover an area from Stranraer right down to the Lancashire border just outside Lancaster: it just would not make sense.

Lord Bourne of Aberystwyth: My Lords, I am very grateful to the noble Lord: that indeed is a distinction, but it is not the only one. They are very different in nature. One covers a much broader sweep of powers, in terms of housing, health and so on; the other is essentially business focused. Of course, the noble Lord is absolutely right that the borderlands deal does involve the south of Scotland as well as Northumberland and Cumbria, and that is another important distinction.

Lord Mackenzie of Framwellgate (Non-Affl): My Lords, does the Minister agree that the north-east is not all doom and gloom? Will he congratulate, on my behalf and on the House's behalf, the chief constable of Durham, Mike Barton, and all his police and civilian staff on being an excellent force for the third year running as a result of the HMI's inspection?

Lord Bourne of Aberystwyth: My Lords, I am very grateful to the noble Lord. I am very happy to join those congratulations. It is absolutely right, and certainly the north-east is far from being all doom and gloom. There is very good progress in the north-east on a number of fronts, not least on developing the mayoral deals and business growth, as can be seen.

Baroness Maddock (LD): My Lords, has the Minister read reports in recent days that the A1 from London to Edinburgh is the most dangerous road in the country? Does he agree that, if we are serious about growth in

[BARONESS MADDOCK]

north Northumberland, we need to get on and dual the A1 north of Alnwick and across the border in Scotland?

Lord Bourne of Aberystwyth: My Lords, the noble Baroness is right about the need for investment on the A1. I think that in 2014 we committed funds for improvements on the A1 from Newcastle to Berwick, from memory, but she is absolutely right that it is work in progress and it is important that we bear that in mind.

Lord Foulkes of Cumnock (Lab): My Lords, is this not a dog's breakfast? Does the Minister remember that, when he was on the Back Benches, he and I agreed—in fact, we were lobbying hard—for reorganisation of local government in England, for devolution in England on some kind of systematic, logical basis? Why has he changed his mind?

Lord Bourne of Aberystwyth: My Lords, I am not sure that I have changed my mind, but the noble Lord is assuming that that is the case. There is unfinished work on this, but that does not mean—in fairness, the noble Lord did not say so—that these deals are not important deals and very valuable for Scotland, the north of England and, indeed, the rest of the country. They are ways forward in terms of giving power to local areas which I think the noble Lord should welcome.

Lord Wallace of Saltaire (LD): My Lords, can the Minister tell us a little more about the criteria for deciding when a mayor is and is not appropriate? If, for example, we take Yorkshire, which is now congealing around the idea that a one-Yorkshire deal is the most appropriate way forward, with a population roughly the same as that of Scotland, does he think that a mayor is then appropriate, or is something different required for an organisation such as that?

Lord Bourne of Aberystwyth: My Lords, on the general point about how we decide whether it is appropriate, we depend on grassroots support for a deal. There has been support, as the noble Lord has indicated in relation to his specific point about Yorkshire, for an all-Yorkshire deal. We have made a compromise proposal to the authorities and have not yet had an agreed response. We are progressing, as the noble Lord will know, with a south Yorkshire deal, after which it will be open for a broader deal which could cover the whole of Yorkshire, but we are still working on that.

Lord Beecham (Lab): My Lords, growth in the north-east at any rate depends very heavily on vast improvement to the rail connections between that region and the rest of the country, particularly the north-west. When is this going to happen? Will the Government answer a question I have repeatedly asked: if Scotland goes for abolition of air passenger duty, will that also be extended by this Government to airports in the north-east?

Lord Bourne of Aberystwyth: My Lords, on the first point, I will need to get back to the noble Lord on the specifics of the rail link. I cannot recall him asking

that question previously, but I will make sure that he gets a detailed response on that. Similarly, on the airport question, I welcome the commitment we have had in relation to Carlisle, which no doubt the noble Lord would also welcome. In relation to air passenger duty, this is an ongoing discussion with the devolved Administrations, and I know that it is a live discussion in Wales as well.

Energy Security: Gas Production *Question*

2.45 pm

Asked by Baroness Featherstone

To ask Her Majesty's Government what is their assessment of the extent to which indigenous gas production is needed for energy security.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con): My Lords, indigenous gas production plays an important role in meeting the United Kingdom's energy needs, meeting 46% of the country's gas demands in 2016. We also benefit from a diverse and flexible system of gas sources, including from Norway and continental Europe, and LNG terminals that can source gas from around the world.

Baroness Featherstone (LD): I thank the Minister for his Answer, but I have three recommendations for him.

Noble Lords: Question!

Baroness Featherstone: Well, I will see at the end if he agrees with my recommendations. First, does he agree that it would be good to end the ugly and unnecessary distraction of fracking? Secondly, stepping up support for renewable gases, given the trouble the Government are in on decarbonising heat, might be a very good idea. Thirdly, making energy efficiency a national infrastructure priority would contribute to indigenous energy security. Does the Minister agree?

Lord Henley: Up to a point, my Lords. Renewable gas is all well and good, but it is never going to meet all our demands. As far as energy efficiency is concerned, yes, that is wonderful and it does make a considerable difference to what we are doing. As regards production of domestic shale gas, I think we should do everything we can to tap into this potential resource. I am very sorry that the Liberal party is opposed to it. Particularly at the moment, with problems with Europe's dependency on gas from Russia and other places, there is a lot to be said for making us less reliant on imports, looking at domestic shale gas and at the opportunities that are available there.

Lord Lawson of Blaby (Con): My Lords, is my noble friend aware that the strongest opponents of fracking, both in this country and in mainland Europe, are the Russians, whose economy is wholly or very largely dependent on exports of gas? Is it not much more sensible for us to develop our own resources, be free from this threat of dependence on Russia, have

cheaper gas—because gas transport is expensive—and provide a real boost to the north-west of England, where the richest shale seams exist?

Lord Henley: My Lords, my noble friend makes the very point I would have made if I had been able to develop even further my Answer to the three recommendations from the noble Baroness on the Liberal Benches. He is quite right: other countries are overdependent on imports from Russia, and it is not surprising that Russia opposes our attempts to look at the opportunities available through domestic shale gas.

Lord Rooker (Lab): Can the Minister therefore explain why the Government reduced our storage capacity by closing storage in the North Sea? There was three weeks' capacity of storage there. Given the vagaries of gas supply, notwithstanding the interconnectors, to lose that much storage and reduce us to, I think, less than a week's capacity for storage is, frankly, irresponsible.

Lord Henley: My Lords, I do not accept that. Levels of gas storage in the United Kingdom are often compared unfavourably with those on the continent. Direct comparison between countries does not reflect the amount of our indigenous gas production or the other storage that we have available. If all that is taken into account, our storage is broadly in line with that of the rest of Europe.

Baroness McIntosh of Pickering (Con): My Lords, if the Government proceed to frack, will they undertake the commitment, given at the time that the energy Act was passed in the House of Commons, that there will be no fracking in or near an area of outstanding natural beauty or a national park?

Lord Henley: My Lords, I am not going to comment on any individual application that might or might not come forward for the exploration of domestic gas. But I repeat that there are considerable opportunities for this country in production and exploration, and I think we should look at those opportunities.

Lord Cunningham of Felling (Lab): My Lords, is not the lesson of previous Governments, both Conservative and Labour, that energy security comes from being as self-sufficient as possible in energy production? In the present circumstances, given climate change and air pollution problems, that means that we should rely on gas, nuclear power and energy conservation as the bedrock of our policy.

Lord Henley: I am in total agreement with the noble Lord and I am glad that he is in agreement with myself and my noble friend Lord Lawson.

Lord Polak (Con): My Lords, the Institute of Directors says that shale gas could cut gas imports by half. National Grid says that shale gas could heat every home in the UK—notwithstanding that there could be 60,000 jobs with that. What are the Government doing to help the shale gas industry?

Lord Henley: My Lords, I hope that we are giving every possible encouragement to the shale gas industry. We think that the economic impact of shale, both

locally and nationally, could be very large indeed. There will be opportunities for jobs and energy security, and in a great many other areas, through supporting that industry.

Lord Lea of Crondall (Lab): My Lords—

Lord Stephen (LD): My Lords—

The Minister of State, Ministry of Defence (Earl Howe) (Con): My Lords, it is the turn of the Liberal Democrat Benches.

Lord Stephen: My Lords, I first declare my interest in renewable energy, as declared in the register of interests. Can I return to the issue of gas storage and storage in general? Given in particular the current international uncertainties and the severe—some would say critical—shortages of gas that have occurred over recent years, should the Government not be doing more to review the situation in relation not only to gas storage but to battery and hydro storage? These are crucial issues that require the Government's greater attention.

Lord Henley: My Lords, I will stick to gas at the moment, but I believe that we are doing everything necessary on this front. In October 2017, we published *Gas Security of Supply: Strategic Assessment and Review*. That work looked closely at our gas security over the next 20 years and concluded that the United Kingdom's system was robust.

Operation Conifer Question

2.54 pm

Asked by **Lord Lexden**

To ask Her Majesty's Government whether they have any plans to establish an independent inquiry into Operation Conifer conducted by the Wiltshire Police.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the Government have no such plans. It is for the locally elected police and crime commissioners to decide how best to hold their forces to account. The police and crime commissioner has the power to commission a review if they consider it appropriate.

Lord Lexden (Con): Are the Government entirely content that a police operation made possible by Home Office funding, which has attracted such widespread criticism, should remain unexamined by a fully independent inquiry? Are they entirely content that the reputation of Sir Edward Heath, a Knight of the Garter, should remain under a heavy cloud of suspicion, just as it seems that the Church of England remains content that the reputation of one of its greatest bishops, George Bell, remains under a cloud of suspicion? If the Government remain content with these two things then, like the Church, they are in danger of incurring continuing grave censure.

Baroness Williams of Trafford: My Lords, let us not forget that there has never been any inference of Sir Edward Heath's guilt, but I totally understand the

[BARONESS WILLIAMS OF TRAFFORD]
concern of my noble friend and the House on this matter. We believe that the PCC has the authority to commission such a review, if he considers it necessary or appropriate.

Lord Armstrong of Ilminster (CB): Is the Minister aware that the police and crime commissioner for Wiltshire and Swindon has consistently said that he would like to see an independent review of Operation Conifer? He has been advised that such a review could be commissioned either by the Independent Inquiry into Child Sexual Abuse—IICSA—or by him. IICSA has declined to undertake the task, making it clear that it is beyond its remit to review investigations of allegations of child abuse by individuals. Would the Minister now welcome a decision by the police and crime commissioner, who is the officer to whom Wiltshire Police is answerable and accountable, to set up an independent review without further delay?

Baroness Williams of Trafford: My noble friend is absolutely right that IICSA is mainly looking into institutional failures when it comes to historical child sexual abuse. It is also absolutely true that the PCC himself could engineer such an inquiry. I am sure that he will be aware of the views of your Lordships' House, which time after time has pressed for that to happen. He should also be aware of what his powers are as an elected representative.

Lord Campbell-Savours (Lab): Further to that question, I refer the House to an answer I received from police and crime commissioner for Wiltshire and Swindon on 13 June last year. He wrote:

"I am however in agreement with you that an independent review of the evidence, perhaps by a retired judge, is required. I am in discussions with the Chief Constable as to how this can be brought about".

So at that stage he agreed that it was required and set out the procedure for doing it. Then, on 9 October, we had a report by the much respected Fiona Hamilton, crime editor of the *Times*, in which she quoted Macpherson as saying that,

"he had changed his mind about the prospect of a retired judge, and IICSA was the right place".

Then we have IICSA saying that it is not within its remit. Surely it is now about time for the Government to intervene. If they cannot agree, and we have people changing their minds when the public interest is at stake, surely it is now time that Parliament and the Government moved in to get this whole mess sorted out. The international reputation of a former Prime Minister is at stake, and the Government are standing aside and doing nothing. It is appalling.

Baroness Williams of Trafford: I should make it clear to the noble Lord, as I have in the past, that I have written to the PCC for Wiltshire to outline just what his powers are. I have also written to noble Lords who have come to see me and the Home Secretary and I have met interested parties to outline the process. The police are operationally independent of government and they are clear about what the process is.

Lord Howell of Guildford (Con): My Lords, I think we all appreciate the Minister's difficult position and that obviously the Government cannot tell the police

authorities what to do. However, does she accept that there is extremely strong feeling, not only in this House but outside, that terrible damage has been inflicted on the reputation of a deceased Prime Minister of the United Kingdom and that it is essential that someone is called to account, those responsible are shown up and the matter is carried forward with vigour? That has to be done, and it should be done now with a firm push by the Government themselves.

Baroness Williams of Trafford: I am certainly aware of the very strong feeling in your Lordships' House. I am also aware, and have made it clear to others, that there is a clear process in place should the PCC wish, as he indicated a year ago, to set it in train.

Lord Paddick (LD): My Lords, this is not the only case. In the Cliff Richard case in the High Court yesterday, it was revealed that the police had tipped off the BBC, resulting in South Yorkshire Police feeling "forced" to tell the BBC when Sir Cliff's home was going to be raided. Does the Minister not agree that the National Police Chiefs' Council's guidelines are clearly insufficient and that the time has come for legislation, as recommended by Sir Richard Henriques, to prevent the publication of the names of subjects until they have been charged with an offence, unless authorised by a Crown Court judge?

Baroness Williams of Trafford: There is certainly a presumption of anonymity before charge. I know the noble Lord will appreciate that it is not appropriate for me to comment on that specific case as it is currently the subject of legal proceedings.

Personal Data

Question

3.01 pm

Asked by **Lord Kennedy of Southwark**

To ask Her Majesty's Government what action they propose to take to regulate platforms that hold personal data.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Ashton of Hyde) (Con): My Lords, the UK's forthcoming data protection laws will empower people to take control of their personal data and ensure that all businesses, including platforms, take necessary steps to protect the information that they hold. This is a crucial step in giving the public confidence that their data will be managed securely and safely. Beyond this, the digital charter that we are developing in the UK sets out the principles for our approach to agree the norms and rules of the online world and put them into practice. In some cases this will be through shifting expectations of behaviour, in some we will need to agree new standards, and in others we may need to update our laws and regulations.

Lord Kennedy of Southwark (Lab Co-op): I am sure that, like me, the Minister saw the media reports of Mr Mark Zuckerberg's appearance on Capitol Hill last week. He seemed to accept that some form of regulation was now inevitable. Will the Government

look at what can be done in that respect? Does the Minister think the solution may be to regulate the people working in the industry, giving them clear obligations and clear standards to adhere to?

Lord Ashton of Hyde: My Lords, as I mentioned in my Answer, legislation is coming. The combination of the GDPR, which comes into effect on 25 May, and the Data Protection Bill, which should be in place by then, will make a real difference. Other things need to be done. One of the biggest changes in the last few months has been the acceptance that these social platforms have some responsibility for their content. That does not mean to say that they are publishers as such but Mr Zuckerberg accepted responsibility for content on Facebook. The Prime Minister, in her Davos speech, made much the same point.

Lord Clement-Jones (LD): My Lords, I wonder if the Minister was as concerned as many of us by the inability of the Information Commissioner to gain access to the premises of Cambridge Analytica for five whole days. It is quite ridiculous that the commissioner should have her hands tied in this way. Will the Government pledge to give the ICO powers of entry similar to those of the competition authorities by an amendment to the Data Protection Bill?

Lord Ashton of Hyde: The noble Lord makes a very valid point. We have been talking to the Information Commissioner on exactly the subject of her powers. Report on the Data Protection Bill comes up in the other place soon. I believe that there is widespread sympathy for her point of view, and we are looking at that. If that is the case, and if the House of Commons decides to amend the Bill, I hope that this House will give it a favourable wind when it comes back at ping-pong.

Viscount Ridley (Con): My Lords, I commend to my noble friend the work of Genomics England and the 100,000 Genomes Project, where 100,000 people are willingly and enthusiastically giving their consent to the use of their data because of extremely well-designed guidelines on how that data will be treated. Is this not an example of how, if we get these things right, as set out in the ad hoc Select Committee on Artificial Intelligence report published yesterday, the UK can show the world how to proceed in this matter?

Lord Ashton of Hyde: My noble friend makes a good point. I have not read the report yet, of course—it has been out only a day—but I know that it makes the point that data is essential if we are to ensure adequate competition. Data itself is of the greatest use and we have world-beating companies able to take advantage of it. We have to balance the protection of individuals' data with the use that can be made of it. That is one reason why we are setting up the centre for data ethics and innovation—to look at exactly those points.

Baroness McIntosh of Hudnall (Lab): My Lords, I shall build on the noble Viscount's question. Does the Minister agree that one of the most difficult things for most people who are trying to understand how their data might be used—even perfectly legitimately—is that terms and conditions and other kinds of regulation

are extremely opaque? What more do the Government intend to do to encourage companies who require us to give them our data to do so in a way which we can understand?

Lord Ashton of Hyde: One of the requirements of the GDPR, which will come into force on 25 May, is that you have to give informed consent. That means, for example, that there cannot be a pre-ticked box; you have to make an active and sensible decision on whether you give your consent. Companies are required to make it understandable and cannot just put a consent box at the bottom of page 25. Secondly, the amendment of the noble Baroness, Lady Kidron, made age-appropriate design a feature, which I am sure will be developed, so when people produce apps and other things they have to take account of the age of the people who are likely to use them.

Lord Forsyth of Drumlean (Con): My Lords, I watched the Zuckerberg testimony and I have to say that I thought that a number of Members of Congress were perhaps not awfully au fait with internet technology. Given that he said that he took responsibility for the content, can my noble friend explain to me why Zuckerberg is not a publisher?

Lord Ashton of Hyde: This is a big change in the attitude towards how these sites operate. He is not a publisher because he does not commission the content. If he commissioned the content, he would be a publisher. There is a difference between that and taking no responsibility for it. As I said, social media sites are beginning to realise that they have to take some responsibility. People put content on his site. He and other social media have to monitor their sites to make sure that illegal and disturbing content is taken down as quickly as possible, but they do not put it on the site.

Arrangement of Business

Announcement

3.09 pm

Lord Taylor of Holbeach (Con): My Lords, I am conscious that we have Report stage on Bills today and tomorrow, and that Report on the European Union (Withdrawal) Bill, which starts tomorrow, will be stretching over the next few weeks. Noble Lords will have already noticed that today, we have used today's list to remind the House of the rules of debate for Report contained in the *Companion*. I particularly remind noble Lords of paragraph 8.138, which states:

"Arguments fully deployed either in Committee of the whole House or in Grand Committee should not be repeated at length on report".

While I am on my feet, I thought this might be a convenient point to confirm our plans for the Summer, Conference and November Recesses. To save Members reaching for their diaries, a hard-copy notice is now available in the Printed Paper Office. The dates will also be listed in tomorrow's edition of *Forthcoming Business*. As noble Lords would expect me to say, these dates are subject to the progress of business.

With that proviso, we will rise at the conclusion of our proceedings on Tuesday 24 July and return on Tuesday 4 September for our customary September

[LORD TAYLOR OF HOLBEACH]
sitting. We will rise at the end of business on Thursday 13 September and return from the conference season on Tuesday 9 October. We will also have the usual autumn long weekend, rising at the end of business on Tuesday 6 November and returning on Monday 12 November.

Lord Reid of Cardowan (Lab): As a point of order, I ask for clarification on the announcement. Does the caveat regarding the repetition of arguments already made at length apply to ministerial replies?

Lord Taylor of Holbeach: Noble Lords will expect a proper reply from the Minister and will, indeed, receive one.

Haulage Permits and Trailer Registration Bill [HL] Report

3.11 pm

Relevant documents: 15th and 20th Reports from the Delegated Powers Committee, 11th Report from the Constitution Committee

Amendment 1

Moved by **Lord Whitty**

1: Before Clause 1, insert the following new Clause—
“EU Community Licence arrangements

- (1) It is an objective of the Government, in negotiating a withdrawal agreement from the EU, to seek continued UK participation in the EU’s Community Licence arrangements.
- (2) If the continued participation referred to in subsection (1) is achieved after the passing of this Act, no Minister of the Crown may make regulations under sections 1 to 5 or 23(2) of this Act.”

Lord Whitty (Lab): My Lords, Amendment 1 was put down by my noble friend Lord Bassam. I am pleased for him, but regret that he is still in the air between the Aegean and Gatwick and therefore unlikely to make it for this amendment, and possibly for the whole sitting. I hope that he nevertheless comes back refreshed. I am therefore taking on the responsibility for an amendment for which he has argued.

At earlier stages of the Bill, the sheer volume of road haulage traffic between the UK and Europe has been spelled out. Some 67 million tonnes of freight traffic passes through our ports, the frontiers of Europe, the Irish ports and the currently virtually invisible Irish border. The way in which that traffic currently moves, under the provisions of the European Community licensing arrangement, is as close to frictionless as you could get. Whatever the outcome of Brexit, whatever deal we vote on in a few months and in a few years, virtually everyone in the business wants to have a system that is as close as possible to the current European Community licensing system. That applies to the main companies, the FTA, the Road Haulage Association, Unite the union, and to exporters and importers. They all want to keep roughly the present system. That also applies to European importers and

exporters. It ought, therefore, to be an object of negotiations that we retain something close to the current system in the long term, even beyond the transition period.

In that sense, we all know where we would like to be; and this Bill, as has been pointed out, is a contingency Bill to provide for a situation where we fall short of what virtually everybody recognises as the optimum—being close to the present system. I was not present in Committee but I spoke on Second Reading, and I concede that it is sensible to have such a contingency. However, we also know from the policy documents that were provided to us at the beginning of the process for this Bill that—according to the rather Delphic words in the text of the Bill—we envisage and propose to go back to a system that existed prior to us being in the EU. No doubt that will be updated and eventually digitalised but it is a pretty clunky system that, in the old days, relied on quotas and bilateral deals. The Bill would allow for regulation providing for a different system, but at the moment the only system on offer is one that reflects trading patterns and technology that are now long past.

3.15 pm

We recognise that the system which the Bill currently envisages is therefore not fit for purpose for when we leave the EU. Amendment 1 therefore states the obvious and puts it in the Bill to make it clear what the Bill is about—namely, that ideally we would wish to have a relationship with Europe that, as regards road haulage, maintains as far as possible the present system. But we have to provide this contingency. That by definition means that were we to attain through negotiations or concessions a system that was pretty close to the present system, the need for most of the Bill’s provisions would fall. We know that, as the Government want, we are likely to be outside the customs union and the single market. In those circumstances, it is clear that “frictionless trade” is at best a relative term. There will be friction, costs and some barriers; rules of origin will almost certainly be imposed; and there will be checks and, therefore, delays. However, if we can achieve something close to the current system, we will not need a whole set of new regulations as the Bill provides.

In her Mansion House speech, the Prime Minister recognised, belatedly and quite recently, that for aviation, the UK will need to be party to the institutions of European aviation, particularly the European Aviation Safety Agency. Similarly for road haulage, we should seek to participate in the Community licensing system if we possibly can. That does not fundamentally undermine the principle of Brexit but it would be the best outcome for our future relationship with Europe in the road haulage area. I therefore accept that we should provide legislation for an alternative, which is what the Bill does; but we also need to recognise that, as we put law as provided in the Bill on the statute book, if we get much closer in negotiations to the present system, the bulk of the provisions will fall.

Essentially, that is what Amendment 1 is drafted to achieve: to set out at the very beginning of the Bill that this is a contingency and that in better circumstances—the

optimum circumstances—most of the provisions of the Bill will fall. That would put the whole Bill in context; it would be much more rational; and the measures that the Government would undertake in pursuit of the objectives would be somewhat different from the format provided within the Bill. We would therefore hope that the provisions mentioned within the amendment would be able to fall. That would be, if you like, a preamble to the Bill. I know that English lawyers sometimes do not like preambles, but in terms of public understanding and appreciation in the road haulage industry itself, it would be clearer what the Bill is about. I therefore hope that the Government will accept this amendment or something very like it. I beg to move.

Baroness Randerson (LD): My Lords, my name is attached to three amendments in this group. I have added my name to Amendment 1, which is a retableting of an amendment put down in Committee by the Labour Party that would put on the face of the Bill that it is the Government's objective to secure continued participation in the EU's Community licence arrangements. This is another example of where a perfectly good arrangement currently exists in the EU but we will be leaving that arrangement and undoubtedly, I fear, moving to a less satisfactory situation. These amendments, as a group, are intended to encourage the Government to make the best possible arrangement with the EU for the future and to move to the best possible set of arrangements in the circumstances.

The amendments tabled by the Labour Party will almost certainly also ensure that the powers granted under this legislation will not be applicable if we stay in the EU's Community licence regime, and that is very similar in principle to the sunset clause that I tabled in Committee. My Amendment 2 carries on this theme, because our argument is that the Bill should be applicable only with its original intended purpose, which is to make provisions for after we leave the EU, and that it should not be used as an opportunity to tidy up existing law. We often hear the phrase "skeletal Bill" but this is a "coat-hanger Bill". It is possible to put any garment you can think of on this coat-hanger because it is drawn so broadly, and it is very difficult to see where the Government might go with it. Therefore, I believe that it is in everyone's interests to keep the Bill to its original purpose.

Amendment 3, tabled by the noble Lord, Lord Berkeley, refers to the new permits regime and attempts to ensure that there is agreement in the future between the Government and the EU.

Finally, our Amendment 7 would make it a negotiating objective of the UK Government that there must be reciprocity regarding the number of UK-registered hauliers travelling to the EU and vice versa. This is a key issue. The view of haulage industry leaders is that we have to do all we can to ensure that there is an agreement, because, in their eyes, it is certain that the system proposed here will not work. The Freight Transport Association says that last year 300,000 journeys to the EU were made by British trucks and that 103 permits were issued, as those were all that were needed. If the Government are to adopt the permit system, a massive scaling up will be required to cope with that volume of

traffic, but I think it is unrealistic for the Government to believe that they can scale up quickly and satisfactorily to that extent.

There are other issues which the transport associations are very concerned about and which these clauses do not deal with. After Brexit, WTO rules will require a significant increase in the number of checks. However frictionless a system the Government manage to create, ensuring that there are a limited number of checks to be made, WTO rules will kick in and will require checks to be made on a much bigger scale than now.

Simple precautionary measures are bound to be required to deter people intent on cheating the new system. There is also the unlikelihood, in the eyes of those who engage with the system at the moment, that the new computer-based system that will have to be devised by HMRC will be fully functional in the less than three years that we have left before the end of the transition period.

Then, of course, there is the issue of bringing 85,000 businesses up to scratch—that figure is from the NAO report. Currently, those businesses export only to the EU. Therefore, although they are exporting frequently—on a daily basis in many cases—they have never made a customs declaration. These businesses have no processes in place and no departments dedicated to that. If you add to that increased border delays caused by non-tariff aspects of the Bill, such as the end of mutual recognition of standards, there must be every incentive to reach an agreement, because there will be huge impediments to trade.

This Bill deals only with part of these issues. It makes no reference to the mutual recognition of lorry driver qualifications or to a shortage of skilled workers—13% of trucks on British roads are driven by EU drivers. Therefore, we are keen, through these amendments, to encourage the Government in every possible way to ensure that they make an agreement. I fear that we are not in a strong position on this, but the Government have to make every effort. Unless they do so, there is a huge chance that our major haulage companies will move abroad. There is already talk of companies seeking to register abroad in order to trade more easily. None of us wants that to happen.

Lord Berkeley (Lab): My Lords, I will speak to Amendments 2, 3 and 7 in this group, Amendment 3 being in my name. Before I do so, I note the comments from the Chief Whip a few minutes ago on what noble Lords are supposed to do during Report stage. I question the second point, which says,

"a member to explain himself in some material point of speech". I do not imagine that the Minister will be able to answer that, but I hope that we all explain ourselves.

I support all the points made by my noble friend Lord Whitty and the noble Baroness, Lady Randerson. The noble Baroness said that this is a coat-hanger Bill, and she is probably right, but I suggest that it is a great deal better than nothing. There are many other sectors being debated in the context of Brexit for which there is nothing. We should give the Government a bit of credit for this, albeit that the Bill as it stands is pretty defective in many of the solutions that it comes up with. My conclusion, along with that of the noble Baroness, is that the system will not work anyway.

[LORD BERKELEY]

It is worth mentioning that, although this applies to road haulage, the border checks that we are all concerned about cover a very large number of different issues. Previous speakers have mentioned some of them. The easy one, actually, is customs. If that is done well and the IT system works—there is a big question about that—much of the work can be done in advance and, in theory, there would be no delays at frontiers, provided that it all goes smoothly. We discussed the drivers in Committee and their need for permits for vehicles and trailers and then we get into the interesting bits, which are the responsibility of Defra—plant and animal health and welfare, foot-and-mouth and rabies. You cannot check for those away from the frontier; it has to be done at the frontier. I do not know how many trucks per year would come under that, but they probably all need inspecting.

3.30 pm

The noble Baroness mentioned food standards and compliance with standards. Do we want non-compliant food coming in? Who will check that? If these checks are not done at the frontier and are done inland somewhere, that would work for the railways all right but it would not work for roads because there is a wonderful opportunity for the trucks to stop in a layby and make whatever changes are necessary. My Amendment 3 and the others are designed to ensure that there is a solution if the cliff edge happens, which is still an option that we have debated many times.

I hope that the Minister will have some answer to that question of cliff edges because otherwise we will have massive queues. The port of Calais and some of the other continental ports are very concerned about that because it is as important between the UK and the continent as the border between Northern Ireland and the Republic—and anywhere else with a frontier. There needs to be a solution not just for customs but which covers all the other potential checks that may have to be taken.

I recall asking the Minister, either at Second Reading or in Committee, whether she could produce a list of all the different checks that might have to be done on goods, freight and trucks. Her response was that she would find it very difficult. I do not blame her, but that puts the argument in a nutshell. This will be a complete disaster unless something is done to mitigate the effects. If there is no urgent or quick solution, we must enable the present situation to carry on as long as possible until a solution is found. I look forward to the Minister's reply.

Lord Bradshaw (LD): My Lords, I would like to amplify what the noble Lord said. The effect on the logistics industry will be almost catastrophic if Brexit goes ahead. Are the main players in that—the FTA, the RHA, the Rail Freight Group and the Port of Dover—freely able to make their representations, or have they been made subject to some sort of confidentiality clause, which is a gagging clause, which stops them making representations?

The Countess of Mar (CB): My Lords, may I help the noble Lord, Lord Berkeley, in his question about the rules of debate? If he were to make a point that I

had not understood, I could ask him to clarify his point and he would then be allowed to get up a second time to do that, just briefly.

Earl Attlee (Con): My Lords, I listened carefully to what the noble Lords opposite said and there is very little that I take issue with. They made very good points indeed. But my position is that we are sending Her Majesty's Government in to negotiate the Brexit deal. The last thing that we want to do is unnecessarily to tie the hands of our negotiators and perhaps find out at the last moment that that hand-tying exercise has compromised our negotiating position. I sympathise with the points that noble Lords made, but I do not have sympathy with the amendments and I hope that my noble friend will advise the House not to accept them.

Lord Tunncliffe (Lab): The groaning silence means it must be my turn. With the words of the Government Chief Whip ringing in my ears, I will try to be as brief as possible. My noble friend Lord Berkeley covered the issue with faint praise, and I join him in that. The Government are ahead of the game in this area, but it is a game that we do not really want to be in. He was right to emphasise the inspections, checks and so on. I hope that, as with the coat-hanger Bill of the noble Baroness, Lady Randerson, the point on reciprocity is noted.

The main amendment in the group was addressed by the overall comments of my noble friend Lord Whitty. It is almost impossible to appreciate the sheer volume of the road haulage business. I do not know about other noble Lords, but because of this Bill, I have been forced to learn quite a lot about the industry. I see that the Minister nods her head; so has she, clearly. What I am more familiar with is the queuing effect of delays. It happens in the railway environment where a nicely worked out procedure can be subject to a delay of only a matter of seconds, but if the queue is long enough, chaos will ensue. I am particularly cautious about wonderful computer systems. Most people will sympathise when I say that big computer systems in the public sector are rarely delivered on time and on budget. The truth is that such systems rarely are, and we hear about that in the public sector. They are very difficult to deliver, and in many ways this computer age of ours is still in its infancy in terms of the difficulty of using these machines for large-scale practical applications.

The chaos that could arise from the systems at a port not working properly could lead to what at least we rather soft westerners would think of as "starvation" where having only vegetables in their season might start to become a reality instead of a gimmick in a fancy restaurant. The transport of food stocks which are time critical could become awfully difficult. I hope, therefore, that the Minister will give us extremely strong assurances that the intent of Amendment 1 is in fact the Government's intent. I hope my noble friend will not press the House to divide on this issue, but to convince him not to do so, she will have to give us strong assurances that it is recognised that the best possible outcome is a system as close as reasonably practicable to what we have. It is almost a schoolboy statement, but I really would like a pledge signed in her blood.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Sugg) (Con): My Lords, I shall speak first to the various amendments relating to the negotiation aims, which address the points made by many noble Lords on the continuation of the Community licence regime, before moving on to why we need to make the regulations irrespective of the outcome of the negotiations. I hope I have been clear on the Government's objective throughout the passage of the Bill: we want to maintain the existing liberalised access for UK hauliers. A mutually beneficial road freight agreement with the EU will support the objective of frictionless trade. We are confident that our future relationship with the EU on road freight, as part of our wider continuing relationship on trade, will be in the mutual interest of both sides.

These amendments would enshrine negotiation objectives in the Bill. On their overall principle, I must be clear that we do not believe that an attempt to mandate a particular stance in negotiations, in the way that these amendments would, is appropriate in the Bill. We will need flexibility to be able to adapt our approach in different areas. I am afraid that I shall not be able to accept these amendments, but I understand that noble Lords need the reassurance that we aim to have in place the arrangements that we need to maintain continued access.

The current arrangements for road freight access between the EU and UK through the Community licence allow drivers to use a single permit for trips between all EU member states. The licence also allows transit traffic through EU member states. Several noble Lords have spoken about the advantages of the Community licence. I am aware of those benefits and that many hauliers would like to see it continue. While continued participation in the Community licence arrangements is one potential outcome of the negotiations—we will certainly discuss it—there are other means to replicate the access that the Community licence provides, which these amendments would rule out.

Our current liberalised non-permit-based agreements with some non-EU countries provide for mutual recognition of operator licences in lieu of the requirement of a permit. The UK-Turkey agreement is one such example. The EU has a similar arrangement in the EU-Swiss land transport agreement, where permits are not needed and mutual recognition is allowed. Our future agreement with the EU could be based on a similar scheme and, if that were the case, permitting would not be relevant. Including the objective to seek continued participation in the Community licence arrangements may make it harder to agree such a beneficial deal for our hauliers.

The noble Baroness, Lady Randerson, has tabled an amendment to the regulations made under Clause 1 that would see them apply only to an EU member state outside the UK, rather than any other country. This would mean that the focus of this part of the Bill will be only on arrangements with the EU. The Bill creates the legal frameworks to deliver for any administrative system that might be required as part of the final deal, but it also caters for our existing bilateral agreements with countries outside the EU. It

is important that the Bill enables the regulations to cover these agreements so that there is compliance and consistency in the administration of a permit scheme, the allocation of permits and enforcement in relation to permits.

Non-EU agreements have previously been dealt with under administrative powers. The Bill will repeal the International Road Haulage Permits Act 1975 and bring in an entirely new framework. It is in UK hauliers' interests to be able to use one system to apply for permits for non-EU countries as well as any permits that may be required, but we are clear that we hope that there would be no such requirement under any new EU schemes. I do not agree with the noble Baroness, Lady Randerson, that this is a coat-hanger Bill, but I am grateful to her for introducing me to a new term. It is important that we do all we can to provide consistency and certainty for the industry in how they can apply for permits and the methods of allocations for these permits. That is why the Bill should refer to all countries outside the UK and not just EU member states.

The noble Baroness, Lady Randerson, is quite right that the World Trade Organization's most-favoured-nation rules apply to the road haulage sector except when there is an exemption or it is part of a wider free trade agreement, which is of course something we are seeking with the EU. The free trade agreement would cover sectors crucial to our linked economy, such as the haulage industry. On the point made by the noble Lord, Lord Berkeley, on the Chief Whip's statement, I believe that the words on today's list were taken directly from page 130 of the *Companion*. I will not attempt to justify them further, but I am grateful to the noble Countess, Lady Mar, for her intervention on that.

Noble Lords have raised the issue of borders, customs and border delays. I acknowledge the point made by the noble Lord, Lord Berkeley, that much work needs to be done in this area, but this work is happening in consultation with industry. In the case of this Bill, the provision of a permits scheme—whatever its detail or 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.

Moving on to the amendments relating to the wider need to make regulations, irrespective of whether we have a future relationship with the EU that relies on permits, I understand that there is concern about the inclusion of enabling powers in the Bill if they will not be used at any point in the future in relation to our arrangements with the EU. However, as I have outlined, the Bill covers existing permit-based arrangements so we would need to continue to use them.

As the Prime Minister outlined in her March speech, our default is that UK law may not necessarily be identical to EU law, but it should achieve the same outcomes. Specifically on transport, she stated that,

“we will want to protect the rights of road hauliers to access the EU market and vice versa”.

In direct response to the point made by the noble Lord, Lord Whitty, we are not seeking to return to the arrangements that we had before becoming an EU member state. The Bill does not suggest an alternative system—that is a matter for negotiations—but

[BARONESS SUGG]

simply puts in place a mechanism for delivering the outcome of those negotiations. That is the responsible thing to do.

I have been clear on the Government's objective for the negotiations in relation to the UK haulage industry. We aim to stay as close to the status quo as is reasonably practical. That objective is shared by the haulage industry and noble Lords across the House. We do not believe that this amendment is necessary; it may have the unintended consequence of making the objective of continued liberalised access harder to achieve. I therefore hope that the noble Lord feels able not to press his amendment.

Lord Whitty: My Lords, I thank the Minister for that reply. She made a number of points, which I take on board. I understand why she does not want us to tie the hands of the negotiators—the noble Earl, Lord Attlee, made roughly the same point. I would have hoped that we could find a form of words that introduces the Bill that does not refer to the negotiations, but as a default situation, were we unable to preserve the Community licence scheme. Unfortunately, neither I nor my noble friend Lord Bassam have found a form of words, and it is getting a bit late in the process for this Bill. However, I wonder whether the Minister is prepared to accept that there could be a form of words that makes it clear that this is a contingency Bill. It might not go all the way back to 1973 or 1968, but it allows an entirely different permit-based system to operate. That is our default position if we are not to continue with the present system or something close to it.

3.45 pm

The danger is that the Government are kidding themselves that frictionless trade can operate even in the most benign post-Brexit situation if we are outside the customs union and the single market. We do not want to complicate things further by also being outside the licensing system and unable to reproduce, effectively, the same system for our hauliers as we have now, in effect putting them at a serious disadvantage compared to continental hauliers and, indeed, other systems of transport.

Because I understand the Minister's need to keep flexibility in the negotiations, I am prepared to withdraw the amendment. It is important, however, that the Government recognise that the aim must be to get as close as possible to the present situation and that the costs of an entirely new system, however modern and technologically advanced—noble Lords have made the point that technology is not easily delivered in this context—will be additional, on top of costs that will apply at the frontiers and ports in any case.

Perhaps as a technicality, I point out that I am not sure that my noble friend Lord Bassam would be quite so generous to the Minister; nevertheless, I am happy to withdraw the amendment at this stage, given that the Minister and other noble Lords recognise the intention here. I still think there is a bit of a problem with the way the Bill is presented, but I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Clause 1: International road transport permits

Amendments 2 and 3 not moved.

Clause 2: Number and allocation of permits etc

Amendment 4

Moved by Baroness Sugg

4: Clause 2, page 2, leave out lines 37 to 44 and insert—

“() as to how the Secretary of State is to decide whether to grant an application for a permit, including provision specifying criteria or other methods of selection (which may include first come, first served or an element of random selection).”

Baroness Sugg: My Lords, in Committee we discussed the process by which permits may be allocated to hauliers in a future permit scheme, should there be one. I am bringing forward an amendment that clarifies the Secretary of State's powers to make regulations catering for all the different scenarios that may arise. The amendment does not change the Government's policy on the methods that need to be available to allocate permits. Instead, in response to previous discussions, it aims to make legislation clearer on what regulations may include, while ensuring that regulations can be made specifying all the methods of selection we need to have available to us.

I understand that noble Lords are concerned about the use of these methods, so I will set out how we would use them and explain why they are on the face of the Bill. The Bill enables regulations to be made which provide that permits are required for a journey, if they are needed. Whether they are needed or not will depend on the agreements we negotiate. The Bill also makes regulations to make provision as to how the Secretary of State will decide whether a permit is granted. Regulations may specify criteria or other methods of selection. To ensure that the Secretary of State has the power to make regulations that cater for different approaches, the Bill provides that the methods of selection may include an element of random selection and “first come, first served”.

On first come, first served, our existing permit schemes are undersubscribed, so our applicants have always received what they have applied for. For example, in 2017 we issued 66 permits for Ukraine from a quota of 400; for Georgia we issued six permits from a quota of 100. This means that permits are issued on demand, and in these cases it makes sense to issue permits as we receive applications—on a first come, first served basis. In the future, where there are more permits available than are applied for, we will issue permits to all eligible applicants.

This drafting, with reference to “first come, first served”, ensures that the Secretary of State clearly has the power to provide in regulations that permits may be allocated on that basis. This is clearly a simpler process for the Government and hauliers where the supply exceeds the demand, but it means that hauliers will not be asked for as much information and additional criteria do not need to be applied, which will keep the process as simple and quick as it can be.

Moving on to random selection, the Bill enables regulations to be made that specify how the Secretary of State will decide whether a permit should be granted. That provision can include specifying criteria or other selection methods, which could include an element of random selection. If the demand for permits exceeds supply, we will look to allocate them in a way that maximises the benefits to the UK economy and that is fair and equitable to UK hauliers. We will set out this criteria in regulations and the Secretary of State will provide guidance relating to the information that applicants must provide.

As I said previously, we will be consulting on the criteria to be included in regulations, but these could include relevant factors such as the need for an applicant to hold a valid operator's licence, the environmental standard of the vehicle authorised to be used by a permit, the sector the applicant operates in, or the proportion of a haulier's business that is international. However, there might be cases where the application of criteria does not enable the Secretary of State to allocate all the permits. It is necessary, therefore, that other methods of selection should be available. As I said, the exact details of any permit scheme, if needed, are yet to be determined, so we want to ensure that the Bill enables regulations to be made that address scenarios where the application of criteria needs to be supplemented by other methods of selection.

I have listened to concerns noble Lords have raised that all permits will be allocated randomly and that getting a permit could be purely a matter of chance, but this is not the case. Where random selection is used, it will not be used on its own without any criteria being applied. The change of drafting to,

“an element of random selection”,

is a constraint on the delegated power to ensure that random selection cannot be used on its own. I state again that, while we expect some of these provisions not to be necessary, in passing this legislation we must ensure that the Secretary of State has the power to make regulations that enable a range of outcomes. That is the responsible thing to do.

We have made explicit mention of the method of first come, first served and random selection in the Bill to make it clear that the Secretary of State has these powers. Given that there might be circumstances in which these methods are used, it is appropriate that these powers are spelled out clearly in the Bill. This will ensure that there is no doubt that these powers are available to him and will provide transparency about what may be included in regulations. We have aimed to be open about the potential use of these methods and I have sought to set out the circumstances in which we envisage that these methods may be used.

I recognise the concerns raised about this wording and I hope that the detail and the amendment as set out will allay some of the fears about how the powers might be used. As I said, we will be consulting on the draft regulations. Additionally, the Government have tabled an amendment that will require the first regulations made to be subject to the affirmative procedure. We will come to that later, but it will mean that noble Lords will have the ability to scrutinise the regulations and, in particular, the way in which the Secretary of State has used his power under Clause 2.

As I have stated, I am confident that we will reach an agreement where all hauliers who seek a permit can get one—if, indeed, we need a permit system—but, as a responsible Government, we are preparing for all outcomes. I hope that the amendment makes the intention of the clause clearer and that noble Lords will support it. I beg to move.

Lord Whitty: My Lords, I have Amendment 5 in this group. The noble Baroness has in part answered the issues it is intended to raise, but it is not very clear in the Bill, in which the criteria for granting a permit seem to be entirely an issue of allocation of numbers, in terms of either the number of drivers or the number of vehicles, and what is available for a particular country. The amendment attempts to say to Ministers that there also need to be some qualitative criteria as to whether permits are given.

In the way the noble Baroness described it, the consultation might include that, but I would like that to be a little more explicit. We need to make sure that the operators who apply for and are given permits have reached certain standards of performance in relation to safety and maintenance, and to the employment and training they provide for their drivers and others; in relation to certain financial criteria that enable them to be of good financial repute; and in relation to certain environmental standards, as well as safety standards.

I hope that the consultation will cover all those things. What the Minister has said clearly includes that, but it is slightly odd that the wording of the Bill does not refer at all to regulations. I would therefore be grateful if the Minister could even more explicitly reassure me that these issues will be taken into account when criteria are established as to the suitability of operators to receive permits under the new system—if we need a new system.

Baroness Randerson: My Lords, to take further the argument put forward by the noble Lord, Lord Whitty, I note that the Minister said that the Government would seek to maximise the benefits to the UK economy in the way in which permits are distributed—and that needs to be done in a way which seeks to enhance the good repute of the industry and therefore of our country. I was struck by a point put to us in a briefing from Unite, which suggests that permits should be linked to the good repute of the operator; for example, their record on driver infringements should be taken into account, not just to reward good practice but to incentivise further good practice. I raise this issue because I seek an assurance from the Minister that the Government will be prepared to investigate such an approach, which seems a much fairer system than that suggested in Committee, when we talked about first come, first served and some kind of balloting system. There needs to be something to encourage good practice in the industry.

Earl Attlee: My Lords, of course I support my noble friend the Minister's amendment. On the amendment in the name of the noble Lord, Lord Whitty, the noble Lord was Roads Minister many years ago and I was the opposition Front Bench spokesman on transport. We had a lot of fun together and we made

[EARL ATTLEE]

various improvements. The noble Lord will know that to engage in international goods vehicle operations, one needs an international goods vehicle operator's licence—one can have an international licence or a national licence.

When the noble Lord was Minister, I would try to increase the standard required of all operators—not just international operators but national operators as well. Sometimes he took my suggestions—there was one issue on which we achieved an improvement—but, generally speaking, as happened with most Ministers, the Opposition's suggestions would be turned down.

However, if we wanted to, we could raise the bar for having an international operator's licence. The tests already include the need for good repute and financial standing. If an operator gets into trouble with their annual pass rate or the number of prohibitions they pick up on the roads, the traffic commissioner can remove their licence. However, the noble Lord is right: if you want to engage in international operations, you need to operate to a higher standard than national operations—because, let us face it, operators operating on the continent are representing the United Kingdom. So the noble Lord raises a good point, but it is already covered by the fact that, to engage in international operations, you need an international goods vehicle operator's licence under the Goods Vehicles (Licensing of Operators) Act.

4 pm

Lord Berkeley: My Lords, I am not going to get involved in a debate about which of the noble Earl, Lord Attlee, or my noble friend Lord Whitty was the better Transport Minister or Roads Minister: I think they were both good.

Earl Attlee: My Lords, I was only a government spokesman. The noble Lord, Lord Whitty, was a policy-determining Minister; I was not.

Lord Berkeley: Well, maybe that will change someday.

To speak briefly to Amendment 4, I think the noble Baroness has tried hard to interpret the long debate we had in Committee about the method of allocation and we will have to see how it goes: I think we cannot go much further on it. However, I support my noble friend Lord Whitty's Amendment 5 on these criteria, which Unite has quite rightly been proposing for the operators. As the noble Earl, Lord Attlee, mentioned, though, it is going to get even more unfair if foreign lorries coming here do not have to comply with the same criteria. We risk losing more traffic to foreign lorries: it is massively out of balance at the moment and will get worse. I am not sure how we do it, because the Minister said about a previous part of the Bill that we cannot legislate about anything to do with foreign lorries coming here. I hope she will reflect on the need not only to take into account my noble friend's amendment but how to apply that to lorries that come to this country so that there is a fair balance.

Lord Tunncliffe: My Lords, I too welcome the movement that the Minister has shown in the redrafting of Amendment 4. The essence seems to me that there

will be a series of criteria to determine who should get permits and that the use, particularly, of random selection will emerge only where the differentiation by the criteria shows candidates to be equal. In other words, the objective will be to have objective criteria that can do the differentiation process, and only when bids of equal merit are placed in front of the selection would we stoop, sadly, to random selection. Let us hope we never get there—let us hope that there are enough permits anyway.

The Minister met many of the aspirations of Amendment 5 and I hope she will repeat them in her summing up. I hope she will give some warmth to repute as a concept for selection. There is the idea of a single criterion—safe, environmentally okay, et cetera—but it is crucial to recognise that it is more complex than that. We need to look at an operator's track record: do they consistently work to a high standard? Are they consistently a good representative of that industry?

Baroness Sugg: My Lords, I thank noble Lords for their comments on this group. I absolutely appreciate the intention behind the amendment tabled by the noble Lord, Lord Whitty, and agree that we should expect our hauliers to operate to high standards. While we could include conditions on permits to cover the areas he raised, as my noble friend Lord Attlee points out, the operator licensing regime already requires this of operators and is quite an effective means of achieving this. We do not need to apply conditions to the use of a permit with a view to achieving exactly the same thing. That is not to say that we would not grant permits subject to conditions. The noble Lord, Lord Whitty, has raised areas that we would absolutely consider within these conditions. The Bill as drafted gives the Secretary of State the discretion to make regulations authorising the grant of a permit subject to conditions, but we do not want the regulations to impose such conditions; that would make the permit regime more complicated for hauliers if those conditions are already covered elsewhere.

I absolutely understand the query about why some parts of the criteria and not others are in the Bill: believe me, it is something I spent much time discussing with the Bill team. Having considered the public law principles relating to the exercise of discretion and the need, for example, to take relevant factors into account and not to take irrelevant factors into account, we have taken the view that it is preferable to include in the Bill the specific references to first come, first served and random selection, to make it absolutely clear that when considering the scope of the enabling power the Secretary of State has the power to include these methods in the regulations.

I agree with the noble Lord, Lord Berkeley, that we want vehicles coming into the UK to meet the high standards that we expect of our own operators—even more so if we are using that as a criterion to allocate permits. However, Clause 2 enables regulations to be made only about permits issued to our operators, not permits for access to the UK by foreign hauliers, as the noble Lord acknowledged. The international agreements we set up with other countries will usually mean that a permit will be given only to a haulier who has that country's equivalent of the operator's licence.

In a permit scheme with the EU, should we have one, all hauliers will have the operator's licence governed by the same EU rules as we have at the moment. The best way to raise international standards is to continue to work with our partners to improve those standards.

I am happy to confirm to the noble Lord, Lord Whitty, and the noble Baroness, Lady Randerson, that we will indeed consult carefully with industry on the criteria used. She made a very interesting suggestion on good repute and that is certainly something we will consider warmly. Sadly, I have not seen the briefing from Unite. Perhaps the noble Lord will be kind enough to forward it to me so that we can consider its suggestions, but I confirm that we will include trade unions in our consultation. We meet Unite regularly but we will ensure that we meet it when we discuss the criteria. If we are in the unfortunate situation of having to have a criterion, we should certainly use it to do what we can to improve the haulage industry.

I hope noble Lords will support the government amendment with the intention of trying to make the clause clearer.

Amendment 4 agreed.

Amendment 5 not moved.

Amendment 6

Moved by Lord Berkeley

6: Clause 2, page 3, line 10, at end insert—

“() In negotiating arrangements for permits with the European Union or European Union member States, the Secretary of State must seek reciprocity in terms of the quantity of permits and the fees charged.”

Lord Berkeley: My Lords, in moving Amendment 6 I will speak also to Amendment 8. This is to do with the quantity of permits and the fees, which we have already discussed in relation to Amendment 7 in the name of the noble Baroness, Lady Randerson. Amendment 6 seeks to put in the Bill a proposal that when the Government are negotiating the number of permits, either with the European Union or each member state individually—if that is the way it is to be done, because clearly we do not know which way it will go—there should be reciprocity in terms of the number of permits and the fees charged. I would like to see this objective in the Bill.

I am sure the Minister will want to do this for the sake of the UK haulage industry, but it is something which sometimes gets forgotten and it is very important if we are to have a modern, thriving haulage sector here, both in terms of the quality, which we have discussed, and the fees charged. One would hope that the fees would be reasonable in comparison with the fees charged by many other member states. I include some of the newer member states in eastern Europe, where the fees may be very low, and that is one of the reasons that we get so many trucks from eastern Europe here because it is a lot cheaper for them to operate. I hope the Minister will take all that into account. I beg to move.

Baroness Randerson: My Lords, two things above all concern the haulage industry in relation to this aspect of the Bill: the number of permits that will be available, which the Minister has already addressed, and the key issue of the potential cost of those permits. As the noble Lord, Lord Berkeley, has just said, it is, at least in part, about fairness—to give our operators a fair opportunity in competition with those from the rest of Europe. We should not be making it more expensive than we have to.

I raised this issue in Committee. In her response, the Minister made the point that if we made the EU permit free, the Government would just put up the cost of the operator's licence to cover the cost of it. I can clearly see that point of view, so the amendment in my name is an attempt to balance that issue and shut off that exit for the Government by saying that, overall, the cost has to be proportionate.

What I am really trying to do is to urge the Government to minimise the cost of these permits. It is probably not terrifically significant for the big operators but for the small operators—the people who have just one, two or three lorries going to Europe—it is a very significant aspect of their cost structure, so I ask the Government to give the industry a break and make this as cheap as possible. There is also a symptomatic or symbolic thing in this decision: it has been free in the past, for very logical reasons because the EU has been an extension of our domestic market so people were therefore not charged extra for going there; but, symbolically, they are now to be charged more for the right to travel and transport goods overseas. It is therefore important that we keep that cost to the minimum possible.

Earl Attlee: My Lords, once again the noble Lord, Lord Berkeley, raises important points and I agree with them. That should be what the Government will negotiate for—equal access, reciprocity, et cetera—and I am sure that my noble friend the Minister will tell us that that is the case. However, once again, I would not like to see the Government tie their hands by agreeing to have the noble Lord's amendment in the Bill, because it might be necessary to do something that does not quite meet the requirements of his amendment in order to achieve some other desirable outcome. I hope that he will reluctantly accept that point.

As to the amendment in the name of the noble Baroness, Lady Randerson, I agree with the sentiment, particularly on the need to minimise the costs. I hope that if we did have to have this system, it would be just a technicality that a permit would be issued and the costs could be very low. Whatever we do, it must be on some form of cost-recovery basis where the international haulage industry pays for it, but there is the horrible prospect that, for some reason, the system that we will have to adopt is much more complicated and expensive to administer than the old Community licence system. The noble Baroness's amendment says that the costs should not exceed that, which I suggest to my noble friend the Minister means it is not wise to accept that amendment. It will otherwise be impossible to recover the costs of operating the system. I entirely agree with the sentiment but I hope that my noble friend the Minister does not accept the noble Baroness's amendment.

Baroness Randerson: Before the noble Earl sits down, I hope he will accept that the wording I used was not that it should not exceed it but that it should not be “disproportionate”.

Earl Attlee: I entirely accept the point. The amendment is carefully drafted but it would still have the undesirable effect.

Lord Tunnicliffe: My Lords, we generally support the sentiment of both these amendments and hope that the Minister will be able to give assurances in both areas.

Baroness Sugg: My Lords, as I said in Committee—I am keen to reiterate it now—our aim is to set fees on a cost-recovery basis and keep them as low as possible. We will look to minimise the costs to hauliers in using any permit scheme, should we need one. We are well aware of the tight margins that many hauliers operate within and will do all we can to reduce the cost of any permit scheme.

The Bill allows us to charge fees for permits and we propose to charge those fees, if needed, for the recovery of only the costs of providing these permits. The Treasury’s guidelines, *Managing Public Money*, set out how such fees should be set and what elements can and cannot be included in that calculation. The Government believe that those using this service should meet the costs of it, rather than the costs being passed on to taxpayers more generally or going on the operator’s licence.

We will follow these guidelines in setting our fees, which means hauliers will not pay any more than they need to to meet the costs of the service. The best way to minimise permit costs for hauliers is to ensure that our systems are as efficient and effective as possible. I acknowledge the points made earlier by noble Lords about IT systems. For these permits, we are exploring how we can use our existing systems with a view to users having a single system for all our permit schemes. We hope that will simplify the process, and there is significant investment.

4.15 pm

Lord Berkeley: Can the Minister confirm whether the cost of the permits that she mentioned will include just the operation of the system or will there be a requirement for hauliers to fund the setting up of some IT system that might, or might not, last several years or go wrong or anything else? I hope her answer will be that it is just the operation.

Baroness Sugg: The noble Lord has read my mind. I was about to come to the fact that I can confirm today that these fees will cover only the day-to-day running costs. The Government will cover the set-up costs of the scheme, which is being funded by part of the £75.8 million we have received from the Treasury as part of our planning for exiting the EU. I hope noble Lords and the haulage industry are reassured by that. I fully agree with noble Lords that we want the greatest possible access for road hauliers, coupled with the lowest possible costs to hauliers, but we do not believe that we should be asking the taxpayer to pay indefinitely for permits.

Before I turn to the specific amendments, it may be helpful to set out some detail on current fees. Fees are already charged in relation to some of our permit agreements with non-EU countries. They are reasonably consistent. For example, there is an £8 fee for a single-journey permit to any country with which we have a permit agreement, such as Ukraine. In our agreement with Morocco, we charge £50 for a 15-trip permit. The ECMT permit—referred to in the regulations as an ECMT licence—which allows unlimited journeys for a year, costs £133. All those fees have been set on a cost-recovery basis and give a good indication.

The noble Lord, Lord Berkeley, raised reciprocity. First, on the number of permits, many international agreements, such as our agreements with Ukraine and Belarus, are permit-based and agreed under the principles of reciprocity. In circumstances where the agreed number of permits is used up, additional permits can be provided. We do that on a reciprocal basis because no country wants to limit the amount of haulage carried out. Under a future permits scheme, we would absolutely seek reciprocity in the number of permits so that neither side is limited and we are confident that that can be achieved. In the first group, we discussed amendments relating to negotiation objectives being in the Bill, and the Government remain of the view that they should not be included in the Bill.

Secondly, on fees, the arrangements for issuing and charging for permits are handled at a national level and the UK has no agreements with other countries that address the cost of their permits. We are not aware of any international road haulage agreement that has such an agreement. We set our own fees for UK hauliers and other countries set their own fees, including for permits for travel to the UK. To give some examples, in Ireland there is a separate fee for Community licences that we do not have. The Netherlands charges fees for both applying for and issuing ECMT permits, whereas we currently charge only for the issue of a licence. Other countries’ fees can be higher or lower than the fees charged in the UK, depending what the fees choose to cover.

Looking at equivalent charges in other countries, I mentioned the single-journey permit. The equivalent permit in the Netherlands costs around £4, slightly less than in the UK, but in Finland it costs £35, which is more than in the UK. In Norway there is no charge for permits, but it charges around £98 to issue a Community licence. While we charge £133 for an annual ECMT permit, it costs around £219 in Serbia, and in the Netherlands there is a fee of around £302 for applying and a further fee of around £121 for issuing the permit. I am afraid I have no details of some of the new EU members which the noble Lord mentioned. It is proving quite difficult to get hold of the details, but we will get them and consider them when setting fees.

If we have permits and seek an agreement on fees, other countries may wish to charge more. I think the examples I have given show that there is quite a lot of disparity between the charges. We do not want to seek reciprocity on fees because it could be unnecessarily complicated and it has never been done before, which may delay our reaching an agreement. As noble Lords are aware, we are keen to get an agreement in place as quickly as possible.

If we end up with a permit scheme, we may have to introduce fees, and we expect that other countries would do the same. They could be higher or lower than the fee charged in the UK depending on what the fees cover. While we will look at the international comparisons, the best we can do is to make sure the costs are as low as possible for hauliers.

As to exactly what the fees will amount to, I regret that I am not able to provide exact figures because that will depend on the negotiations and the cost of administering any permit scheme as required. However, I repeat my assurances that if permits are needed, we want to keep the fees as low as possible—in the region of the existing permit fees that I have referred to.

Noble Lords are right to highlight the impact of these fees on the haulage industry. We intend to have one set of regulations and permits that will include fees, and I am pleased that the later government amendment on affirmative regulations means that noble Lords will have the opportunity to discuss those fees. Prior to the fee being set, we will of course consult fully with industry, including small and medium-sized businesses. I absolutely acknowledge the noble Baroness's point that it has more effect on them than it does on the bigger hauliers. That is something that we will consider. The government amendment on consultation that we will come to later will make that consultation a statutory requirement.

I sympathise with the aims of the amendments but I hope noble Lords will agree that the costs are best met by charging fees for permits on a cost-recovery basis. If the permits are needed, the Government are committed to covering the set-up costs of the scheme and will do all we can to keep those day-to-day running costs as low as possible. The fees, if needed, will be discussed carefully in the consultation and will be subject to further scrutiny from noble Lords should our later amendment on the affirmative resolution be accepted. However, I confirm that we aim to keep the costs as low as possible. With that, I ask the noble Lord to withdraw his amendment.

Lord Berkeley: I am grateful to the Minister for that detailed reply. I had understood from our debates in Committee that there might have been one opportunity for us to negotiate the amount of charges with the EU as a whole. That is clearly not the case and the examples that she has given indicate that my amendment is not a good idea at all, which I now accept. All I can say before withdrawing it is that her department will have to negotiate with not just 26 member states but quite a few other countries around the outside. I hope she has enough staff with the right expertise to do that so that we do not have the cliff edge we were talking about earlier. However, I am very grateful for the information that she has given us, and beg leave to withdraw the amendment.

Amendment 6 withdrawn.

Amendment 7 not moved.

Clause 5: Fees

Amendment 8 not moved.

Amendment 9

Moved by Lord Whitty

9: Clause 5, page 3, line 43, at end insert—

“() If continued UK participation in the EU’s Community Licence arrangements is not agreed as part of the United Kingdom’s withdrawal agreement with the EU, regulations must provide an exemption from fees for UK registered hauliers for the period of five years beginning with the date on which the new international road transport permit scheme is introduced.”

Lord Whitty: My Lords, there are three amendments in this group. Amendment 9 is another of my noble friend Lord Bassam’s amendments. Evidently, either the European open skies aviation system or the Gatwick Express have not yet delivered him to this Chamber.

Amendment 9 deals with much of the territory that was discussed in the previous amendment. Indeed, it was discussed in Committee when the noble Baroness, Lady Randerson, had an amendment to delete the whole of this clause. The amendment was intended by my noble friend Lord Bassam to be a compromise and effectively say, “Let’s not charge a separate fee for the new permit system for five years to avoid an unnecessary or unfair additional cost on the hauliers”. Some of this has been dealt with in the previous discussion, and the Minister has indicated that it may not be a large amount of money. Nevertheless, it is an increased cost in a sector that is facing other additional costs, as I explained in relation to earlier amendments—costs at the frontier, the cost of documentation and so on—and one in which margins are already very low and competition is particularly acute. A new permit system really should not require a new payment by the hauliers themselves.

The other complication was also alluded to by the Minister: at present there is no charge for the Community licence. The Government argue on occasion that the charge is covered by the operations licence—the domestic licence, in other words—but if that is the case and we move to a new system, I have not noticed the Treasury arguing on grounds of full cost recovery that the operating licence fee should therefore be reduced. This is an additional and unfair charge on the haulage industry which particularly hits SMEs, and there are quite a lot of single-driver or two or three lorry operations in the sector.

I therefore hope that the Minister will recognise that there is a need to cushion the burden, and the amendment would give her the opportunity at least not to introduce it for several years, during which the totality of the new system could, hopefully, be fully tested, made completely digital and therefore reduce the cost recovery required. We could then perhaps end up with a rational system of what falls on the basic licence and what falls on the European licence. There is therefore still an argument for the amendment. Although I accept much of what the Minister said about the size of the cost, it is nevertheless an additional cost on a precarious industry.

The other two amendments, which are actually mine, relate to a different issue. This in part relates to concerns expressed by Unite the union that aspects of the Bill’s provisions, particularly this clause, suggest

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that the responsibility falls on the individual driver rather than the operator. The responsibility for meeting the criteria in the regulations to follow and for operating within the new permit system must fall to the operator. The driver, whether contracted or employed by the operator, should not be the person penalised, but the clause explicitly states that, in certain circumstances, it should be the driver who is penalised.

Amendment 10 recognises that the operation of the system will at some point become completely digital. That would make life easier for the driver and, indeed, the operator, in that the driver would not have to find umpteen different documents for a multinational trip and ensure that they were all up-to-date and in order, but could present all that on an iPhone or an iPad. Explicitly recognising that in the Bill would be useful.

My second amendment deals with the issue of the driver's as against the operator's responsibility. Clause 8(2) specifically makes the driver responsible for any breach of regulations by failure to show documents, but it is the operator's responsibility that the driver should have those documents and the operator should ensure that all of his or her lorries are furnished with those documents. The idea that that is primarily the driver's responsibility is wrong: it must be part of the operator's responsibility.

I am not saying that it is intended to remove all responsibility from the driver. Clearly, the driver has a responsibility to co-operate with the authorities and if the driver is obstructive or obstreperous to the examiner or whoever is trying to enforce the rules, that driver would be caught by Clause 8(3), which provides that anybody who obstructs the implementation of the regulations commits an offence. That would include the driver in those circumstances, but responsibility for ensuring that both the vehicle and the documentation are in order must lie with the employer or the operator. My amendments give the Minister a possible way out of that. She or her department may find a better way but, at the very least, I would be grateful if she could accept the principle, on the record, and say clearly that the Government's intention is for it to be the responsibility of the operator, and that the regulations under the Bill will carry that out.

4.30 pm

Amendment 9 deals with the costs of the permit. Will the Minister recognise, on the record, that the present system does not require such a payment and that fairness will be maintained in future systems, with the cost falling where it should and not becoming an additional cost for operators in an increasingly difficult and highly competitive industry? I beg to move.

Earl Attlee: My Lords, this is another interesting amendment. I have a query for the noble Lord, Lord Whitty, about drafting. The amendment refers to "UK registered hauliers". What does that mean? Does it mean that the company is registered in the UK or that the operator's licence is held here? You could have a company which is registered on the continent, or in Ireland, whose operator's licence is actually held in the UK. There is some lack of clarity there. I do not know whether the noble Lord has thought of it.

My worry about the amendment is: if the operator is not going to pay, who is? The noble Lord also made a very important point about competition in the road haulage industry being acute. He is absolutely right: it has been so for a long time. The reason for that is that the cost of operation in road haulage is well understood. Modern vehicles are extremely efficient; you can get maintenance contracts which take out all the risks. You know the costs of the fuel—it is very high, because it is heavily taxed—the costs of the driver, and the cost of other taxes and any necessary permits. If there is a cost to the permits, the market will take account of that. Although the noble Lord is right that it is a horribly competitive market, the prices will actually just rise very slightly to take account of the cost of permits. I do not think that the noble Lord's concerns about absorbing the costs hold good.

I hope that the Minister will provide reassurance on Amendments 10 and 11. It seems that, in road haulage legislation, the driver is responsible for everything but has little actual power to do anything about it. I hope my noble friend can give some reassurance on that.

Lord Tunnicliffe: My Lords, I support the amendments and will build on the points made. Amendment 11 is particularly important. The generality of placing responsibility on the driver is becoming increasingly out of date with the complexities of the real, modern world. In other transport environments, it is recognised that the wider responsibility lies with the operator, and I hope that the Minister will be able to give assurances on that.

Amendment 10 is also sensible and goes in the right general direction. We are moving into a wholly digital age—even I have an iPhone.

Amendment 9 deals with a very serious issue. The industry will feel aggrieved if there are additional charges. It would argue, accurately, that it is an enormously efficient industry, as the noble Earl, Lord Attlee, pointed out, and we respect that. The industry works to very small margins and it is therefore inevitable that these charges will be passed on to customers. I hope that there will be full consultation before any charges are considered and that everything is done to make them as low as possible. I think the Minister has already said this, but it cannot be repeated often enough. In the previous group there was some talk about considerations of other factors such as what other people were charging, and so on. I hope that those will not be the considerations; the simple consideration should be that the Government pay all the capital and the set-up costs, and everything else is driven down to a low level.

I hope that the intention of this amendment, to outline and emphasise just how important this is to the industry, is accepted by the Government and that the Minister will be able to repeat herself by saying reassuring words.

Baroness Sugg: My Lords, I will first address enforcement and Amendments 10 and 11. The sections on enforcement use the model of enforcement powers that are already in place in the context of operator licensing, Community licences and permits. Under current arrangements, the Community licence is the

paper document that hauliers are required to carry in the vehicle and show to inspectors on request, so a switch to paper copy permits, should they be needed, will not fundamentally change this process.

The noble Lord, Lord Whitty, is right to highlight the benefits of digital documents. We want to see the haulage sector moving in this direction and are working towards that, but unfortunately we are not there yet. The Bill already provides the flexibility to move to that digital system in the future. Clause 1 provides that the permit,

“may be in any form the Secretary of State considers appropriate”. That would enable the Secretary of State to specify the form of permits as digital once we have all the processes in place for that and once the industry is ready for it. Some of our existing permit agreements with other countries require a paper permit to be carried, and indeed all our existing permit schemes are currently paper-based, so it would be slightly counterproductive to insist on a digital permit at this stage. However, I can reassure the noble Lord that we are working towards that and that the current drafting allows us to move to that as and when we are ready to do so.

On the noble Lord’s amendment to Clause 8, the offence in Clause 8(2) relates to the conduct of a driver when a requirement is made of him or her by an examiner. Clause 6(2)(a) requires a driver to produce any permit carried on the vehicle to an examiner, and failing to do so without reasonable excuse would be an offence under Clause 8(2). That offence is relevant where a driver is frustrating enforcement activity, and mirrors similar offences for failing to produce documents carried on the vehicle, such as drivers’ hours records under Section 99 of the Transport Act 1968.

I absolutely understand the noble Lord’s point that if a driver has been sent on a journey by an operator without the necessary permit, the driver should not be punished for that. I agree, and to avoid this we included the wording,

“that is carried on the vehicle”,

in Clause 6(2)(a). Therefore, the driver will be prosecuted for failing to show a permit only if there is one on the vehicle which has been provided by the operator. If that is the case, that would be an offence under Clause 8(1), and that offence applies to the operator, so the driver would not be prosecuted for failing to produce a permit if they had never had such a permit in the first place. I hope this clarifies the scope of these offences to the extent that the noble Lord feels able not to press those amendments.

On the cost element of this group, the amendment proposes that fees should not be charged for five years. I have already outlined, and am happy to do so again, that our aim is to set fees, should they be needed, on a cost recovery basis and to minimise those costs to hauliers using any permit scheme. If we were to exempt hauliers from any permit fees for five years, these costs would have to be borne by another party. That would either be the taxpayer or it would need to be done via the cost of the operator licence, as the noble Baroness, Lady Randerson, pointed out, which would mean that all freight operators would pay for it. The latter would be more in accord with the principles in *Managing Public Money* which we are trying to stick to.

The noble Lord, Lord Whitty, is right to predict that I will use the argument that the costs of issuing Community licences are covered by operator licensing fees, which also operate on cost recovery. The issuing of Community licences is a small part of the costs of the operator licensing regime, and these fees are kept under review. If we no longer have to issue the Community licences and this reduces the cost to be covered by the fees, of course we will consider that when the fees are reviewed.

However, overall we think it is fairer that those who benefit from a service cover its running costs, rather than have all hauliers or all taxpayers paying for a benefit that only a small number get. Earlier, I confirmed that the fees will cover only the day-to-day running costs, with the Government covering the set-up costs of the scheme, which is being funded as part of our grant from the Treasury. Again, I am happy to confirm that we will do all we can to keep those fees low.

I hope that this discussion and the fact that the fees, should they be needed, will cover only the running costs will reassure the noble Lord that the fees charged to hauliers will be proportionate and stop an additional burden being imposed on the taxpayer. I can also reassure noble Lords that, should the government amendments be accepted, these fees, should they ever be needed, will be subject to three further measures: a statutory consultation with the industry; an affirmative procedure to allow proper parliamentary scrutiny of the regulations; and a report following their introduction to examine the impact on the haulage industry.

The noble Lord, Lord Whitty, has again suggested that we might benefit from further discussion on this. However, as with Amendment 1, I feel that I have been clear about the Government’s position on the Bill and the Government have nowhere further to go. Therefore, if the noble Lord wants to push the matter further, he will have to test the opinion of the House today. However, I hope that with these reassurances and the government amendments that we will come to later, he will feel able to withdraw his amendment.

Lord Whitty: My Lords, I am slightly disappointed by what the noble Baroness has said, and I also need to take heed of what she said on the previous group of amendments. Talking about the money, as I understand it, after the initial set-up costs, which will be borne by the taxpayer, it is still the intention to put a charge on hauliers for a service that will replace the Community licensing system, which is not currently charged for but is covered by the costs of the domestic operators’ licences.

I fully accept that from time to time these arrangements have to be reviewed, but with this amendment I am saying that at a time when hauliers are faced with substantial changes and increased competition from people who are still in the European Community licencing system, this will be seen as a charge on their costs. It is correct to say that we need to protect taxpayers’ money, but we also need to protect the industry, which eventually contributes to taxpayers’ money. Therefore, I am not sure that I am satisfied with the noble Baroness’s answer on that.

In relation to the other two issues, I take the point about digital provision and the fact that we are not there yet; nevertheless, it is right that the Minister has

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put on the record that a digital presentation of the documentation would be accepted. However, I am not entirely clear that she has gone far enough in relation to the driver's responsibility, because Clause 8(2) implies a rather wider range of circumstances than simply refusing to provide documentation which is on board. When it comes to the regulations, the Minister will need to look at that a bit more tightly if we are not to transfer the responsibility of meeting the documentary requirements and other provisions, which lies with the operator, to the individual driver. She probably accepts that in principle but I am not sure that the Bill says that at the moment, and I hope that the regulations will do so. The reassurance that she has given us that the regulations will come through the affirmative procedure is helpful.

Returning to the issue of money, I do not think that what the Minister has said will reassure the industry significantly. However, she has allowed herself some elbow room on this. In view of the degree to which she has tried to give reassurance in respect of previous amendments and this group of amendments, I will not press this amendment tonight, although she challenges me to do so. The Government need to address this matter and to come back to us in a way that reassures the industry. It may be that, even at Third Reading, she will be able to say something more in that direction. However, for the moment, I beg leave to withdraw the amendment.

Amendment 9 withdrawn.

Clause 6: Production of permits and inspection of vehicles

Amendment 10 not moved.

Clause 8: Offences: breach of regulations etc

Amendment 11 not moved.

4.45 pm

Amendment 12

Moved by Baroness Sugg

12: After Clause 8, insert the following new Clause—
“Report on effects of EU-related provisions

- (1) After any year throughout which relevant restrictions apply, the Secretary of State must lay before Parliament a report assessing the effects of the restrictions on the haulage industry in the United Kingdom during that year.
- (2) Relevant restrictions apply when, in relation to at least one country which is a member State of the European Union, regulations under both section 1 and section 2(1)(a) apply (so that permits are required and only a certain number are available).
- (3) For the purposes of subsection (1), a year means any continuous period of twelve months (not including any period which already has to be reported on).”

Baroness Sugg: My Lords, in Committee, a number of noble Lords brought forward amendments to require the Government to analyse and report on the impacts on the efficiency of the UK haulage industry of any permit scheme that might be introduced, and to report on the Government's intentions, expectations and achievements with regard to future arrangements with

the EU. While we have been clear that we are seeking continued liberalised access to the EU, I recognise the concern of any impact of a limited scheme on the haulage industry. I gave an undertaking to the Committee that we would publish details of any permit scheme as soon as they were available. I also undertook to consider how best to review the impacts of any permit scheme, should one be required.

The new clause proposed by the Government requires the Secretary of State to lay an annual report assessing the effects of any restrictions on the haulage industry. We already issue permits to UK hauliers to travel to some non-EU countries where we have agreements that require permits. This amendment would be triggered only where the UK has struck an agreement with at least one country that is a member of the EU that requires a permit scheme, and where there is a limit on the number of permits available for hauliers travelling to EU member states.

The amendment also sets out the length of the reporting interval. If an assessment of the effect of a permit scheme is to be of value to Parliament and to the industry, sufficient time must pass to enable the effect to be assessed and evidence to be gathered to inform that assessment. Setting the timing of the obligation to report for the first time as one year on from any regulations coming into force will ensure that the actual effect of the regulations is properly assessed. The Government believe that the amendment they have laid imposes a proportionate obligation to assess and report, while addressing the concerns that were raised in Committee. I beg to move.

Lord Berkeley: My Lords, I welcome this amendment, as far as it goes. Again, we debated this in Committee. The noble Baroness has tabled the amendment after Clause 8 and explained very clearly its purpose. However, when I read it, I said to myself, “What are ‘relevant restrictions?’” It is not included in the definitions and, although she has explained it, in the cool light of day when the Bill becomes an Act, I would read it and say, “Whatever is that?” Could she look again at that and either clarify it or come back with a definition at some stage?

Lord Tunnicliffe: My Lords, in speaking to Amendment 12, I will speak also to Amendments 13 and 14 in my name. In the real world, you have to realise when you are not going to get any further. The noble Baroness has, in effect, accepted the thrust of our concern that there should be proper reporting. I think our amendments are much better but I know that she will not agree with me, and so I will settle for what I have got.

Baroness Sugg: My Lords, I am grateful for noble Lords' contribution to this group and pleased that they welcome the broad aim of the amendment. On the point made by the noble Lord, Lord Berkeley, I hope that I have spelled out clearly exactly what the restrictions will be—and we will continue to do so. Again, that is something that we will consult the industry on and details can be included in regulations.

Amendment 12 agreed.

Amendments 13 and 14 not moved.

Clause 12: Trailer registration**Amendment 15**Moved by **Lord Whitty**

15: Clause 12, page 8, line 36, at end inset—
“(v) the renting out of trailers.”

Lord Whitty: My Lords, this group of amendments deals with the situation for the trailer market. It is clear that the provisions in the back half of the Bill, which deals with trailers, are important and welcome. As the noble Earl, Lord Attlee, said, at one point I had to be quite familiar with all this, but, thankfully in some ways, I have lost touch with parts of the industry in the interim. Nevertheless, it has been represented to me that the trailer market and the use of trailers is actually quite a complex subject—although a more pejorative word is sometimes used. For example, trailers are shared, hired out, or picked up by a driver for one operator and delivered to another, used for part of the journey and then used by another operator. What I am querying in the text is that the reference to the operator or keeper does not seem to include the part of the trailer market that is effectively hiring out. They are either hiring out for money or hiring out in kind by swapping one trailer for another or for a whole range of different services for trailers. It is a complicated area but it is important that those who hire out vehicles have the same obligations on registration, safety and the offences created by the Bill as do operators who always use their own trailers or operate on simpler, less complicated arrangements.

This is a significant part of the market without which the whole system would not operate, or at least it would be hugely more costly and inconvenient to operate without it. Therefore, those who hire out trailers, on whatever terms, are an important part of the efficiency of the sector. But they, likewise, have responsibilities. The Bill should reflect that they have the same responsibilities for registration and related matters as other operators within the sector. I beg to move.

Baroness Randerson: My Lords, the noble Lord, Lord Whitty, raises an important issue which did not have much discussion in Committee. It is a complex issue partly because it is possible to stick a registration plate on a trailer but not really know which trailer it is for. It appears to be the same trailer, but it could be a different one, depending on what is pulling it. We need a system to specify who is responsible and who is operating in a rental market for trailers. We should remember that rental trailers range from trailers used to cart excess household rubbish to the tip through to camping trailers for holidays and up to large commercial trailers. It is a big market. We must also take account of the important issue that, at the commercial level of the industry, drivers swap trailers regularly. In order to be fair to the drivers, there needs to be a simple way for them to check that the trailer is properly registered and safe. That is a key issue that we did not address at all in Committee.

Earl Attlee: My Lords, I take it that the intention of the amendment moved by the noble Lord, Lord Whitty, is to deal with the commercial HGV trailer market. He

said that the issue is complex, and it is certainly that. There is a wide variety of renting, leasing and finance arrangements and they will all have different registration arrangements, so he is right that it is complex. However, it is no more complex than the situation for tractor units or rigid vehicles, which also have complex leasing and rental arrangements. Equally, the situation is no more complicated for a trailer than it is for a goods vehicle. I therefore cannot see why we need to have special consideration in this legislation in the way that the noble Lord suggests.

The noble Baroness, Lady Randerson, suggested that operators would not know which trailer is which. However, we already have the ministry plate which is attached to the trailer along with the goods vehicle test disc. Moreover, there is a chassis number on the trailer and the manufacturer's plate.

Baroness Randerson: For clarity, I was referring to the casual observer rather than the industry insider, or indeed the police or any law enforcement agency that sought to check.

Earl Attlee: Yes, my Lords. As I understand it, there will also be a conventional number plate on the trailer. Once it is registered under this legislation, it will have a number plate in the same way as a rigid vehicle.

The noble Baroness touched on smaller trailers for private use. My comments are particularly aimed at the commercial sector.

Baroness Sugg: My Lords, the amendments proposed by the noble Lord, Lord Whitty, rightly draw attention to the important issue of rented trailers. I will explain how the introduction of a registration scheme could affect rental companies and operators, and I take the opportunity to underline that this is an issue we continue to consider and have engaged with stakeholders on previously. Furthermore, I can confirm that nothing in the regulations will prevent hauliers continuing to rent trailers either domestically or internationally. From our ongoing engagement with industry, we recognise that trailer rental is an important issue for many hauliers. Trailer rental provides hauliers with the valuable flexibility they need at short notice to deal with unforeseen spikes in demand or to cover the maintenance of their fleet. Such flexibility is therefore vital to the industry to continue to operate efficiently and I welcome the opportunity to speak further on the matter.

Trailer registration will be slightly different from that of motor vehicle registration as there will be no requirement for units used solely domestically to be registered, whereas for a motor vehicle this is not the case. We continue to seek to engage broadly around how this will be managed with the rental industry, the haulage companies and those who rent the vehicles.

As with motor vehicle rental the “keeper” of a registered trailer will remain the rental company; this keepership does not transfer for the period for which a trailer is rented out. Accordingly, the keeper of a trailer will be responsible for the registration of that trailer. Rental companies will have certain obligations as keepers, such as ensuring that the trailer's details in the register are correct, but these will be within their control and proportionate. Where a user intends to use a trailer for an international journey, either to or

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through a country that has ratified the 1968 convention, they are responsible for ensuring that the trailer is appropriately registered. I agree entirely with the noble Baroness, Lady Randerson, that we need to make sure that the system is simple for people to use to ensure this. Rental trailer users will have additional obligations, such as ensuring that they are displaying the registration plate, as mentioned by my noble friend Lord Attlee. We believe that that is fair and proportionate, given that commercial operators will already be familiar with the registration scheme.

With no current domestic requirement for registration, clearly rental companies themselves should not be held liable for an operator's independent use of an unregistered trailer abroad when the use of that same trailer on a road in the UK would be completely lawful. We will work with representatives of the rental industry to ensure that they understand the changes made under this Bill and in the subsequent regulations, and the necessary preparations that they must make to continue to rent trailers to be used internationally. This is necessary to ensure that rental companies remain able to service the needs of haulage companies operating both domestically and internationally.

The principle of the responsibility of the user to ensure that the trailer they are using for international journeys is registered will also apply in the case of trailer units being borrowed or informally shared between operators. The noble Baroness, Lady Randerson, correctly highlighted this as being regular practice in the industry. The noble Lord, Lord Whitty, has further proposed amendments to the fees and offences clauses in Part 2 of the Bill. I can confirm that the Bill in its current form contains the necessary powers to accommodate the renting of trailers and their usage in relation to the provisions of the Bill.

We will seek to consult further on trailer rental, which will help to inform our guidance as we make the regulations. We recognise that requiring the registration only of trailers being used internationally may create some practical complexity for rental companies and their customers, so we will work closely with the industry to try to minimise this. The proposals for the scheme have already been discussed with the British Vehicle Rental and Leasing Association and we will continue to engage with it on the matter in the coming months. That will be an important stage in ensuring that the sector understands the proposals made and may ensure that it adequately prepares for the regime ahead of its implementation.

I hope I have explained the Government's intentions clearly. I absolutely agree that we need to clarify this further in the regulations; we intend to do so in detail in consultation with the industry. As I said, I am grateful for the opportunity to discuss this matter further but I hope the noble Lord, Lord Whitty, feels able not to press his amendment.

5 pm

Lord Whitty: I thank the Minister for her response. The noble Earl, Lord Attlee, said that this matter is no different from hiring tractors or any other form of vehicle, but this part of the Bill deals with trailers. At a

casual read, it did not appear to cover the hiring, letting or contracting out of trailers. The Minister assures me that it does; I assume her lawyers know what they are talking about. She also assured us that this would be covered explicitly in the consultation. I am therefore prepared to accept that it will be covered, that there is no loophole and that this is not an area that the very commendable tightening up of trailer registration would miss. Not covering this would lead to anomalies. It is slightly odd that "keeper" or "user" includes hirers; nevertheless, if it does, I accept that, as long as it is clarified to the industry and those who enforce the regulations that we have yet to see and that the Minister rightly says will be widely consulted on. Subject to that, I thank the Minister and I will withdraw my amendment.

Amendment 15 withdrawn.

Amendment 16

Moved by Lord Tunnickliffe

16: Clause 12, page 8, line 36, at end insert—

"(2A) The Secretary of State must collate comprehensive data on the number and nature of trailer-related road accidents in the United Kingdom, and the Secretary of State must include the findings in a report.

(2B) Such a report must include a recommendation regarding the necessity or not for the compulsory registration of trailers weighing more than 750kg kept or used on roads, regardless of whether the trailer is being used internationally or only in the United Kingdom, in a register to be kept by the Secretary of State.

(2C) The report must be laid before each House of Parliament within the period of one year beginning with the day on which this section comes into force."

Lord Tunnickliffe: My Lords, I shall also speak to Amendment 17 in my name.

The National Trailer and Towing Association has long campaigned for the periodic inspection and testing of light trailers. One of the main barriers to that is the lack of a trailer registration scheme that covers category O1 and O2 trailers. Noble Lords are aware of the tragic case of Donna and Scott Hussey's very young son, Freddie, who was killed in 2014 when he was hit by a two-tonne trailer that had come loose from a Land Rover. The family and their MP, Karin Smyth, have been campaigning ever since for better trailer safety to try to prevent further serious injury and deaths. What is needed—and what Amendments 16 and 17 provide for—is the creation of clear evidence based around weights and categories of trailers in relation to their safety and the number and nature of trailer-related road accidents in the UK.

The Government need to take action on this, rather than making vague promises to consider this in the future. There is a strong argument for looking specifically at the safety of trailers in the O2 category, weighing between 750 kilograms and 3.5 tonnes. With a genuine data collection exercise and assessment of evidence, the Government would be in a position to make an informed and responsible decision, befitting Her Majesty's Government, on whether trailers in that category should be registered and subject to stringent safety testing.

The data presented in the Minister's letter mostly conflates that of trailers below 3.5 tonnes and large—category O3 or O4—trailers above that weight. This is misleading because the data referring to these large trailers is irrelevant to the central issue. We are not questioning the safety of large trailers of this nature because, as has been highlighted, they are already subject to robust safety procedures and checks and subsequently have high pass rates. Those figures, and comparisons with non-GB countries, relate only to large tested vehicles over 3.5 tonnes, not the lower categories of trailer with which we are at present most concerned.

Crucially, any analysis of the Department for Transport data on the safety of trailers below 3.5 tonnes shows some major gaps in reported data. This makes it impossible to describe the best attempt of Ministers to argue on the Government's behalf that we have a representative assessment of how safe or unsafe domestic users of trailers are on our roads.

The statistics presented in the letter on incidents involving light trailers do not represent all such incidents, but only those reported and recorded by police. Road traffic incidents reported to the police include only those involving a personal injury and that occur on public roads. The DfT therefore clearly states in its annual report on road casualties:

"These figures ... do not represent the full range of all accidents or casualties",

in Great Britain, and goes on to include details of other sources of statistics with vastly higher recorded accidents and road traffic injuries.

We would also like to draw a distinction between the current method of capturing data on trailer safety after an injury has occurred in an incident, and the DfT's failure to lead any kind of initiative to collect data on the roadworthiness of smaller trailers using stop-and-search-type testing to prevent such accidents occurring in the first place. This has been highlighted by Avon and Somerset Police as an urgent priority. It argues that its own evidence of checks shows the unsafe condition of the majority of domestic trailers, which, despite being overwhelming, is still ignored.

The evidence presented by the National Trailer and Towing Association and others shows the shocking safety standards of many untested trailers under 3.5 tonnes. According to it, a large proportion of such trailers would fail any roadworthiness test. When the Secretary of State undertakes a data-collection exercise and collates comprehensive data on the number and nature of trailer-related road accidents in the United Kingdom, it is vital that this includes data gathered specifically on the safety of trailers in the O2 category.

The logic of the concept that trailers should be registered and tested seems at first sight overwhelming: 750 kilograms of trailer traveling at 70 mph out of control can do as much damage as a small car travelling at 70 mph. Clearly, the solution is that they should be registered and inspected. The Minister will tell us that this is unnecessarily bureaucratic, too complex and disproportionate. Indeed, that was exactly the position that I took in 1960, when I was told that I had to have an MOT test for my car, which, being seven years older than me, seemed to have shown through time that it would manage. We are a long way on from then,

and we now accept the MOT test as part of our lives. In fact, MOT testing is one area where our requirements are significantly ahead of the EU's. We are going to tighten the MOT test at, I think, the end of this month, which will have a significant impact on many car owners. We are willing to be quite brave in imposing this testing regime on vehicles, particularly private motor vehicles, and to some extent we have been rewarded in recent years through a reduction in the number of tragedies.

This is about people dying, and it is about Freddie. But, as I said, the Minister will argue that it is disproportionate. That is why our two amendments are so stunningly reasonable. I will go through them briefly. Amendment 16 would require the Secretary of State to do three things: to collate data, to then take a view of registration and say when they should be presented in a report. The key words are in proposed new subsection (2B): "or not". The amendment would require the Secretary of State to collate data and make a decision based on them whether to register trailers. Amendment 17 is similar. It would require the report to decide whether it is necessary "or not"—this is at the discretion of the Secretary of State—to introduce a mandatory safety standards testing scheme. The last part of the amendment would enable and empower the Secretary of State to make regulations to introduce such a scheme.

While we believe that registration and examination will be a key improvement in safety and would have saved this little boy's life and those of other people who die in events relating to trailers, we accept the charge of proportionality. Somebody must take an analytical approach to it and make a judgment on whether this would be grossly disproportionate to the benefits gained. That is why both amendments would allow the Secretary of State to make decisions based on evidence. We are insisting not on registration or a testing scheme in the amendments, but that the Secretary of State goes through an orderly, analytical process and comes to a decision. I beg to move.

Lord Campbell-Savours (Lab): My Lords, I spoke at length in Committee on this matter. I do not intend to do so today. This is a very good compromise arrangement. The Government would ultimately take the decision. We would simply establish a framework on which basis a Government can take the decision. I hope the Government will accept the amendment.

Baroness Randerson: My Lords, safety has to be taken extremely seriously in this context. Along with the Minister and, I suspect, most of the people here, I rather wish that there had been no need for this legislation, but since we have it we might as well use it in this situation to draw attention to, and give the Government the opportunity to draw some conclusions on, the issue of safety.

The National Caravan Council believes that the number of accidents connected to caravans and similar trailers are mainly not due to the design or condition of the caravan or trailer itself. Most are caused by bad driving, bad loading or bad hitching of the trailer. Therefore, there is a huge need for public education on this. I very much hope that the Government will use

[BARONESS RANDERSON]

the opportunity of providing the report suggested in the amendment by looking at the need for widespread public education on this.

I do not know whether any noble Lords have witnessed an accident of this nature. I did, driving behind a caravan on a motorway. A small wobble rapidly becomes magnified until it becomes a huge sweep of the caravan. Eventually, it cuts back on itself. That motorway was closed for six hours and very serious injuries were sustained. It was a frightening experience which brought home to me how important it is that driving with a trailer is done moderately. In that case—there may have been other factors—it was clear to me that the driver with the caravan was going much too fast, hence the need for public education.

5.15 pm

The National Caravan Council has made the point that it has its own scheme for registration; I mentioned this also in Committee. A third of trailers and caravans are registered with its scheme. It provided me with an example of its documentation. It has 28 different security features, and it recommends it as far superior to the UK vehicle registration certificate. You may wonder why you need such registration security features. It is because apparently there is a very lively market in stolen trailers and caravans. The council has taken very seriously the issue of ensuring that caravans are exactly what they say they are, because they are frequently not just stolen but given a new personality—if I may put it that way—new features and so on to disguise them.

I therefore urge the Minister to take this amendment seriously, to give it due consideration and to give us an assurance that if the Government look at a trailer registration scheme they will not seek to duplicate what already exists and works well across a large part of the industry. A parallel is in the Corgi gas safety scheme—it is now called Gas Safe, I believe. That was an example from many years ago of the then Government seeking not to control a safety scheme but to work with the industry to introduce one, which became hugely important and successful. I urge that any kind of registration scheme be done in that same spirit of partnership with the industry.

Earl Attlee: My Lords, I have realised to my horror that I have not repeated the declaration of interest that I made at the earlier proceedings: I own or operate two very large trailers, one of which weighs 27,000 kilograms and the other 17,000 kilograms empty.

I am very concerned about light trailer safety, about which I spoke at greater length in Committee. I had discussions on the matter with my noble friend the Minister in private and was able to go a lot further than I went in public in frightening her a bit—I hope. It is a remaining weakness in our road safety regime and the condition of our vehicles, as the noble Lord, Lord Tunnicliffe, alluded to. It is not necessary to have a universal light trailer registration scheme to achieve testing of trailers, but the noble Baroness, Lady Randerson, spoke about theft of trailers. She is absolutely on the money: this is a big problem. I suspect that it would be alleviated by general registration

of trailers, because, to sell a stolen trailer, one needs an identity. Due to changes made to the write-off provisions for cars, for instance, it is much more difficult to acquire an identity of a written-off vehicle—for reasons with which I shall not bore the House. There may therefore be an argument for registering small trailers for reasons of deterring theft, but it would not be necessary if one wanted a testing regime.

I mentioned that I have had a private discussion with my noble friend the Minister. I have also secured a meeting, planned for 2 May, with my honourable friend the Minister for Transport, Jesse Norman. Other noble Lords are welcome to join me for this meeting: I think a meeting with the Minister, with the benefit of having the officials in front of us, where we can put these points and look at this in detail has much to commend it in the short term. I think we would have a greater chance of convincing the Minister that we need to make some changes by that procedure than by agreeing an amendment to the Bill now that we know perfectly well will be overturned in the House of Commons. That will still not get us the objective we desire, whereas I suggest that at a meeting with the Minister, with officials, we will be able to drill down and ask rather more searching questions. I can be rather more frightening to the Minister on the issue in private than I can be in public.

Lord Berkeley: My Lords, I did not intend to speak on this amendment, but I was really rather surprised to hear the noble Earl, Lord Attlee, say that he was in favour of registering trailers against the risk of theft. I rather got the impression that he was not concerned about safety: after all, cars have MOT tests largely to ensure that they operate safely. Given the examples that my noble friend Lord Tunnicliffe and the noble Baroness have given of things that have gone wrong with trailers, with some pretty disastrous results, it seems to me there is a very strong argument for having registration to cover safety as well. Whether that covers the same things as the MOT, we can debate, but it seems important. Not all trailers weigh 27 tonnes—I congratulate the noble Earl, Lord Attlee, on being able to pull 27 tonnes with something that goes down the road legally—but I think there is a very strong argument from a road safety point of view for having a registration scheme.

Earl Attlee: I think it was really good that we had the benefit of a pep talk from the noble Countess, Lady Mar, who is on the Woolsack as we speak, because I can correct the noble Lord on a material point: my point was that it is not essential to have a registration scheme if you want to have a testing scheme, even for light freight. Even now we have a testing scheme for HGV trailers but we do not have a registration scheme. It does not mean that I do not think it is important; it is just that it is not necessary to have a registration scheme.

Lord Whitty: My Lords, I too was not going to intervene in this debate but one additional point occurs to me that the noble Baroness might like to take note of. To make the point I have to declare an interest: I am chair of the Road Safety Foundation and of an

organisation called EASST, which deals with projects on road safety—roads and vehicles—in eastern Europe, the former Soviet Union and Asia. My point is that Britain has often led the way in road safety. Statistics are difficult to come by, but anecdotally the number of problems with trailers in developing countries with inadequate road systems in central Asia and even in eastern Europe is quite substantial.

We have heard of horrific cases here from my noble friend Lord Tunnicliffe, but there are equally horrific anecdotal cases from other countries. Given the respect in which Britain's road safety expertise is held around the world, a report of the kind that my noble friend's amendment calls for could well influence global road safety and therefore be a contribution from the DfT to the new global Britain, and could be presented that way to otherwise reluctant colleagues in the House of Commons who might not accept simply another report. It is important that we maintain that lead on road safety and this is one area which, to my knowledge, has not been systematically addressed in the international road safety community.

Baroness Sugg: My Lords, safety is of course very important and warrants due care and consideration whenever we are legislating. Under the proposals in the Bill, around 80,000 commercial trailers, and a negligible number of non-commercial trailers, would fall within the mandatory scope of the scheme. It would not affect the 1.7 million trailer users who solely use their trailer domestically. We believe that this approach balances the need to offer clarity to UK operators and enable them to continue to operate internationally, without placing undue costs and administrative requirements on businesses and non-commercial users.

It may be helpful to explain the existing regimes in place to ensure high standards of safety and roadworthiness of trailers. This includes an annual testing regime for larger trailers and an approvals regime for new trailers. The current annual testing regime applies to almost all trailers weighing over 3.5 tonnes, with very limited exceptions. Certain other categories are also included, such as those weighing over 1,020 kilograms with powered braking systems. This regime covered the testing of almost a quarter of a million trailers in 2016-17. The pass rate at first test last year was 88%. The separate approvals regime is very similar to that which is in place for motor vehicles and covers new trailers ahead of their entry into service. This means that almost all new trailers are approved either by model or on an individual basis ahead of taking to the roads.

The amendment seeks the collating of a report on the number and nature of accidents involving trailers. I confirm to noble Lords that this data is already recorded in the annual *Reported Road Casualties in Great Britain* report published by the department every September, which I am happy to share with noble Lords; there is also a copy in the Library. It contains extensive details of all vehicles and persons involved in accidents reported to the police that occurred on a public highway, involving at least one motor vehicle and where at least one person was injured. The noble Lord, Lord Tunnicliffe, pointed out the limitation that

those are the only figures included. The report recorded statistics for more than 136,000 accidents resulting in injuries and has informed the department's ongoing work on road safety, for which my honourable friend Jesse Norman is the Minister responsible. The number of recorded accidents involving a trailer in 2016 was 4,352, which accounted for 3.2% of the total number of accidents in 2016. The total number of accidents involving trailers has decreased by 21% in the last 10 years—a significant improvement.

The noble Lord, Lord Tunnicliffe, spoke of the tragic death of Freddie Hussey. I pay tribute to the campaign of his family and his local MP. Following this incident, the department and its agencies have undertaken significant work as part of our continuing commitment to improve towing safety standards. Highways England has launched the national towing working group, which brings together a range of stakeholders. The DVSA published further guidance regarding safe towing practices.

Noble Lords will appreciate that towing, by the fact of involving two vehicles, is more complex than driving a motor vehicle alone. The noble Baroness, Lady Randerson, highlighted some of the issues that can be faced. It requires not only the safety of the vehicles involved but knowledge of and education on driving and towing safely. Alongside effective enforcement of existing provisions, the department believes that education is integral to continuing to reduce the number of accidents related to towing.

My honourable friend the Roads Minister has been particularly engaged on the issue of trailer safety and has met Karin Smyth, the local MP for the Hussey family. He will be attending the trailer safety summit later this month alongside a range of industry stakeholders to take stock of the progress that has been made and decide what more can be done. I absolutely echo the sentiment of noble Lords that each death that occurs on the roads is a tragedy and we must do all we can do avoid them, but I hope noble Lords will agree that these figures and the work I have spoken of underline the fact that the trailers on our roads exhibit good standards of safety and our current approach is seeing steady improvements.

We remain of the view that it is not appropriate to include these amendments in the Bill, but the debate they have raised has been valuable. We will continue to review safety regimes on an ongoing basis, but I appreciate the wish of noble Lords for the department to look further at this issue of trailer safety, and I have discussed this in detail with my honourable friend the Roads Minister. We have asked officials to review what further steps could be taken on trailer safety and the reporting measures that are in place.

Although we remain of the view that trailer registration and indeed a trailer safety check are not integral to improving these standards, it is of course appropriate that we continually look for opportunities to consider data collection, review our conclusions on registration and testing, and raise standards of safety on the roads. As such, I am pleased to be able to commit the department to producing a dedicated report on trailer safety. This report will ensure that our existing reporting on trailers accurately covers the complexity involved

[BARONESS SUGG]

in accidents involving towing where issues may arise from a vehicle, trailer or indeed the capability of the driver of the towing vehicle. After looking at the reported road casualties document, I agree that we could and should look at the way that we report trailer safety. It can definitely be improved. The report will also consider the role that registration and testing may play in continuing to improve trailer safety standards. We will certainly discuss this with the Caravan Council and other industry representatives.

As my noble friend Lord Attlee said, following our previous session I have arranged for him to meet the Roads Minister to further discuss trailer safety. On behalf of my honourable friend the Minister, I would like to extend this invitation to all noble Lords with an interest in the subject. The contents of this report I have committed to can be discussed there in more detail. I hope noble Lords are reassured by the statistics I have outlined and by the approach that the department is taking more generally. I thank the noble Lord, Lord Tunnicliffe, for suggesting a report in his amendment and I am pleased to be able to agree to such a report.

As I have throughout debate on the Bill, I have attempted to take on board the views of all noble Lords. I fully agree that the department should consider this issue further but, with my commitment to such a report, I do not think it is necessary to seek to include the amendment in the Bill by dividing the House. With the agreement to a report and the offer of a meeting with my honourable friend the Roads Minister to discuss the contents of such a report, I hope that the noble Lord feels able to withdraw his amendment.

Lord Tunnicliffe: My Lords, I thank the Minister for that response and her department for the steps already made, but she used the argument which is always used in these circumstances: "Not in this Bill". The problem is that the Bill is here and this is an opportunity. As the noble Earl, Lord Attlee, pointed out, this is a hole in our legislation, and it is a hole that we believe should be filled.

It is a matter of life or death. I have been involved in the life-or-death industry for many years. In that, you have to worry about not simply the safety; you have to be reasonable and proportionate. That is why these two amendments are framed in this way. They would require the collection of data; the Minister has said that that is going ahead anyway. They would then require the Secretary of State to analyse that data and to make some decisions. Finally, they would enable the Secretary of State to introduce appropriate schemes. It seems that, from what has been said, most of what is in these amendments is acceptable to the Government anyway. The key additional part is the requirement for decision-making and the enabling of that decision-making to result in an appropriate scheme, if that is what the analysis reveals. Accordingly, I am not willing to withdraw this amendment and I beg to test the opinion of the House.

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5.46 pm

Clause 13: Inspections and information

Amendment 17

Moved by Lord Tunncliffe

17: Clause 13, page 9, line 14, at end insert—

“(2A) The report referred to in section 12(2A) must include a recommendation regarding the necessity or not for a periodic mandatory safety standards testing scheme for all trailers weighing more than 750kg.

(2B) Subject to subsection (2A), regulations may make provision for a periodic mandatory safety standards testing scheme which must apply to all trailers weighing more than 750kg kept or used on roads, whether the trailer is being used internationally or only in the United Kingdom, with inspections of such trailers to be undertaken on an annual basis.”

Amendment 17 agreed.

Clause 16: Fees

Amendment 18 not moved.

Clause 17: Offences

Amendment 19 not moved.

Amendment 20

Moved by Baroness Sugg

20: Before Clause 20, insert the following new Clause—

“Consultation

- (1) Before making regulations under Part 1 or Part 2, the Secretary of State must consult such persons as the Secretary of State thinks fit.
- (2) The requirement to consult under subsection (1) may be satisfied by consultation that took place wholly or partly before the passing of this Act.”

Baroness Sugg: My Lords, at Second Reading and in Committee we discussed our intention to consult industry on possible permit arrangements and the trailer registration scheme. Ministers and officials in my department have been engaged with industry throughout the development of the Bill and have held workshops with hauliers and relevant trade associations. We also intend to hold a public consultation on the details of these schemes that will inform the regulations made under this Bill.

Given the importance we place on understanding the impact of regulations on hauliers and trailer users, I now propose to include a requirement to consult in the Bill. The amendment provides that, before making regulations, the Secretary of State must consult such persons as he thinks fit. This wording and this obligation are consistent with other road traffic legislation, such as the Road Traffic Act 1988. I hope that noble Lords will support the inclusion of this clause. I beg to move.

Baroness Randerson: My Lords, I welcome the Government’s amendment. The Minister has made a significant gesture. In my amendment, Amendment 27, which relates to Clause 21, I have specified a number of organisations because I see no harm in having certain key organisations named in the Bill. To choose

one organisation at random from the list, the Freight Transport Association has existed since the 19th century. It would do no harm to specify it in the Bill. The amendment allows the Secretary of State complete discretion to add other organisations as he sees fit.

My earlier amendment did not include the trade unions. Having tabled the amendment, I looked at it the next day and thought, “Oh, there’s no reference to the trade unions”. At a meeting this morning, it was pointed out to me that, although my list is perfectly admirable as far as it goes, it does not refer to the National Farmers’ Union or the Farmers Union of Wales, whereas trailers are an important part of farm working. Therefore, it is important that we look very widely at the list of organisations. I gather that the Government have not yet consulted the trade unions—that is what the Minister said in Committee. I believe that she has not yet had the opportunity to meet the National Caravan Council. Given that this Bill is a coat-hanger, it is important that there is very wide government consultation because so many aspects of the Bill are going to be crucial to the haulage industry.

Whatever arrangement with the EU we come to in the end, it is important that all aspects of the haulage industry and of industries that are affected by haulage are consulted on the implications of the Bill. That is particularly the case because the Government now say that the Bill will come into play not just if there is no agreement with the EU but that aspects of the Bill will come into play whatever happens. I urge the Minister to consider the widest possible consultation in future on the Bill.

Baroness Sugg: My Lords, I thank the noble Baroness, Lady Randerson, for her amendment. We feel that the inclusion of a list of consultees in this clause would not give the Secretary of State sufficient flexibility to decide who needs to be consulted. I take the noble Baroness’s point that we can always add to the list, but as soon as we add organisations to it we are statutorily obliged to consult them. For example, if a highly technical amendment needed to be made or if a change were to be made to permits regulations, we would be obliged to consult trailer stakeholders. As I mentioned earlier, there are good precedents for the wording of the government amendment.

We are consulting widely on the regulations, beyond those organisations included in the amendment tabled by the noble Baroness, and I can reassure noble Lords that we will consult all the groups listed in her amendment. We are planning to consult on the regulations before the Bill receives Royal Assent, as we intend to bring forward regulations shortly after the passing of the Bill to give as much time as possible for hauliers to make any necessary preparations for leaving the EU.

On the noble Baroness’s point about the National Caravan Council, I have sadly not had the opportunity to meet it yet, but just this afternoon my honourable friend Jesse Norman, the Roads Minister, is meeting it to follow up on a number of meetings with officials.

On trade unions, the department regularly speaks to the unions, specifically Unite and the United Road Transport Union, on freight issues. We absolutely will involve them in the consultation on new regulations.

Noble Lords referred to their helpful contributions on the criteria side of things, which we will also be looking at.

We have had workshops covering permits and trailer registrations and shared the policy scoping documents with stakeholders and, as I said, we intend to consult publicly in the next few months. That will now be a statutory requirement, should this amendment be accepted. We will continue to consult with all these organisations. We are very aware of how these regulations can affect industry, whether it be the haulage industry or the caravan industry, and indeed leisure users. I hope that reassurance allows the noble Baroness to withdraw her amendment. I am pleased with the broad support that the government amendment has received, and I beg to move.

Amendment 20 agreed.

Clause 21: Regulations

Amendment 21

Moved by **Baroness Sugg**

21: Clause 21, page 13, line 4, at end insert—

“() A statutory instrument containing (with or without other provision)—

- (a) the first regulations under section 1,
- (b) the first regulations under section 2,
- (c) the first regulations under section 12, or
- (d) the first regulations under section 17,

may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

Baroness Sugg: My Lords, again in response to points raised in Committee, I acknowledged that Parliament indeed needs sufficient time to properly scrutinise legislation and I committed to give further consideration to how best to give that scrutiny.

Amendments 21 and 26 in my name provide for the first regulations made under Clauses 1, 2, 12 or 17 to be subject to the affirmative procedure. The Government agree that it is appropriate for the regulations to be subject to further scrutiny when laid when they set up substantive new provisions. The new provision acknowledges the fact that the Bill does not—and indeed cannot—provide Parliament with details on what the regulations might contain as a result of our exit from the EU, as we have not yet reached agreement on our future partnership with the EU.

By applying the affirmative procedure in the first instance, we can ensure that Parliament has the opportunity to scrutinise the overall approach regarding the powers used under Clauses 1 and 2, which will set out the way in which the permit system and the allocation will work; under Clause 12, which will set out the approach to trailer registration; and under Clause 17 on offences. If and when amendments are made to the regulations, the framework will already be in place and, as such, further changes are likely to be technical in nature. The Government take the view that the negative procedure will provide an appropriate level of parliamentary oversight for such amendments to the original regulations. We expect that the first

regulations that are issued will be the ones that provide an overarching framework and will be used for the provision of permits under any future schemes. I beg to move.

Amendment 22 (to Amendment 21)

Moved by **Baroness Randerson**

22: Clause 21, line 2, leave out “the first”

Baroness Randerson: My Lords, my amendments would simply ensure that the affirmative procedure is used throughout, and not just in the first instance. I welcome the fact that the Government have moved on the issue of making this an affirmative procedure in the first instance, but I remind noble Lords that the DPRRC recommended the sifting procedure. It also expressed extreme concern about the vagueness of the Bill, to put it in simple terms. There is a strong case for ensuring that the affirmative procedure is used more widely than just in the first instance. This relates particularly to where offences are being created. There is an issue of public confidence that Parliament has had the opportunity to consider what is being done as a result of the Bill.

Amendment 28 once again reintroduces the concept of a sunset clause, which would cause Sections 1 and 3 of the Bill to expire after three years. The Secretary of State could extend that by affirmative resolution—this was recommended by the DPRRC. I believe that I have allowed a very generous time for the sunset clause. Our argument is that the Government should use the Bill—or at least Sections 1 and 3—to do what it was drafted for and what it was proposed that it should do, which is to be a backstop in relation to a failure to agree with the EU and reach some kind of settlement that is mutually acceptable on all sides. We very much hope that a failure to agree will not happen. We all hope that there will be a positive and strong agreement with the EU in the end. But, in the event of failure, the Government have this Bill, and it should be used for the purposes that it was apparently drafted for. I believe that it remains too wide and therefore that there is a good argument for a sunset clause and for ensuring that any offences created should be subject to the affirmative procedure.

6 pm

Earl Attlee: My Lords, in Committee, I argued that we are too keen on debating affirmative orders; I am not convinced it is necessary. With the negative procedure, if we have adverse briefing from industry and lobby groups, we can flag a negative order up for debate and debate it just as thoroughly as an affirmative order. I welcome the government amendment to provide for the affirmative procedure for the first such order as a sensible compromise. There is a danger with going for the affirmative procedure for subsequent orders. Suppose a small problem with secondary legislation is detected but you need an affirmative order to correct it. Officials’ advice will be that it is not worth going for an affirmative order just to correct this small problem, whereas if we were using the negative procedure, it could be corrected and there would be no controversy with outside bodies. I suggest, therefore, that we are cautious about the use of affirmative orders.

[EARL ATTLEE]

As for the noble Baroness's sunset clause, noble Lords will recall that I have been very active on Section 40 of the Crime and Courts Act, where we have a sunset problem because the Government chose not to commence a piece of legislation, so I have sympathy for sunset clauses. I think there is a slight defect in the noble Baroness's amendment and in Committee I suggested considering my alternative amendment. The defect is that the Secretary of State can go for an affirmative order to extend the period but that just extends it once for 15 years, whereas my amendment would have given only a small extension each time. I will share my amendment with the noble Baroness.

I am also in discussion with the Cabinet Office and had a meeting with Cabinet Office officials, attended by my noble friend Lord Young of Cookham, to explore this very issue, because I am at one with the noble Baroness that we should not have legislation hanging around that has not been commenced. Perhaps the noble Baroness will agree with the Minister on the amendment.

Lord Tunnicliffe: My Lords, I thank the Minister for moving from what was an entirely untenable position in the original Bill. I wish she had moved further—I find many of the comments of the noble Baroness, Lady Randerson, sensible—but I cannot at this stage see a position that moves further but not all the way, for want of a better way of putting it. Therefore, I reluctantly accept the Government's compromise.

Baroness Sugg: My Lords, I am grateful to noble Lords for their contributions to the debate and, as it is the last group today, I am grateful for contributions throughout the passage of the Bill. The noble Baroness, Lady Randerson, has moved an amendment to provide a sunset clause for some aspects of permanent schemes introduced under the legislation, and the DPRRC report also recommended the insertion of sunset provisions. I agree that the Bill should not provide powers that may never be used, but use of the regulation-making powers set out in the Bill does not depend on the outcome of our negotiations with the EU, as we have discussed. The powers will be used in any event for applications outside the EU context—for applications pursuant to our bilateral agreements with non-EU countries, for example—so a sunset provision would constrain our ability to manage permit applications for those bilateral agreements.

I agree with the noble Baroness's intention to ensure that unnecessary and unused legislation does not languish on the statute book but, as I said, that would not be the case. The effect of the amendment, even with the Secretary of State's ability to extend it, would be to commit both government and Parliament to an unnecessary procedure. We would always need to extend the clause, as we would be using the regulations. For that reason, I urge the noble Baroness to withdraw her amendment.

I tabled the government amendment to apply the affirmative procedure to the first regulations made and those first regulations only. I have taken account of the views of the DPRRC and the Constitution Committee—I am grateful for their work in scrutinising

the Bill—and the concerns raised in Committee and agree that there should be further scrutiny of regulations in this case as they are likely to have an impact on the haulage sector. We believe that it is appropriate for the first regulations only; the same scrutiny is not required for subsequent regulations. The noble Baroness mentioned offences in particular. Again, we are following precedent by moving offences to affirmative first. In recent regulations, such as those under the Childcare Act, those offences are only affirmative first, and that is what we followed.

We want to ensure that scrutiny of the regulations in this area is proportionate, and we spent some time in Grand Committee debating the merits of the affirmative and negative procedures. We are using powers that will replicate many aspects of existing schemes such as those under the Vehicle Excise and Registration Act, and those regulations are subject to the negative procedure but, given that these regulations will introduce an entirely new scheme, it is absolutely appropriate that they are affirmative in the first instance.

I hope noble Lords will agree that the government amendments allow proper and proportionate scrutiny, and I commend them.

Baroness Randerson: I am grateful to the Minister for the progress we have made. Taken altogether, this will make a clear difference to certain parts of the Bill and I am happy to beg leave to withdraw my amendment.

Amendment 22 (to Amendment 21) withdrawn.

Amendments 23 to 25 (to Amendment 21) not moved.

Amendment 21 agreed.

Amendment 26

Moved by Baroness Sugg

26: Clause 21, page 13, line 5, leave out "A" and insert "Any other"

Amendment 26 agreed.

Amendment 27 not moved.

Clause 23: Commencement and transitional provision

Amendment 28 not moved.

Housing and Planning Act 2016 (Database of Rogue Landlords and Property Agents) Regulations 2018

Motion to Regret

6.08 pm

Moved by Lord Kennedy of Southwark

That this House regrets that the Housing and Planning Act 2016 (Database of Rogue Landlords and Property Agents) Regulations 2018 do not allow tenants access to the database of rogue landlords and property agents, therefore severely restricting potential tenants' ability to make informed choices and protect themselves (SI 2018/258).

Lord Kennedy of Southwark (Lab Co-op): My Lords, first, I draw the attention of the House to my relevant interests in the register: namely that I am an elected councillor in the London Borough of Lewisham and a vice-president of the Local Government Association. I am moving this Motion in relation to a regulation under the dreaded Housing and Planning Act 2016, a fine example of how to legislate in haste and repent at leisure, a generally dreadful piece of legislation with little or no thought given to its consequences, with a number of its provisions either dropped or quietly forgotten about and never mentioned again.

One of the more promising parts of the legislation was the rogue landlords and property agents database, but even here the Government got it wrong, as I state in my regret Motion, as they do not allow tenants or anyone else other than the Government or local authorities access to it. So it is a good idea and a good initiative but, through the action of the Government, it is failing tenants—failing to help them to make informed choices and to protect themselves. This is important, as the housing market is changing before our eyes. The number of people in the social rented sector has fallen, as has the number owning their own homes. Some 4.7 million households in England currently rent privately—about 20% of all households. This includes a large number of young and single people but also includes a number of families.

The vast majority of private landlords and property agents are good and act responsibly. They, and the bodies that represent them, are as keen as anybody else to deal with the rogues who abuse their tenants. There is support in the industry for this database to be available much more widely. David Cox, the chief executive of the Association of Residential Letting Agents, said:

“We have campaigned for the Government’s database of banned letting agents to be publicly available as with no public access to the database, how will landlords or tenants know if they are using a banned agent?”

I think David Cox is absolutely right. How will you know if you cannot have access to this secret list? Carrie Kus, director of the Residential Landlords Association, said:

“We all want to see criminal landlords rooted out of the rental market altogether. Any measure ... which helps tenants to distinguish between the majority of law-abiding and decent landlords and those landlords who bring the sector into disrepute is to be welcomed”.

I agree with her, but it is a shame that this regulation will not help tenants to make that choice as they are prevented from having access to the secret list.

We all want both tenants and landlords to operate within a set of rules where a clean, safe, dry property, which meets all its obligations under the law, is offered for rent and where tenants accordingly pay the rent due to the landlord. The rogue landlords and property agents database deals with the small number of landlords and property agents who flout their obligations and the rules, and who rent out substandard accommodation, often to vulnerable tenants. This is accepted in paragraph 7.1 on page 2 of the Explanatory Memorandum that accompanies these regulations. The memorandum goes on to say that the Government are, “determined to crack down on these landlords and disrupt their business model”.

I respectfully suggest to the noble Lord, Lord Bourne of Aberystwyth, that disrupting their business model would be a lot easier to achieve if their customers knew they were on this list. However, this database is secret and only to be accessed by the Government and local authorities.

Who are we protecting with this inadequate regulation? These could be landlords who have been convicted of certain offences, or made the subject of banning orders for matters such as illegally evicting and harassing tenants; using violence to enter a property; failing to comply with improvement notices; failing to adhere to houses in multiple occupation regulations; failing to adhere to an overcrowding notice; providing false or misleading information; or other similar offences. I was interested to read the letter from the noble Lord, Lord Bourne of Aberystwyth, to all Members of this House on 6 April 2018. It gives some useful information, but for me the most interesting paragraph was the last but one and I will read part of it. It says:

“Currently, the legislation does not allow for information on the database to be shared more widely. However, I am strongly committed to supporting tenant choice and my department is exploring a range of options to make the information on the database publicly available. This would enable prospective tenants and others to check whether a landlord or agent has been subject to enforcement action. This may require primary legislation. In the meantime, we are encouraging local authorities to publish information drawn from their own records about landlords and property agents who have been banned, convicted of relevant criminal offences, or have received a civil penalty. We have also encouraged them to make this information available to tenants who request it”.

I suppose that is progress of a sort but it is a mess. Tenants are prevented in law from having access to this database but we encourage local authorities to publish a separate list about such landlords and property agents. It is a real dog’s breakfast and I can see local authorities being very wary of doing that unless they have a specific instruction to do so. It could have been so different. My noble friends Lord Beecham and Lady Hollis of Heigham, the noble Lords, Lord Best, Lord Kerlake and Lord Shipley, the noble Baronesses, Lady Grender and Lady Bakewell of Hardington Mandeville, and many other noble Lords will recall the debates in January, February, March and April 2016. The Government were not listening and there were late night sittings. On 11 April 2016, the noble Baroness, Lady Bakewell, moved an amendment to allow tenants access to this information. I also spoke in support but in her response, the noble Baroness, Lady Evans of Bowes Park—who is now the Leader of the House—said:

“Indeed, allowing such access to the database would arguably breach the landlord’s human rights by making sensitive personal information about their convictions publicly available and effectively banning them from operating without an independent tribunal determining whether they should be banned”.—[*Official Report*, 11/4/16; col. 82.]

This line of defence was revised when this House gave a Second Reading to the Renters’ Rights Bill, introduced by the noble Baroness, Lady Grender. It proposed, among other things, the right for tenants to have access to the database of rogue landlords and property agents. On 10 June 2016, in response to the debate, the noble Viscount, Lord Younger of Leckie, said:

“Giving tenants or potential tenants access to the database might be fine if the purpose of the database was to blacklist landlords and drive them out of business. However, that is not the

[LORD KENNEDY OF SOUTHWARK]

purpose of the database. Where a landlord should not be in business, the local authority should apply for a banning order".— [Official Report, 10/6/16; col. 985.]

Taking the letter written by the noble Lord, Lord Bourne; the comments of the noble Baroness, Lady Evans of Bowes Park, on 11 April 2016 when the Bill was going through Parliament; and the comments of the noble Viscount, Lord Younger of Leckie, on 10 June 2016, responding to an attempt to make this database public, it is not unreasonable to suggest that the Government are in a complete mess on this issue with contradictory positions: it is as clear as mud. I can see local authorities being very wary and wanting more clarity on the issues before publishing anything.

I have a number of questions for the noble Lord. Is he aware that the Private Rented Sector Partnership Board, which comprises the Association of Residential Letting Agents, Countrywide, the National Landlords Association, the Nationwide Building Society, the Nationwide Foundation and Shelter, believes that organisations and businesses operating in the private rented sector should have access to the Government's rogue landlord and lettings agent database? Does he accept that, from what I have highlighted from his letter, and the comments of the noble Baroness, Lady Evans of Bowes Park, and the noble Viscount, Lord Younger of Leckie, that the Government need to get their act together and provide clarity on the situation? Will his department be following up his letter to Members of this House with a letter to all local authority leaders and chief executives, making it clear that local authorities can publish information on rogue landlords and letting agents drawn from their own information and that the Government are encouraging them to do just that? What discussions have the Government had with tenants' bodies and tenant advice organisations about how they could use the database to help local authorities identify rogue landlords and target their enforcement work?

In conclusion, I hope I have highlighted that the situation we find ourselves in is far from ideal and that it would be right for the House to express its regret. I beg to move.

Lord Shipley (LD): My Lords, I remind the House that I am a vice-president of the Local Government Association. I support the intentions of the Motion in the name of the noble Lord, Lord Kennedy. I am grateful to the Minister for his letter of 6 April in which he updated us on the introduction of a database of rogue landlords and property agents, together with the powers being introduced to enable serious and prolific offenders to be banned from operating. I welcome these steps. They are proportionate, legitimate and in the public interest.

However, these changes have taken a while—indeed too long—to reach this stage and I remain concerned that the support from these Benches for an open register of rogue landlords has yet to bear fruit. The letter from the Minister says specifically that his department is,

"exploring a range of options to make the information on the database publicly available".

Can he tell us what that range of options is, the nature of the consultation and when the exploration will become a decision? I also noted doubt in the Minister's letter as to whether primary legislation was required. The noble Lord, Lord Kennedy, mentioned this; I am surprised that it is not already known. Could the Minister clarify why the department is not clear on this matter? It seems a straightforward issue to give a clear answer on.

The Government are to give local authorities the right to publish information drawn from their own records about banned or convicted landlords or property agents and those who have received a civil penalty. But the nature of that publication is not clear. It seems it can be made available to individual tenants—and presumably, therefore, to prospective tenants, although that is not actually stated. I will give the Minister an example of a problem that might well arise in the functioning of this scheme. A prospective tenant wishes to know from the local authority in which their tenancy will be held whether the landlord is a rogue landlord. It is possible that the landlord is not a rogue landlord in that local authority, but it is equally possible that they are a rogue landlord in a neighbouring authority for the reason that a landlord may own properties in more than one local authority. Will that status in a neighbouring local authority be made available to the prospective tenant and will the local authority be permitted to add to its own register and publish details of those rogue landlords who reside in another area? Or will a rogue landlord in one local authority automatically become a rogue landlord in every other local authority in the country?

The Government have an improving record in some areas of private tenant protection. I cite as an example proposals on client protection moneys and progress in the proposal to ban letting fees. However, it is extraordinarily slow, and I have not understood why. However, mandatory electrical safety checks need to be done, and nothing seems to be happening there. Despite the progress being made, rogue landlords remain a big issue. After a great deal of thought I have concluded that, to be effective, a register has to be transparent and open but it also needs to be correct. For that reason, all local authorities need to follow the same clear procedures. What is stopping the Government proceeding on that basis, creating an open register that is publicly available? That seems the only way to protect tenants and prospective tenants.

Many good landlords fully understand the importance of high standards. As the noble Lord, Lord Kennedy of Southwark, pointed out, there is huge support among residential landlords for effective policies which deliver solutions in protecting tenants to be delivered. However, although some of the improvements the Government have made are welcome, much more needs to be done to ensure that prospective tenants and tenants are properly protected.

Baroness Gardner of Parkes (Con): My Lords, I support the principle behind this Motion, but the issue is wider than this. The Government are extraordinarily reluctant to have dealings with local authorities. I declare my interest in the register as a landlord of two flats in a block which is absolutely under threat from

holiday lets, and the local authority can do nothing because powers have been taken away from it. There is some reluctance to give power back to local authorities. They need it; they are the people who are closest on the ground. They were able to charge a fee for registration, and, under that, they were able then to check whether your property was correctly detailed as regards the certificates referred to by the noble Lord, Lord Shipley—the gas and electricity certificates and others that are required. For some reason, the Government just do not want to do this. I do not know why, when it is having such a disastrous effect on so many parts of the country.

No one wants to see things going wrong for people who are good landlords. But, when I was helping in the case of a homeless person earlier this year, I am sure that I told your Lordships' House at the time how people were willing to offer her accommodation in houses of multiple occupation, provided she never told anyone she was there—because they were illegal and were not registered. Indeed, she was evicted because she had had the police in because her things were being stolen, and immediately the landlord had threatened her physically and she had to get out in a hurry—the police said, “You're at risk there”.

She was then homeless and had to go wherever she could. She went to hostels, where sometimes at night she would be in such a bad way that the doctor would say, “All those marks you've got on you are from bed bugs. You mustn't go back there again”. It really is a most disastrous situation for so many people. When local authorities were able to charge a fee for you to register, it just about covered their expenses in carrying out any necessary checks. Philip Hammond has announced that he wants people to pay tax on these illegal rents—and of course they should, because it is totally disproportionate for someone to collect in some cases a heap of money for an ill-used and unprepared place.

The whole principle has to be much wider. Although I welcome what the noble Lord, Lord Kennedy, said, I would not support him at this stage because I hope for much more. It is time the Government woke up to the fact that they have wonderful people available in local authorities. Some local authorities also work together, which again could cover the point made by the noble Lord, Lord Shipley, about the adjoining or some other local authority. So the structure is there; it is just that the Government are for some reason reluctant to adopt it. I support the principle behind the Motion.

Baroness Greener (LD): My Lords, I thank the noble Lord, Lord Kennedy, for bringing forward this regret Motion. We share his deep frustration that this legislation is not already in place—if indeed legislation is necessary. In every possible debate on this issue, during the passage of what became the Housing and Planning Act 2016, during the passage of my Private Member's Bill on tenants' rights in 2016, and in numerous other debates, the case was clearly made. Tenants should have the right to know if their landlord, or possible future landlord, is on the database of rogue landlords and property agents. But every time the argument from the Government was against, primarily on the grounds of data issues. On some of these

occasions it was about economics and once, as the noble Lord, Lord Kennedy, pointed out, it was a human rights issue.

If any of the amendments on this issue in the Housing and Planning Act 2016 had been accepted by the Government, as they should have been at the time, or if they had been accepted in my Private Member's Bill, we would not be having this debate now. So when the Minister explained in his letter dated 6 April 2018 that the Ministry of Housing, Communities and Local Government is now exploring options when there were so many chances before, it seems extraordinary.

While I welcome this change of heart, I fear that this will be another lengthy process—and, frankly, tenants have waited long enough. I have two other examples of where tenants have been waiting for too long. First, there is the lettings fee ban, which I was delighted came in in the Autumn Statement after my Private Member's Bill—but that was in autumn 2016. The pace is so slow that it is predicted that it will not reach the statute book until the spring of 2019. The electrical safety working group finished its work in 2016 and reached the conclusion that mandatory checks should be introduced. That is another example of where tenants are having to wait so long for any results. Today's report from the Resolution Foundation makes it clear that whether they are young or old, or with or without children, the number of people who rent and will be renting for the whole of their life is increasing. Indeed, it says that one in three millennials will never own at all.

So the time is now to treat tenants as valued consumers in society. A vast majority—nearly 80%—pay their rent in full and on time. However, as we know from the efforts being made by the noble Lord, Lord Bird, in his Private Member's Bill on creditworthiness, they continue to be treated almost as second-class citizens in the UK. Even when it comes to a simple thing such as buying something on credit, they are given a much higher interest rate.

6.30 pm

Therefore, as welcome as this change is, I would like to hear from the Minister today why it is being made now. The argument was made clearly and we had long debates about this. What has changed the Government's mind, and when did they realise that they had got it wrong? We welcome the fact that they have recognised that they got it wrong, but we would like to know why they have changed their mind now rather than when there was a chance to put this into legislation, either in my Private Member's Bill or in the Housing and Planning Act 2016. If it is down to the present Minister and he has managed to persuade his colleagues to change their mind, we would love to hear about that as well.

This is not about impatience on these Benches or on this side of the House; it is about tenants who today, two years after the Government changed their mind on banning lettings fees, are still waiting. This means that they are still being charged arbitrary amounts by agencies, as evidenced in the Government's own research; they are still in danger of tipping into homelessness by moving to a lower rent with a high

[BARONESS GRENDER]
up-front fee; and they are still waiting for mandatory electrical checks. What is now the fast-track solution to the open register so that they can empower themselves and see for themselves whether or not to trust a landlord? The delay impacts on people who rent on a daily basis. So how are we going to move this forward at pace, given that it should have happened two years ago?

Lord Thurlow (CB): I thank the noble Lord, Lord Kennedy of Southwark, for bringing forward this regret Motion, in effect completing the unfinished business of this part of the Housing and Planning Act 2016. Although they are not toothless, I feel that the proposals as they stand are somewhat pointless. There is no direct access to the rogues' register for the public or for potential victims, and I see victims as an important part of this—those whom the register is really designed to protect.

I should declare my interests. I am the landlord of two residential flats. I am myself a tenant and I have, for 35 years, practised as a chartered surveyor in a firm that both rented out and managed properties. I feel very much in the cross-hairs of this debate, but I am pleased to report that to the best of my knowledge my firm did not deal with residential property. That said, I feel reasonably well qualified to comment.

Thinking about this regret Motion caused me to seek out reasons why one would not want to support it. I thank the House of Lords Library for its helpful and timely response to my question. I followed up its extensive leads and could find no good reasons to object to the Motion. I found not a soul arguing against transparency and openness of this data. The Act of Parliament is clearly not doing the job as intended.

There is a perceived misconception, I believe, about tenants. I am referring not to the privileged rich but to the average social or private residential tenant. There is an assumption that supply and demand applies in the usual way, but it just does not. Availability and quality do not balance the price of accommodation. There is a gross imbalance of supply, in favour of the landlord, as I am sure most of us know. Stories abound of instant queues for viewings of rented accommodation as soon as it becomes available. There is tender pricing and rental gazumping. All the cards are with the landlord and the landlord's agent. Who is going to check with the local authority register at seven o'clock in the evening, out of hours? The potential tenant has time pressure to perform. The local authority is under-resourced. Will it have an out-of-hours service? That is extremely unlikely, bearing in mind the fragile state of finances. If the bidder does not bid straightaway and make a very determined application to rent the flat concerned, the likelihood is that it will not be available in a day or two's time.

Having managed to secure agreement on the terms, the next day the bidder might apply to the local authority. If they are lucky enough to get a quick response and discover that they are dealing with a rogue landlord, what do they do? Rightly, they withdraw. However, the next time they try to rent a property that happens to be with the same firm of agents, or conceivably

with the same landlord—many are owners of very large numbers of residential properties, particularly in urban areas—they will find that they are blackballed because they are trouble-makers. No one has to say why they turn down a residential tenant. References are notoriously spurious. So perhaps there is more to it than just trying to encourage applicants to make contact with their local authority. I think that that simply makes the applicant's predicament worse.

What about landlords? I have mentioned that some control a large number of properties, and the same applies to agents. I have also mentioned the all-powerful blacklist. We should bear in mind too that, although there are organisations such as the Residential Landlords Association, the RICS and others that try to set standards of behaviour and probity in the industry, there are no barriers to entry for those wishing to become a residential letting agent. Any one of us could start tomorrow. All you need is a telephone and, preferably, a suit. It is easily done. There is no policing and no comeback unless one breaks the law. Of course, good landlords have nothing to fear. If this measure really had teeth and really worked, and the register was transparent, they might even win more market share.

What are the solutions? The noble Lord, Lord Kennedy of Southwark, referred to the helpful letter from the Minister of 6 April, but this is unfinished business—it is not clear. What is needed is unequivocal access to the list by individuals. That is supported by ARLA, the Residential Landlords Association, the Mayor of London and the London Landlord Database, but direct government action is needed—unequivocal, impartial and expeditious transparency. We heard about expeditiousness from the noble Baroness, Lady Grender.

In conclusion, I have heard that the prosecution procedure can be long and arduous, and it is expensive for local authorities, which have limited budgets. I have heard that more escape prosecution than not—that for every prosecution, 20 more avoid it. Why? Luck, lies and leniency were the reasons given, and those come from a former practitioner in that space. At the end of the day, if people do get convicted, they receive a 12-month ban or a fine. To deter rogue landlords and agents, much longer bans and bigger fines are needed, as well as much longer exposure on the rogue landlords and agents list. I support the Motion.

Lord Beecham (Lab): My Lords, I refer to my interests as a Newcastle City councillor and as a vice-president of the Local Government Association.

I have just checked the definition of a rogue landlord, which was given by the noble Baroness, Lady Williams, during a debate on the Housing and Planning Bill. The definition she gave was:

“renting out unsafe and substandard accommodation”.—[*Official Report*, 9/2/16; col. 2136.]

Up to a point, that seems to be reasonable, but that definition would not, for example, extend to the mistreatment or abuse of a tenant by a landlord. I wonder whether the term “rogue landlord” is sufficiently descriptive of the kind of problems that many people face as tenants of properties that might be not just in poor disrepair but where other aspects are making their life a misery.

I have encountered aspects of this recently in the ward I represent in Newcastle. I have twice had to call on the local authority to contact the landlord owners of properties where a large accumulation of rubbish was left undisposed by the owners for some considerable time—these were rented properties. In one property—it was a tenanted property and therefore, I suppose, in a sense the tenant must also bear some responsibility—there was a significant problem of rats for the very elderly lady living in the rented property next door owned by the same landlord I have mentioned, who lived across the street. This lady paid Rentokil £900 to dispose of the vermin in the adjoining property. That is an extraordinary situation, and I am not sure that those conditions would necessarily invoke any of the sanctions that are sought to be imposed on the “rogue landlord”. This is not an offence in that sense. Therefore, we need to look at what the terminology purports to cover.

I want to take the matter a little further. There is a process under which authorities can have a great deal more influence on what happens in the private rented sector, through what are known as selective licensing schemes. But these are difficult to prepare. In my own ward, having asked for action to be taken, I am told that apparently it takes between two and three years to convince the department that a scheme is necessary. In some areas—I believe Newham is one and I think there are one or two other authorities—the concept has been extended across the whole local authority. That seems to me much the best approach in dealing with this issue. I hope that the Government will look again at the practice and authorise and then encourage local authorities to apply for schemes across the whole area if it deems that to be the right approach. At the moment, as I said, it is a cumbersome and difficult process.

If we are to tackle the variety of problems caused by bad landlords—whether they are rogue in the sense that the noble Baroness defined it or in a broader sense because of failure to look after their property and tenants in a proper manner—the matter should not be confined in the way that is implied by the definition that was given to this House during the passage of the Bill. I hope that, in replying to the debate, the Minister will give an indication that the Government will look again at selective licensing and will facilitate and encourage it where local authorities deem it appropriate to deal with all manner of problems caused by the inadequacy, or worse, of some landlords who seem intent only on extracting the maximum amount of money for the minimum provision.

6.45 pm

Lord Palmer of Childs Hill (LD): My Lords, from these Benches I support the Motion and see it as an extension of the legislation on client money protection agreed by this House, which I and others worked on with the noble Lord, Lord Bourne, to get it through by means of an enabling amendment. The noble Lord, Lord Thurlow, talked about someone just putting on a suit and opening a shop on the high street, but the client money protection regulations, which are just being published, mean that they cannot hold a client’s money. So things have moved on and improved. We in

this House managed to improve the situation around client money protection: why can we not do that for the issue before the House now?

The argument is straightforward: how are tenants’ rights to be protected if they do not know whether an agent or landlord is dodgy? How will they be protected? The word that has not been used in the debate so far is “enforcement”. Enforcement by local authorities is very weak. If every local authority was proactive on enforcement, and if they were allowed to be so by the law, perhaps this might not be such a big issue today. But in the real world, local authorities—strapped for cash, as mentioned by other noble Lords—have and will continue to have enforcement very low in their priorities. It is interesting to note that this could be done very easily. I do not know how many properties it has nowadays, but the GLA, which has already been mentioned, has started an open list that anyone can access.

Other noble Lords have talked about separate lists in different local authorities. Because they are separate, there will be many loopholes for the rogues. The good guys will be fine, but the rogues know how to get around this. When you leave it to local authorities, without the support of national legislation, they will be nervous about taking action against a rogue landlord because, as has been mentioned: what is a “rogue landlord”? As the noble Lord, Lord Beecham, said, there are many ways of describing a rogue landlord.

People worry about what will happen to the companies and individuals that end up on the list due to a mistake made by themselves or by staff. If they are on the list, they will have to demonstrate that they have addressed the issue and then they can come off the list.

The ability of a tenant to carry out an online search of a register to see whether their prospective landlord or agent is on the list is a must before they part with a month’s rent and a deposit, only to be scammed. The query is that only some local authorities will participate unless we make this national legislation, and therefore rogues will go under the radar. My question to the Minister is this. We managed to do this by co-operation for client money protection—I must admit I co-chaired a committee that lasted for six months—and the regulations have now been published. Why can we not do this now for this simple measure to protect tenants?

Lord Best (CB): My Lords, I declare my interests as listed on the register. I am full of regret about this statutory instrument but I want to preface my remarks by giving some credit where it is due. We have seen the exponential growth of private renting: the PRS has gone from 9% at the beginning of the 1990s to about 20% of the stock of this country now. As mentioned by the noble Baroness, Lady Grender, the report published today by the Resolution Foundation shows that an awful lot of people will rent all their lives, even those on relatively decent incomes.

Private renting has become very important and government has woken up to this fact. We have had a plethora of measures coming down the pipeline, and I welcome each of them. Enumerating them all would take some time, but they include the letting fees ban, which has already been mentioned, and compulsory client money protection, which will make a big difference

[LORD BEST]

to the world of letting and managing agents. We have also had the banning orders themselves, which are very important, never mind the publicity around them. There is the promise of a tenants' ombudsman handling complaints from tenants about their landlords. That is coming down the pipeline. Physical things such as smoke alarms are becoming compulsory on every floor and some carbon monoxide alarms are becoming compulsory. This Government have introduced a lot of important new legislative measures. When it comes to licensing, which is absolutely where we should be, local authorities should be empowered to license the landlords in their areas and collect some funds to pay for the enforcement that needs to follow.

I went on a dawn raid with Newham Council to see the things that such raids reveal—horrendous conditions. However, a licensing system could find out which properties were let in appalling conditions and who was not paying any council tax or anything to HMRC, whose representatives came on the dawn raids as well and whose teeth are sharper than anyone else's. We now have measures in place. The Government have allowed Newham to renew its licence for almost the whole of the borough and the Government are on the right track, so I preface any remarks by saying that the Government are bringing forward a whole number of measures. We may have reached the point where a consolidating Bill to bring all these things together would be rather a good idea.

However, we depend on the local authorities enforcing all these measures. I speak as the guilty person who piloted through your Lordships' House the Homelessness Reduction Bill, now an Act, and I know that that brings tremendous new burdens on local authorities in relation to the private rented sector. Local authorities have a lot on their plates, and adding more to that needs to be accompanied by the resources to really make things happen. Local authorities can rightly complain if the Government do not come up with the money to follow each of these new measures.

We have the banning orders, which are great, but we are unable to get a register of those who are banned publicised far and wide. I do not like to mention the Housing and Planning Act because it brings back some horrendous memories, but three questions are answered at the back of the guidance for local authorities, *Banning Order Offences*:

"Should local housing authorities make public banning orders for individual landlords? We would encourage local housing authorities to make successful banning orders for individual landlords public".

The guidance continues:

"Can a local authority make public a banning order for a business? Yes. Any business (managing or lettings agency) which has been subject to a banning order can be named publicly ... Should local housing authorities make information on banned landlords available on request by a tenant? Yes. We would encourage local housing authorities to make information on banned landlords available on request by a tenant".

That all sounds good but then we get this feeble statutory instrument, which seems to negate that and make it rather difficult for local authorities, who will get legal advice to be cautious about publicising these banning orders that are so important. I think the culprit, which I have dug out today, is *Publicising*

Sentencing Outcomes from the criminal justice system, which is guidance for public authorities on publicising information about individual sentencing outcomes. I suspect that the Minister is as frustrated as the rest of us that more cannot be done to achieve the publicity that this demands. I hope he will join the rest of us in voting in favour of this Motion of Regret.

The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, I thank the noble Lord, Lord Kennedy of Southwark, for tabling a Motion on this important topic. I am genuinely very grateful to him for doing so because it has given us an opportunity to revisit this area and give some publicity, I hope, to where we are. I am grateful for the contributions that have been made by noble Lords. I will first try to set out our current position and then take up some of the points made by noble Lords and answer where we hope to go. I share some of the frustration that it sometimes appears that we are moving very slowly. I understand what the noble Baroness, Lady Grender, means, and I pay tribute to what she has done on letting agents. It is frustrating for Ministers too, on occasion, but of course there is a process to follow.

The Government value the private rented sector. It is an increasingly important part of our housing market, as was said by many noble Lords, most recently by the noble Lord, Lord Best. As the noble Lord, Lord Kennedy, said in setting out the case, the sector has doubled in size over the past decade and now provides a home for 20% of the population in England, which is approximately 4.7 million households. It is significant.

As has been acknowledged, the overwhelming majority of landlords in the private rented sector provide decent and well-maintained homes. Standards have improved rapidly with the proportion of tenants living in non-decent housing falling from 47% in 2006 to 27% in 2015. In addition, 82% of private renters are satisfied with their accommodation and stay in their homes for an average of just over four years. The Government want to support good landlords. That point has been widely acknowledged.

However, a number of rogue landlords knowingly rent out accommodation which is unsafe and substandard. Overcrowded and poor-quality housing has a wider impact on the local community as it can result in excess noise, increased demand on local services such as waste collection, and anti-social behaviour generally, as well as the dreadful impact that it has on the individuals who live in those premises. These landlords and property agents often do not respond to legitimate complaints made by tenants. Some would even prefer to be prosecuted rather than maintain their properties to a decent standard. These practices damage the reputation of the sector and have no place in modern Britain. We are determined to force rogue landlords out of the rental market. This Government have a strong track record in cracking down on rogues and driving up standards in the sector.

I thank the noble Lord, Lord Palmer of Childs Hill, for the cross-party working that we have had across the Floor with all noble Lords in this House and in the other place. I am happy to commit to

continue that. In the plethora of measures referred to by the noble Lord, Lord Best, we have had considerable support from around the House and joint action to get us into a better position. We have introduced a package of measures to tackle rogue landlords. This includes civil penalties of up to £30,000, rent repayment orders under which a landlord can be required to repay up to 12 months' rent, banning orders for the most serious and prolific offenders and a database of rogue landlords and property agents.

The noble Lord, Lord Beecham, asked about the definition of a rogue landlord. I will pick that up more specifically in correspondence, but I assure him that banning order offences include many of the things that he referred to. For example, the Rentokil situation would be covered by an improvement notice. If he would like to give me details of that case, I will gladly have a look at it. It also includes criminal damage and eviction. In short, I think that the definition he quoted does not cover quite a few situations that are banning order offences. I will cover that more generally in a letter to noble Lords, if I may.

Evidence on the effectiveness of these new powers is anecdotal, but we know that many local authorities have used the new powers that came in last year very effectively. Torbay Council, for example, used revenue from civil penalties to fund additional enforcement staff, which is a sensible move. We provided £12 million between 2011 and 2016 to over 60 local authorities to help them tackle acute and complex problems with rogue landlords. I have seen some of those issues myself as I have gone around the country. I know that they exist and I know that enforcement action does happen. It has been taken against over 5,000 landlords between 2011 and 2016. That represents a significant proportion of rogue landlords active in those areas.

We have also introduced protection for tenants against retaliatory eviction in the Deregulation Act 2015, and required landlords to install smoke alarms on every floor in the Energy Act 2013, as was noted by the noble Lord, Lord Best. The tough measures that we introduced through the Housing and Planning Act 2016 enable local authorities to crack down on these rogue landlords and drive up standards in the sector.

Since April 2017, local authorities have been able to impose a civil penalty of up to £30,000 as an alternative to prosecution where a landlord has failed to comply with an improvement notice in relation to the licensing of houses in multiple occupation, contravened an overcrowding notice or failed to comply with management regulations in respect of houses in multiple occupation. Crucially, local authorities have been given the ability to step up their enforcement action by allowing them to impose the civil penalties I have mentioned.

7 pm

Alongside the introduction of financial penalties, we have extended rent repayment orders. Landlords can now be required to repay up to 12 months' rent where they have illegally evicted a tenant, used violence to secure entry to a property, breached a banning order or failed to comply with an improvement notice or prohibition order. I agree very much with what was

said in relation to Newham. Other authorities have licensing, such as Waltham Forest, but again perhaps I may cover in a letter the other authorities that do so. I agree that where appropriate this is a good way forward.

On 6 April this year, which has just gone, we brought banning orders into force. These orders target the most serious and prolific offenders who have been convicted of serious housing, immigration and other criminal offences connected with their role as landlords. Noble Lords will recall that we debated the banning order regulations on 22 January this year. Those regulations, which were subject to the affirmative procedure, specified which existing criminal offences should also be treated as banning order offences. A person subject to a banning order may be prevented from letting housing in England, engaging in English letting agency work, engaging in English property management work or a combination of these. The banning order must last for a minimum of 12 months. I think the noble Lord, Lord Thurlow, referred to it as the maximum, but there is no upper limit. As I say, 12 months is the minimum period. If a landlord breaches a banning order, they will face enforcement action which could include up to six months' imprisonment. Banning orders will prevent rogue landlords and property agents from earning income by renting out properties or engaging in letting agency or property management work.

In relation to the point about letting agencies, which again was brought up by the noble Lord, Lord Thurlow, I add that we are bringing forward controls and proposing that letting agents should have professional qualifications. As noble Lords will be aware, we are introducing minimum requirements for letting agents as well.

Moving on specifically to the database of rogue landlords and property agents which has been the subject of our discussion, the database was developed as a tool to enable local housing authorities to identify rogues and target enforcement action accordingly. It is a shared resource across all local housing authorities and enables them to pool their knowledge and information. As noble Lords will appreciate, we are unable to extend that under the present legislation. It will require a fresh look and possibly, or even probably, fresh legislation. We are considering if there is any other way of achieving this; I suspect not, but it is wise to keep the possibility open that there may be other ways of tackling the issue. The legislation specifies that access to the database is limited and, as I say, we cannot go beyond that in relation to the current position.

I am grateful to the noble Lord, Lord Kennedy of Southwark, for raising this important issue. As I have indicated, I have considerable sympathy with many of the points that he and others have raised, and in doing so, to do something that may be of value to tenants. I have to say that sometimes I suspect that they get a raw deal. Some of that is attitudinal and not anything to do with this legislation, but I accept the broader point about creditworthiness and so on, which is a point well made. I hope that our approach will alleviate that position.

Perhaps I may deal with some of the points that have been raised which I have not yet covered. The noble Lord, Lord Kennedy, asked a pertinent question

[LORD BOURNE OF ABERYSTWYTH]

about whether we would be contacting local authorities and asking them to take the view that, if they have a register, they should share the information. The answer is yes, and indeed it is a relevant point. On the consultation more broadly we will of course be speaking to tenant organisations, building societies and so on. We are keen to hear from anyone who has an interest in this area.

The noble Lord, Lord Shipley, asked how local authorities might get the information across. They could publish it on their websites, provide it on request or produce regularly updated lists. There would be a range of options, but obviously we will talk to the authorities about how that might be achieved. I thank him for his qualified support, but I accept the frustration he expressed and I hope that we can move forward now.

My noble friend Lady Gardner of Parkes understands these things and is someone who is active on behalf of tenants. Perhaps I may deal with her specific point, which I hope she will be pleased about. She made the point that local authorities do not always have enforcement powers. They have them in relation to the 90-day limit on short-term letting in London but, as I think I indicated on the last occasion that my noble friend raised this issue, Airbnb has made a proposal through the Short Term Accommodation Association to set up a partnership with Westminster Council—that may be the best way to describe it—and progress has been made. I have only recently received confirmation of that, but I will share the information with her, and I think that progress has been made in that regard. Many of the matters quite rightly raised by my noble friend were illegal acts where obviously it is an issue of enforcement. The non-payment of tax is a criminal offence, so that is something that we should be able to deal with.

The noble Baroness, Lady Grender, talked about the issue of frustration. I understand that and again I can assure her that I am open to discussing how we can move forward on these matters on a consensual basis. I think that we are at our best when we do so. We have been doing that on the letting fees ban, electrical safety and many of the issues set out by the noble Lord, Lord Best. I should reiterate the point I have made that tenants are valued consumers, in the words of the noble Baroness, and we need to put that information across.

The noble Lord, Lord Thurlow, said that the overwhelming majority of tenants are good tenants, and so they are. They are honest and trustworthy. As I say, there is a broader attitudinal problem which over a period of time may change because of the growth of those who are in the tenanted sector. Perhaps we need to put over the point that this is not second best. This is the way that many people choose to organise their housing, just as they do on the continent of Europe. I have covered the point on letting agents.

The noble Lord, Lord Beecham, raised the issue of the definition of a rogue landlord. Again, I hope that I have covered the particular points he made. He also referred to the selective licensing scheme in Newham

and also in place elsewhere. I will try to set out some of the details in a letter and I will ensure that all noble Lords who have participated in this debate receive a copy.

I thank the noble Lord, Lord Palmer of Childs Hill, for his approach on how we are working together. While there are sometimes delays, we have certainly moved forward on client money protection, and I pay tribute to the noble Lord for what he did on that issue, along with the noble Baroness, Lady Hayter of Kentish Town. She was also involved in that work.

I thank the noble Lord, Lord Best, for his words which I have taken down, “Credit where it is due”. I was very pleased to hear them, and I thank him for setting out the plethora of measures that we are engaged in. I know that sometimes it can be painstakingly slow, but it is as well to remind ourselves that we are doing things on letting agent fees, client money protection, electrical checks, smoke alarms, banning orders and the ombudsman. Of course the noble Lord, Lord Best, knows a great deal about the whole area. We are also doing work on leasehold, the minimum conditions for letting agents and so on. He referred to the Homelessness Reduction Act 2017. I should say that we are funding the new burdens that have come in with that Act. As he will know, that was very much a part of the great success we had with that legislation—due in no small measure to the work of the noble Lord in ensuring that it went through this House and became law.

As I say, I can understand the frustration, but I would urge the noble Lord, Lord Kennedy, to withdraw the Motion he has tabled, although I do that without any great expectation that he will do so. I know that he is someone who is willing to work on these issues, as indeed we have done. I think that he should acknowledge the progress that we have been making on many of these issues and give credit to the Government accordingly.

Lord Kennedy of Southwark: I thank all noble Lords who have spoken in this debate. We have heard a wide range of contributions from noble Lords with real expertise in this area and they have given us the benefit of their knowledge. I have heard nothing from the noble Lord, Lord Bourne of Aberystwyth, that changes my mind that the Government are in a real mess in this area and it is the tenants of rogue landlords and property agents who are paying the price.

It is also important to note that despite what the noble Lord, Lord Bourne, said in his letter to Peers and in his contribution to this debate, the chance of getting an opportunity to clear up another mess caused by the dreaded Housing and Planning Act is very small, given the pressure on parliamentary time. We have just finished dealing with the consequences of the Act in respect of secure tenancy for victims of domestic abuse and correcting the mistakes made in that regard.

I do not often move Motions to Regret in your Lordships’ House but I very much regret this inadequate Act and the inadequate regulations before the House. I hope noble Lords will join me in expressing disquiet about this. In conclusion, I want to test the opinion of the House.

7.10 pm

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Children and Young People: Obesity

Question for Short Debate

7.22 pm

Asked by Baroness Walmsley

To ask Her Majesty’s Government what steps they are taking to address obesity among children and young people.

Baroness Walmsley (LD): My Lords, we have a childhood obesity epidemic in this country, with disadvantaged children significantly more likely to be affected. Nearly one in four children is overweight or obese in their first year of primary school, rising to more than one in three by the time they leave. Overweight children are more likely to become overweight adults, leading to heart disease, cancer, diabetes and stroke. Issues related to diabetes are a strain on the economy and on the NHS, so we need to address this at the earliest possible opportunity, while people are young—hence this debate.

Out of the mouths of babes and sucklings come truth and wisdom, so I thought that perhaps we should hear from the children themselves. It so happens that I recently received 30 letters from children at St Joseph’s Catholic Primary School in Burnham-on-Sea. These eight and nine year-olds are very aware of the dangers of obesity, such as heart disease and diabetes—although they did not mention cancer, even though 5% of cancers are thought to have a dietary link. They are not alone, since 85% of the population is also unaware of that link.

The children have been looking into the advertising of junk food on TV and wrote to ask me to do something about it. They said that 23 children out of their class of 30 had seen more junk food adverts than healthy food adverts. Here is what William had to say:

“As everyone knows fat is bad for you and surely our kids are being poisoned by too much. Firstly we should get good foods on our plates. Secondly we need to get bad foods off our plates. Thirdly fatty foods can block your arteries. I would draw your attention to the fact that 28 out of 30 children said adverts make us want to buy garbage. Therefore we must not let unwholesome adverts on TV every day, just on Mondays and Saturdays and moreover we must show more Fit4Life adverts. My evidence to support this is only 10 out of 30 kids have seen Fit4Life adverts which is not good. In summary we must stop this advertising problem. My final point is that you are responsible”.

George agreed, but he let out a little secret:

“Isn’t it the case that people like the taste of fat and if you keep eating junk you will get heart disease? Some eat a midnight snack under the bed, not often but it is probably junk food”.

Jared was concerned about the NHS. He said:

“Surely we can help the NHS. They are having too many customers”.

He must have read the 2016 report from the Food Foundation, which claimed that the current diet-driven crisis is crippling the NHS. The report said that NHS costs associated with being overweight or obese are £6.1 billion every year and £27 billion for the wider economy.

Ryan thinks you should have a balanced diet. He said:

“My view is balance. Get rid of some junk food but not all junk food because some people like it, including me”.

The new soft drinks industry levy, commonly known as the sugar tax, came into force recently, and that is a very good thing—although the children are not fooled. They have noticed that it is limited to sugary drinks. For example, Brac said:

“I would draw your attention to hidden sugars which are found in cereal, yoghurt, bread, smoothies and pizza”.

No fool, Brac.

So, on the children’s behalf, can I ask the Minister whether the Government plan to do anything about all the other hidden sugars in our food? I must say it is very heartening to hear that so many popular drinks have been reformulated, although I am sure they would not have done it without the levy. So it is important to monitor the effects of the sugar tax, and I hope the Minister will say how they intend to do that. Will he also tell us where the money is to be spent and whether local authorities, which now have the responsibility for public health, will have a say in the matter?

The Advertising Standards Authority’s Committee of Advertising Practice is about to carry out a review of whether the rules on advertising junk food during children’s TV programmes and on non-broadcast media are right. The children and I think the rules need changing, so I hope the reviewers will take notice of their opinion. For example, Emma said:

“In my opinion adverts about junk food are taking over and I can’t help noticing that they mostly do it when children are around. Clearly people are falling for things like, if you eat these delicious golden chicken nuggets it will make you happy and if you drink this Cola, you and your brother will get along forever”.

But Lillia was not taken in. She said:

“Bad food makes you fat and ill and in the end you just die”.

Manley agreed. He said:

“Don’t eat junk. It could give you a very bad tummy ache”.

Joshua had a solution. He said:

“Isn’t it clear preventable diseases aren’t being prevented? It’s not hard to prevent them yet we don’t. It’s quite sad don’t you think?”.

He wants cheaper fruit and vegetables. The Food Foundation agrees. It recommends:

“Subsidies that favour healthy food over unhealthy food”.

The ASA said in its briefing to us at half past two this afternoon:

“Currently, the evidence shows that advertising has only a modest effect on children’s food preferences and that there are multiple and complex factors, beyond advertising, that are instrumental in childhood obesity.”

The causes are indeed complex but the children of St Joseph’s and many other experts do not agree that advertising has only a modest effect on children’s food preferences. Their letters refer to the large number of junk food adverts on TV programmes—in “family time”, not just children’s programmes—but they do agree that there are other factors. Holly says:

“Surely the Government can make a law saying there should be a limit of junk food adverts”.

But she realises that it is not just about what you eat; keeping fit is also part of the solution, and it is fun. Tommy agreed. He wants more PE lessons.

Finbar described children’s sedentary lifestyles. He said:

“It seems to me that people are starting to get more lazier by the day. As I see it people finish school or work, go home then walk to their TV or games console. And might even have their dinner there”.

Ukactive, chaired by our noble friend Lady Grey-Thompson, promotes physical activity for children. It told me that half of all seven year-olds are failing to achieve the recommended 60 minutes of physical activity per day. NHS research in 2015 found that one in five children did no sport or physical activity at school. It would help schools to plan if the Government were clearer about their long-term plans for the primary PE and sport premium. This might be the responsibility of the Department for Education, but could the Minister from the health department enlighten us? As Finbar said, physical inactivity is a major cause of childhood obesity.

The children want to know what we are going to do about it. Cancer Research UK proposes a 9 pm watershed on TV advertising of junk food. This does not require legislation; Ofcom could be instructed to act. Will the Minister comment on that? It is a decade since Ofcom’s restrictions came into effect, and in that time viewing habits have drastically changed. Evening and family programmes, shown between 7 pm and 9 pm, are now most frequently watched by children and young people, yet they are not covered by existing regulations unless the advertisement is directly aimed at children. It seems that current rules are no longer fit for purpose. The Obesity Health Alliance found that more than half of food and drink adverts shown during family viewing would be banned on children’s TV under current rules.

Your Lordships might wonder whether there is any evidence that restricting the marketing of junk food could help in the fight against childhood obesity. Well, I have good news. There is evidence from Quebec that

a ban on advertising junk food to children can work. Its strict rules since 1980 have resulted in a much lower level of child obesity there than in any other part of Canada. Will the Minister look at this evidence and act on it? Given that Public Health England advised the Government to include further advertising restrictions in the 2016 child obesity plan, perhaps the Minister will explain why the Government did not take its advice. Could he now tell the House whether they have seen the error of their ways? If so, I will be delighted to tell the children of St Joseph’s.

7.32 pm

Lord McColl of Dulwich (Con): My Lords, I thank the noble Baroness, Lady Walmsley, for initiating this important debate. I do not need to repeat all the figures that she has so ably put forward. However, I shall ask a question: how on earth did we get into this mess in the first place? It is the worst epidemic for 100 years.

Now, many of us have managed to stay the same weight for 100 years—

Baroness Jenkin of Kennington (Con): Not that many!

Lord McColl of Dulwich: I will not say “Speak for yourself”, but there are a lot of people who have managed stay the same weight.

The question is: how did they do it? They simply respected the various mechanisms that exist in the body for keeping the weight constant. What are they? They are very intriguing. One is to eat food that you have to chew. When you chew, the chewing muscles produce impulses that go to the brain telling it that you have had enough to eat. If that does not work and there is fat in the meal, when the fat goes through the stomach into the duodenum it releases a hormone that stops the stomach moving any further. We get a feeling of being full, so we stop eating. It is a very nice mechanism. Then, when the fat has been emulsified by the bile, the whole thing moves on and the stomach starts to move again.

At the end of food rationing the food industry was presented with a problem. It wanted to increase the amount of food that people ate, because we were all eating just the right amount—food rationing had sorted that one out. How was it to persuade people to eat more? The simple solution is to sabotage these beautiful mechanisms for keeping the weight constant. How did the industry do that? It demonised fat and got some unscrupulous members of the academic world to produce research that just happened to confirm its view that fat was the wrong thing. Then President Eisenhower had a heart attack and they found that what blocked his arteries was atheroma. As noble Lords will know from their Greek studies, atheroma is a Greek word meaning porridge. It might be Greek porridge, but it is not Scottish porridge, that is for sure. In fact it is not porridge at all: it is a cholesterol, fatty material. So they blamed that. Fat was demonised, so we had a low-fat diet.

The problem then was where to get the calories from, so they filled the diet up with carbohydrates. A low-fat, high-carbohydrate diet is tasteless because fat gives us a nice flavour. The food industry then faced the problem of how to get people to eat this terrible

[LORD McCOLL OF DULWICH] stuff. The answer is to pour in sugar. That makes it palatable. So was born the obesity epidemic: a low-fat, high-carbohydrate, high-sugar diet.

Then, just to make things worse, NICE said that all the calories we eat are expended on exercise. That was not true either: only a fraction of the calories we eat go on exercise. In fact, it is about a quarter. This idea that exercise is the answer to obesity led to hundreds of thousands of people pounding the pavements and roads wearing out their joints, so you had more and more joint replacements for the hip and knee. So the nonsense continued. Of course exercise is very important to general well-being and health, but not in terms of controlling weight. Then we insulted the children by calling them couch potatoes. Inactivity does not lead to obesity. Obesity leads to inactivity, but that is a different matter.

What is the answer? It is that we need an all-out campaign involving every man, woman and child, every institution, school, university and government department to try to reduce the obesity epidemic. When we were taking evidence from the experts in a recent Select Committee, we were told that all-out campaigns do not work. I pointed out that the AIDS campaign did. One of these experts said, “No it didn’t”, which surprised the Lord Speaker, Norman Fowler, because it was his campaign. It worked because he was absolutely honest and did not bother with anything politically correct. He said it as it was: “Don’t die of AIDS”; AIDS is lethal. So the campaign was successful. That is what we now need, because we owe it to our children. The obesity epidemic is killing millions and costing billions. The cure is free: eat less.

7.38 pm

Lord Addington (LD): My Lords, I thank my noble friend for bringing this debate forward. It is one we have dealt with for a while. It is also one where we can start by being a more cross-party group, because the Government have had a policy on this and they have done something. Indeed, I congratulate them. A warm waft of nostalgia came from my desk at about 2 o’clock this afternoon when I received an email telling me how we must not go too far, not to be excessive and everything else. It was from the Advertising Association. It reminded me so much of the stuff we got when we were discussing the ban on smoking. Shall we say that a record of past success seems to be being trodden by the Government here? Okay, they have not done it fast or thoroughly enough and anything else, but they seem to be taking the first few steps.

The noble Lord, Lord McColl, and I have differed slightly on the role of exercise in weight control, but he is right on one thing: a sugar-saturated diet is a great way to pile on weight. Some fizzy drinks are basically two litres of sugar-enhanced, carbonated liquid. The only way you can burn that off is by tramping across the Arctic in mid-winter, when you need that degree of sugar. I have also disagreed with the noble Lord on whether you burn up calories by rebuilding muscle after exercise, but let us not go into that now.

However, when it comes down to exercise, I ask the Government to remember one thing very clearly: the obesity epidemic is most pronounced in low-income

bits of the economy. The highest degree of exercise is seen in the high-income bits of the economy; there is a divergence there. People who stay active or who are allowed to become active have the least problems. I would suggest that this is because those on higher incomes have better opportunities to take up activity. If you play a sport regularly, you are more likely to take some control over your diet. If you have not become terribly obese in the first place, you are more likely to take up your exercise. If the cheaper foods you are buying are not laden with fat, there is a relationship. It is statistically proven that the groups who take the most exercise have the least problems—there is no real argument about that.

What can the Government do to break into this? First, they should make sure that schools and those who provide sport to school-age children receive all the support they can, so that they can get on with the process of being physically active and having a reason to maintain their weight. At the moment, there is a problem. If you are dependent on the facilities of a local authority, and that local authority has closed down parks, gyms and sports fields, you are not going to be taking any exercise, are you? You just cannot; there is not the opportunity. If you are dependent on a private gym and cannot afford it, you do not go to the gym. If you have not established that exercise pattern, you will be a very unusual person if you then take that on.

However, we have one wonderful utility that we should go back to: the amateur sports structure of this country. I know that steps have been taken and we have talked about this, but unless we encourage those links and manage to get the whole of government—education, health and local government; it takes everybody, even the Home Office, which is involved in vetting coaching staff—actively to support such groups, things will go wrong. I am afraid that was the case with the school sport partnerships, where we more or less got rid of something which at least showed signs of promise.

Why is this so important? If one has links with clubs outside, you are not dependent for your sporting activity on educational institutions. They break down linkage between the stopping of sporting activity and the ages of 16, 18 and 21, when you leave educational establishments—the age of 16 is the biggest one. So you have to get in there. All governing bodies in sports should take seriously the job of educating to keep people involved, safe and fit, and of trying to get them to engage in participatory activity. We are not talking about elite-level sportsmen here; we are talking solely about the weekend warrior, as my entire sporting career was apparently spent. Unless government finds a coherent way to encourage that, we will not be utilising this wonderful resource which is available for free and wants to be given the job. I hope that the Government will look at this to make sure that we have a coherent strategy for using those who want to help.

7.44 pm

Baroness Neville-Rolfe (Con): My Lords, this debate takes place at dinner time, which is an ideal time if I may say so. I congratulate the noble Baroness, Lady Walmsley, on gathering us all together to discuss this important area.

Obesity is a subject that I have grappled with since the early 2000s when, as a Tesco employee, I sat on the foresight obesity panel under the auspices of the business department and its Government Office for Science. This was in an era when, on the positive side, serious research and objective facts generally ruled in public policy. On the negative side, we came up with a report the most striking output of which was a vast spaghetti-style map—which I have with me if any noble Lords would like to see it afterwards. It mapped the causes and avenues of obesity, but it was so complex that it defeated the system and, perhaps as a result, gathered minimal attention.

I made a contribution later with colleagues at Tesco by introducing workplace initiatives such as free fruit and Race for Life—the noble Lord, Lord Addington, is right that mass sport is definitely a positive—and by pioneering traffic-light labels on food packaging. Indeed, broadly the same system was eventually adopted on a national basis by the then Secretary of State, my noble friend Lord Lansley. These labels are used for calorie counting, for avoiding sugar if you are diabetic, for keeping down fat if you have coronary risk and for encouraging manufacturers to reduce salt. I would be interested to hear whether the Minister knows of any evidence of the impact of this traffic-light measure, especially on the vital younger age groups that we are talking about today.

I do not want to go over the ground that others have already covered, but want to make a scientific point and a moral point. On the science of diet, there appears to be more disagreement than one might expect. Too many calories should obviously be avoided, but the relative merits, or demerits, of fat and carbohydrates seem still to be a matter of surprising disagreement—I was interested in what my noble friend Lord McColl said about low fat and sugar. My hunch as a past fan of Elizabeth David is that there is a lot to be said for the Mediterranean diet; that is, lots of fruit and vegetables, of vegetable oil and of fish. However, it would be helpful to be certain about it. These disagreements among experts are not helpful for progress.

My scientific point concerns another area, sleep, which, as it happens, did not appear specifically on our huge obesity map in 2007. There have been some serious advances in the science of sleep in recent years, but the vital point is that there is strong emerging evidence that poor, disturbed or insufficient sleep is a significant contributor to obesity, even if the precise mechanism is imperfectly understood. There are various ways to improve sleep, such as by avoiding white light and wearing a Fitbit-type device—which allows you to monitor your sleep pattern on your phone and go to bed at a more consistent time, apparently a key to success. More publicity about the advantages of better sleep patterns for weight reduction could help many who struggle with weight problems.

We have moved from a world where many people were short of food to one where, outside the most unfortunate countries such as North Korea or some in Africa, people have access to more food than is good for them. This has its own challenges. My moral point is that, whatever the scientific facts, obesity will not be tackled successfully unless those at risk can demonstrate self-control. It is no use blaming others,

food manufacturers or the fears that prevent children walking to school, as I did every day from the age of five—it was quite a long way, for our own failings. The main fault, dear Brutus, lies not in others but in ourselves. As far as young people are concerned, we need to convince them that self-control is needed to avoid obesity—and for many other desirable outcomes. This is not a convenient conclusion—it is so much easier to blame others for our own shortcomings—but it is no less valid for that and is very important in tackling the obesity epidemic among our children and young people today.

7.49 pm

Baroness Grey-Thompson (CB): My Lords, I thank the noble Baroness, Lady Walmsley, for tabling this debate this evening and I declare an interest as chair of ukactive and also as vice-president of the Local Government Association.

I warmly welcomed the Government's childhood obesity strategy when it was released. It is important to talk not just about what and how much children eat, but the impact that it then has as they grow to become adults. Of course, what we eat makes a difference, but it will be no surprise that I am going to talk about what we can do in terms of physical activity. I can perhaps answer the question of the noble Lord, Lord McColl, about maintaining weight. I know that when I was an athlete, training 12 to 15 times a week, 50 weeks a year, was very good for maintaining weight. You can eat quite a lot when you train that hard, but that is not very realistic. I know now how incredibly important physical activity is for my daily life, enabling me to push my own chair and lead an independent life.

We now have the least active generation of young people for 30 years. The fittest now would be among the least fit 30 years ago and we have a generation of children who are likely to die before their parents—nobody wants that. As noble Lords will imagine, I am a strong supporter of good-quality activity in schools, but there are 168 hours in a child's week and just two of those are devoted to physical activity. In May 2015 ukactive produced a report called *Generation Inactive* which revealed that half of children aged seven were failing to meet the CMO's 60-minute daily activity guidelines and called for Government to support head teachers to take a whole-day approach to physical activity and ensure that no child was left behind in the right to a healthy and happy childhood. An inactive childhood can shorten a child's lifespan by up to five years and lead to long-term health problems, such as type 2 diabetes and heart conditions, and those trends go into adulthood. Inactivity costs our nation £20 billion a year.

I want to draw noble Lords' attention to ActiveMiles. It is a fantastic way of getting children active. There are many different forms and I would happily facilitate a visit for anyone who would like to see it. It is incredible; it is cheap and it transforms how young people build their own confidence and behaviour, but linked to that are important lessons on healthy eating. We have to ensure that quality is a calling card of anyone wishing to work with schools and that there is a clear and consistent way through which schools can

[BARONESS GREY-THOMPSON]

identify what will and will not work for them. Shockingly, the Government spend more on childhood obesity—£27 billion a year—than on primary education, which costs £26 billion a year. Inactive habits are becoming increasingly entrenched among today's children and young people and if we do not take action now it will only get worse.

This is a complex issue. We need a holistic approach in order to improve the mental, physical and nutritional health of children nationwide. So I ask the Minister, with the soft drinks levy, while it is fantastic that a number of companies are looking to change their products, has he or his department recalculated what the figures might look like, and will he guarantee money available to schools? Can he update me on the sustainability plan for the premium beyond 2019? Research by ukactive has shown that British schoolchildren are losing 80% of fitness gained during term time through “inactive summer holidays”. These findings also demonstrate that the poorest 25% of primary school children experience a drop in their fitness levels 18 times greater than the richest 25% over the school summer holidays. That is why this summer we are running a pilot in 25 schools which will look at inactivity, but also at education, holiday hunger, learning loss, personal development and, very importantly, mental health in young people.

Finally, I would like Her Majesty's Government to consider how we measure our children. We do it in literacy and numeracy, but a slim child does not automatically mean a fit and healthy child. We should measure children's fitness. I am not talking about sticking a child on a treadmill and making them do a V_{O_2} test: I did that when I was an athlete and it is horrible. It is not about that but about actually understanding the starting point for our children. I believe that the Government should extend the national child measurement programme to measure cardiorespiratory fitness and examine data from Sport England's active lives survey, which monitors children's attitudes towards their health and fitness, in addition to the current measurement of BMI. While being informed by academic expertise and rigour, this should be developed in a way that is fun, inspiring and engaging for young people, with young people themselves central to its design, as opposed to people speaking on their behalf. That is why I was delighted that the noble Baroness, Lady Walmsley, had voices of children tonight: we need to understand what children want.

The group ukactive is currently working on a number of policies to address childhood inactivity and has recently launched a major new consultation. We will be reporting on that later in the year. It is not too late to change the opportunities that we give young people and help to produce a better life expectancy, but we have to do something now.

7.55 pm

Baroness Mone (Con): My Lords, I too congratulate the noble Baroness, Lady Walmsley, for securing this timely debate. There is much to welcome in the Government's plan to tackle childhood obesity. It is of grave concern to me that those most affected by the obesity epidemic are among the poorest in this country.

I am sure I share the belief of all noble Lords that people should not be at a higher risk of obesity and cancer just because they are on low incomes.

I grew up in the East End of Glasgow. I did not learn anything about food and nutrition until I started my business and my entrepreneurial career. I was eating really badly and put on lots of weight. My children too were eating unhealthily. Once I learned the basics of nutrition, I changed what I ate, lost tons of weight and started to work out. I became a lot happier and healthier and my children followed me. It is far too easy for people to point the finger at low-income parents and criticise them for not feeding their children properly, but I think we are putting the blame in the wrong place. When you are on the breadline, your focus is, “I just need to feed my kids”. You will reach for a tin of spaghetti hoops, pre-packed, convenient ready meals or fish fingers and oven chips, thinking that you are providing a decent meal for your kids. We put a lot of trust in manufacturers and supermarkets, believing that they are selling us food that is healthy and nutritious, but that trust is misplaced.

The fact is that the food industry, both manufacturers of processed food and supermarkets, can make billions of pounds selling high-sugar, high-salt, low-nutrition foods at cheap prices, regardless of the impact it has on childhood health. Essentially, the Government are subsidising the food industry to the tune of £5 billion-plus per year—the cost to the NHS of the obesity health epidemic. These trends, unless stopped, will cost the NHS tens of billions in the coming years. Changing behaviour around food at childhood, teaching in schools and educating parents on the dangers of what they are eating will prevent lifelong problems. We can save billions of pounds and live healthier, more productive lives.

We have been here before on many different matters of public health. We eventually banned lead from paint when we realised it was killing people—although 86 years after Australia. Wearing a seatbelt became the law when we realised that not wearing a seatbelt meant we were more likely to die in a car crash. And we put health warnings on cigarettes when we realised that smoking caused cancer, although it took 50 years to achieve this. How long do we wait to act on obesity? At what point do we accept that our food manufacturers and supermarkets are selling food that is slowly killing their customers? It must be made clearer to families that a diet of kebabs, chips, chocolate, burgers, sugary drinks and convenient ready meals does not constitute a healthy, balanced diet just because these products are sold in supermarkets and available at takeaways. We must act when less healthy foods are three times cheaper than healthy foods, and foods with red traffic light labels are 20% more likely to be on promotion.

We can change food labelling once we are out of the EU. How should we do this? First, we must apply health warnings. As the Royal Society for Public Health has advised, high-fat, salty and sugary foods, which are linked to obesity and cancer, should carry a clear health warning, as cigarettes do.

Secondly, food labelling must be simple and easy to understand. The “recycle” symbol is one of the most recognised in the world. In the same way, a positive food choice should be instantly recognisable at the

supermarket. Australia's Health Star system rates foods out of five stars. The more nutritious the food is, the more stars it gets. It is simple. If we can get a similar system, and do it right, this sort of labelling will help families make positive choices.

Change is possible. The food industry has responded amazingly to the "Blue Planet" documentary, which shifted our attitudes and practices around plastic almost overnight. Iceland is working to reduce the use of plastics in its packaging to save dolphins. It is banning palm oil in its own products to save rainforests. But what are Iceland and the other supermarkets doing to end the supply of goods that fuel childhood obesity and illness? Let us work hard in this House to challenge the food industry to make it easier for hard-pressed families to make positive food choices, by getting real about the health risks of cheap, processed foods, adding health warnings to packaging, and devising simple labelling to help families make informed choices. Together, we can end the £5 billion-plus NHS grant to the food industry, and stop this obesity epidemic now.

8.01 pm

Baroness Benjamin (LD): My Lords, I, too, congratulate my noble friend on securing this important debate and welcome the opportunity to contribute. It is not the first time—and certainly will not be the last—that I will speak on this subject, which is of tremendous importance to children today, their children and their children's children. As I always say, childhood lasts a lifetime and the effects of obesity in childhood are progressive. One-third of our children, two-thirds of adult men and just over half of adult women are overweight or obese. These statistics on obesity, physical activity and diet from the Department of Health illustrate that the UK faces a health crisis related to poor diet and inactivity.

Since 2014 the All-Party Parliamentary Group on a Fit and Healthy Childhood, which I co-chair, has published nine reports, in which we expose the extent of the child obesity epidemic and recommend ways in which policymakers might address it. As has been said, what is needed is a holistic approach, driven by a properly funded strategy and overseen by a Secretary of State with sufficient authority to ensure that changes which are absolutely necessary to policy, budgets and guidance actually happen. We want a holistic approach that involves everyone: government, industry, parents and carers, local authorities, health and education specialists, community interests, media and advertising. It is no one sector's responsibility. Unless we act collectively, we will never combat the detrimental human and economic costs of obesity, so that the UK can thrive as a properly fit, healthy and productive nation—because the effects of obesity are psychological, as well as physical.

Our all-party group welcomed the child obesity strategy in 2016, as well as the recently announced second stage of the process, in addition to other government actions such as free infant school meals—of which we were the first enthusiastic advocates—and the sugar tax. But there is so much more to do. We believe that the benefits of free school meals would be greater if they were extended to all school-age children. I ask the Minister: will this happen? Will all school-age

children receive school meals? Also, schools must be given strictly ring-fenced funding for school kitchens and properly trained catering staff. Ofsted needs to ensure that the primary sports premium money allocated to schools is actually spent on making children more active, rather than plugging other gaps in overstretched school budgets.

Measures in stage 2 of the child obesity strategy aimed at cutting the calorie content of fast food will not be effective unless they are complemented by policies to increase children's physical activity levels—not forgetting good old-fashioned play for very young children. I salute those food and drink companies that have taken advantage of the responsibility deal to make reformulation changes, such as lowering calories and removing added sugar from own-brand fruit juices and saturated fat from own-brand products.

However, I ask the Government to seize the opportunity and convene a summit with industry to see how much further we can go, building on evidence already before us to make progress, by adopting ambitious sugar, fat and calorie-reduction targets. These have already been delivered successfully on salt. The Government have said that they expect the food and drink industry to set the best example possible. Our all-party group expects the Government to now play their part and make use of their legislative powers, following due consultation with all relevant concerns. This is what many in the food and drink industry want.

I wholeheartedly support the British Society of Paediatric Dentistry, which has made such a persuasive case that children's oral health should be integral to a child obesity strategy. This includes brushing in all schools and early-years settings to reduce dental decay, pain and suffering to children and the unnecessary cost to the NHS of increased hospital admissions, mainly because of high sugar intake.

The only way to combat child obesity is by investing in every aspect of a child's life, from the portion sizes of their meals to the way their school encourages good nutrition, play and physical activity. Child obesity cannot be addressed just in nutrition classes within the national curriculum. The challenge for the Government is to be a champion for our children by turning the arguments that have been highlighted into policy and acting now. Some might say this smacks of a nanny state but surely the duty of the state is to safeguard the nation's health and well-being.

I pledge that my All-Party Parliamentary Group on a Fit and Healthy Childhood will support all strategies that aim to defeat the scourge of obesity as part of a holistic plan that secures our children the healthiest foundation on which to build their lives. I look forward to hearing the Minister's response.

8.07 pm

Lord Balfe (Con): My Lords, I thank the noble Baroness, Lady Walmsley, for initiating this debate. I declare my interest in the register as president of the British Dietetic Association, which is the TUC-affiliated union that organises the 10,000 dieticians who work mainly in the National Health Service, and which is looking forward to meeting the noble Baroness, Lady Walmsley, whom it has invited to meet it.

[LORD BALFE]

I mention in passing that the biggest problem faced by dieticians is malnutrition among the elderly, a group that is often forgotten, but we welcome the government strategy on childhood obesity, published in August 2016, particularly the action to reduce sugar intake, such as the recently introduced sugar tax, and the guidance on the reformulation of high-sugar foods and calorie-reduction programmes.

I do not want to rain on the parade, as they say, but I would like to add a bit of context to the debate. The numbers are often misinterpreted. We often hear the fact that 65% of men and 58% of women are overweight or obese. That is because we like to confuse “overweight” and “obese”. They are two very different things. Only 27% of those people actually have a BMI in excess of 30—and, as the noble Lord, Lord McColl, will tell you, it is your weight, not your BMI, that matters anyway. But it is also notable that of the children who were obese, 48% of their mothers and 43% of their fathers said that their child was “about the right weight”, so it is not necessarily identified by the carers that they are obese.

I would like next to mention something from the Minister’s own department. The Minister has had a varied ride at my hands but tonight he might actually be pleased because in 2016, his department produced and published a study done by the Office for National Statistics. I am very fond of the Office for National Statistics, which often comes out with things that are rather controversial but generally held to be true. Let me read what it had to say about childhood obesity. It said:

“Compared with the general increase in childhood obesity from 1995 to 2005, the obesity rate has subsequently levelled off. The prevalence of childhood obesity has varied little in recent years. This is consistent with international evidence that childhood obesity rates in developed countries are stabilising and that they may be declining”.

That is our Office for National Statistics, which generally gets it right. Even for parents, while there has been a gradual drift upwards, it said that,

“the trajectory of overweight and obesity has plateaued, as there has not been a statistically significant increase since 2010”.

Those are ONS figures in an ONS report published by the Minister’s own department, so I am just saying that we need to keep it in context.

That does not mean to say that we do nothing because clearly there are problems and we need to address them. In particular, and I rely on the British Dietetic Association for this as my own family experience is somewhat out of date, there is the promotion of breast-feeding. Dieticians have much evidence that this has a protective effect against obesity and cardiovascular disease in later life; therefore, the BDA strongly recommends that HMG’s obesity strategy should include initiatives to promote and encourage breast-feeding. I am sure that that is correct.

We also look for strong controls on the promotion, marketing and advertising of unhealthy food and drink, with particular attention given to limiting price promotions. These are apparently much more prevalent in the UK than in other European countries. Public Health England has shown that price promotions increase the amount that people buy by around 20%,

and the amount of sugar purchased as part of these foods by around 6%. There is also a school of thought, supported by the BDA, that advertising should be restricted until after the 9 pm watershed. I take the point about leaving the EU but Scandinavia has a pricing policy which basically forbids predatory pricing. In other words if something is 200 grams in weight, it should cost twice as much as something that weighs 100 grams and not one and a half times as much. That policy could be introduced.

There is no magic bullet in this area. There clearly is a strong link between poverty and obesity. Twice as many children in the lowest 20% are obese as in the highest 20% and we look to address this. What I am saying is that if we can keep the problem in perspective, we might find solutions. If we constantly look for high numbers that look good on the front of newspapers, the likelihood is that we will not solve the problem but go away, throw our hands up in horror and say, “It’s too big for us to do anything about”. Within reason, we have a chance of solving this problem and moving forward.

8.13 pm

Baroness Jenkin of Kennington: My Lords, some 18 months ago I was asked by the Centre for Social Justice to chair its working group, which last December produced a report entitled *Off the Scales: Tackling England’s Childhood Obesity Crisis*. I urge noble Lords who are interested to take a look at that report, or at least its summary and recommendations. I for one would have liked to go further but the stresses between representatives of the food industry and food campaigners on the committee proved challenging, to say the least.

The topic might not seem a natural fit for the Centre for Social Justice but, as other noble Lords have mentioned, it is clearly a matter of social justice. By the age of five, children in poverty are twice as likely to be obese as their least deprived peers and by the age of 11 they are three times as likely. Children living in poverty are more likely not only to be obese but to experience a combination of acute social problems over their lifetime. Other identified barriers to families in deprived areas living a healthy life—in practice, healthy behaviours—include being more likely to live in an area with more takeaway and fast-food outlets, more likely to live in poor, unsuitable or overcrowded housing, and more likely to experience a combination of family breakdown, stress, mental health issues and financial problems. They are more likely to be judged and negatively influenced by social disapproval of their deprivation and obesity. These conditions make it challenging for families in poverty to practise healthy behaviours and difficult for policymakers to know where to begin, especially when education and awareness are not enough.

Since we started working on the report, further evidence and a plethora of similar reports have emerged on a regular basis. This includes one reported today from the University of Warwick about lack of sleep leading to obesity, as my noble friend Lady Neville-Rolfe mentioned. Not only is our children’s health at serious risk but our health service and our country is, too.

No child wants to be fat. I was a chubby child and a plump adult until I lost 28 pounds around seven years ago—and having put half of that back on again, I know just how difficult it is to lose weight and keep it off. I came to this subject and report not as an expert, but as a lay person who simply could not stand by and let things get any worse. We all know that living in an obesogenic society means that it is hard for most of us to resist temptation and maintain a healthy weight but it is especially hard for those living in poverty, whose choices are limited by circumstance.

During the process of writing our report, we came to understand how it is that no country around the world has been able to reverse its obesity trend on a national scale, although I urge the Government to look carefully at the work being done in Amsterdam through a city-wide, whole-systems programme that has kids weighed regularly and tested for balance and agility. I have visited the programme, and I think the Health Select Committee in the other place is going in the next few weeks. It is early days but, thanks to the deputy mayor's political commitment, the city's numbers are improving, showing a 12% drop in obesity over a three-year period and even more in the poorer areas. The case study of the Amsterdam healthy weight programme demonstrates the power that political leadership can have in bringing people together, seeking change and driving it through.

I do not underestimate the political courage needed to make that change and to take on many vested interests, but although childhood obesity is a complex and contentious issue, it is not impossible to address. Many key steps have already been taken. The childhood obesity plan is a welcome start to the conversation, and much good work is already being done across England by local authorities, charities, NGOs and universities among others. However, the system is fragmented. Without a joined-up approach, these efforts are at risk of being eclipsed by the growing scale of the epidemic. It requires robust and persuasive political leadership, cross-party and cross-sector commitment, a long-term vision, a whole-systems and targeted approach and consistent monitoring and evaluation.

I am lucky enough to spend many of my weekends with two great-nephews aged two and four. They run everywhere. Children are designed to run. You do not see small children walking. I would like to have the opportunity to talk about the daily mile, which fits in with what the noble Baroness, Lady Grey-Thompson, and the noble Lord, Lord Addington, were talking about, but time is short. Today you are sadly more likely to see children strapped into buggies for hours on end, in front of a tablet with a bottle of sugary, teeth-rotting juice and a sausage roll—sometimes called a Greggs dummy—to keep them quiet. The average child eats its own weight in sugar every year. Those kids simply do not stand a chance.

People think that being overweight is an abnormal response to a normal environment. That is not true at all. It is a normal response to an abnormal environment. Political will is needed to effect the change we so desperately need. I urge the Government to be bold, and I look forward to the Minister saying, “We can, and we must, end childhood obesity”. We really have no other choice.

8.19 pm

Lord Berkeley of Knighton (CB): My Lords, I am very grateful to be allowed to speak briefly in the gap. What I wish to say extends and amplifies what other noble Lords have said. In the area on the border between mid-Wales and England where I spend a lot of time, I have noticed that the provision of leisure centres is crucial to families, especially less privileged families who can take children to learn to swim. We know that swimming is a very fine way of keeping fit, but it is also important that children are able to swim. My question to the Minister is simply this: does he feel that the provision of leisure centres is important in the Government's fight to prevent childhood obesity?

8.20 pm

Lord Storey (LD): My Lords, I, too, thank my noble friend Lady Walmsley for initiating this debate. It is interesting that in today's press there are a number of articles on childhood obesity, including one on teaching pupils how to be healthy parents and one, which the noble Baroness, Lady Grey-Thompson, mentioned, on how sleep deprivation increases the risk of childhood obesity.

It is with considerable sadness that I rise to speak in this debate. In a perfect world such a debate would not be necessary. In a perfect world we would certainly not be discussing child obesity in England when in too many other countries children and young people are literally starving to death.

One of the most disappointing and weakest documents produced by this Government recently was *Childhood Obesity: A Plan for Action*, which was published in August 2016. It had been seriously diluted from what we had expected and had few teeth. It had that in common with too many children, who have few, if any, teeth left but far too many pounds—in weight, of course.

While we must do all that we can to educate children about eating proper meals, not snacking continuously, not drinking fizzy drinks and taking proper exercise, we cannot just leave it to children to make the right choices. From birth it is parents who set eating patterns for their children: patterns that can be in stone—not weight—at a very young age. If parents are not well informed about eating habits and exercise, how can they ensure that their children are neither overweight nor minus their teeth?

In addition to making sure that parents are properly educated, we should recognise that there are a number of other key influencers whose interest seems to lie in developing unhealthy eating habits purely for profit. How many of us have heard young children demanding the chocolate that is placed conveniently at trolley height at supermarket checkouts, or the bargain chocolate bars that are always on the counter in major newsagents? Can anyone have escaped those adverts for a fast-food chain that encourage you to play Monopoly to win a bigger burger? I assume Park Lane is a Big Mac slathered with tomato ketchup. How many big bags of fries do you have to eat to get an Xbox, which will ensure that you eat more chips while becoming more of a couch potato? I still have horrible memories of children in my family demanding another Happy Meal so they could collect yet another plastic figure.

[LORD STOREY]

By the time children get to school, the die—I use the term advisedly—is already cast. Running round the playing field and having your lunchbox inspected will have little effect if you have spent your early years consolidating a junk food diet. Too many young children's diets are totally lacking in fresh fruit or fresh vegetables, and the chicken and fish will be covered in breadcrumbs and deeply fried.

Coincidentally, a series of papers was published today in the *Lancet*, dealing with nutrition and lifestyle in the pre-conception period and its importance for future health. To quote from the introduction:

“This Series ... makes the case for preconception health as a key determinant of pregnancy success and next generation health”. Earlier today I was in touch with Professor Judith Stephenson of the UCL Institute for Women's Health, the lead author of the *Lancet* papers, who said:

“Mothers (and fathers) who have a healthy weight before becoming pregnant have smoother pregnancies and healthier children. Across the globe, obesity and poor nutrition are rife, but maternal motivation to improve health in the period before conception can be very strong. We call for better resources and leadership at all levels to help women achieve a healthy weight for the benefit of all family members”.

Keith Godfrey, professor of human development at the University of Southampton, said:

“Socioeconomic disparities are hugely concerning in the child obesity epidemic and scientific evidence points to more than 80% of these disparities arising around conception through parental smoking and obesity. Engaging with children and teenagers to promote preparation for healthy parenthood offers a real opportunity to reverse one of the most pressing problems of our time. If we grasp the opportunities in schools and communities we can improve the health of the next and future generations”.

If we start early enough and develop the principles and practice of healthy eating, the next generation will at least inherit a better lifestyle from their parents—an inheritance that is of course tax free. The obesity strategy that we expected was in fact a plan of action that in all honesty looks more like a plan of inaction. As we have heard today, there is an abundance of evidence about the extent of child obesity and its causes. The noble Baroness, Lady Mone, is right: we need to ensure that parents are educated. Sure Start centres are one way of educating young parents about the importance of a healthy diet for young children as they grow up. With 1,000 children's centres gone, how many hundreds of thousands of young mothers, fathers and young children have not benefited from such advice?

We need a proper government-wide strategy that takes a co-ordinated approach to tackling obesity. A bit of education here, a bit of sugar tax there and a bit of preventive health now and again is not the answer. We need to look at some key factors. I am sure that if we do that we will see a real change.

I will end on the question of teeth. I am sure that the Health Minister is concerned about pressures on the National Health Service. We know that one-quarter of five year-olds get tooth decay and that 90% of that is preventable—nearly 26,000 young people being admitted to hospital. So I have three questions for the Minister. First, why do we not bring back dental inspections in schools? Secondly, when are we going to get the assessment on children's centres? Thirdly, does he not think that we should go back to the days of two hours of timetabled sport in primary education?

8.27 pm

Baroness Thornton (Lab): My Lords, I thank the noble Baroness, Lady Walmsley, for initiating this debate and for her patience—she has got it at last. I thank all noble Lords for their contributions, and I thank the many organisations that have sent us briefings about this important subject: the LGA, the BMA, Diabetes UK, Cancer Research UK, the Faculty of Dental Surgery, the Daily Mile and the Obesity Health Alliance. As other noble Lords have mentioned, we also received one late today from the Advertising Association, which seemed to make the argument that there is no need to have a ban on high-fat, salt and sugar advertising before the watershed at 9 pm because there is no evidence that it would have any impact. As someone who proposed a Private Member's Bill about 10 years ago saying exactly the opposite to that, I am afraid that, like the noble Baroness, I was not in sympathy with that argument. I am sorry if I have left anyone out of the thanks for all the briefings that we have received. This amount of interest seems to be a sign that people recognise that there is a health emergency that our children and young people face.

The House of Commons Select Committee March 2017 follow-up to its 2015 report tracked the action, or inaction, of government in tackling the problem of child obesity. It commented on the Government's child obesity plan that was published in 2016, which, like many noble Lords here, we found disappointingly modest, given the proposals of the 2015 Select Committee. It showed a lack of urgency that I am afraid is still apparent.

I am not going to repeat all the facts that many noble Lords have mentioned, but the fact that 30% of our children are overweight or obese and many will remain that way into adulthood is not good. And yet, in 2016 UNICEF estimated that 10% of children in the UK are living in severe food insecurity, which means that they do not have enough to eat. Frank Field's *Hungry Holidays* report estimated that as many as 3 million children could be at risk of going hungry over the school holidays. I am sure that your Lordships will recall that at a recent teachers' conference we heard reports of grey-faced hungry children turning up at school who cannot learn because they have not eaten.

Food poverty and obesity coexist in some of our most deprived communities. Children living in the most deprived areas are more than twice as likely to be affected by obesity as those living in the least deprived areas. Families from deprived communities have the poorest diets, as noble Lords have mentioned, high in saturated fat and low in fruit, vegetables and fibre.

Can the Minister assure the House that the Government are taking a comprehensive approach to this issue, which is also about how to support parents to make the right choices, the right decisions? It is about ensuring that children can still have access to free school lunches. It is about looking at how families can afford decent food. As the noble Lord, Lord Storey, said, it is about Sure Start centres, it is about providing support in the communities where children are most at risk. If I may add, it is also about not selling off school playgrounds.

I was struck by the briefing we received from the LGA, because since the responsibility for delivering public health transferred to councils in 2015, local government has spent more than £1 billion tackling child and adult obesity and physical inactivity. Against a backdrop of reductions to the public health budget, councils report a 50% increase in spend in the years between 2013 and 2017 on childhood obesity and a 60% increase on childhood physical inactivity in the same period.

Surely it is counterproductive to continue to cut public health budgets in this context. Public Health England's sugar reduction programme should be extended to include salt, saturated fat and overall calories. Is the Minister prepared to ensure that compliance with these targets should be regularly monitored and backed by meaningful sanctions for companies failing to make progress?

As many noble Lords have mentioned, the Government should close existing loopholes to restrict children's exposure to junk food marketing across all the media to which they are exposed. The rules currently apply to only 26% of children's viewing times and still allow adverts for food and drink high in fat, sugar and salt to be shown during family viewing time—between 6 and 9 pm—when the number of children watching TV is at its highest. These rules are failing to protect our children. They deserve to be protected from exposure to adverts for food and drink that we know can influence their food preferences, choices and intake.

The noble Baroness, Lady Mone, made a great speech about what needs to be done, but the point about her analogy with seatbelt usage is that we needed legal compulsion to make people wear seatbelts because they would not do it voluntarily and the car industry was not going to install them unless the law made it comply. If we are to follow that analogy, perhaps some lessons need to be learned about compulsion.

We need a comprehensive strategy that tackles all those issues. If we fail to have that, we fail a generation of children and young people, to great personal cost to them and great public cost. The noble Baroness, Lady Jenkin, hit the nail on the head when she said that political leadership is what is required.

8.33 pm

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord O'Shaughnessy) (Con): My Lords, I start by congratulating the noble Baroness, Lady Walmsley, not only on securing the debate but on opening it in a way I had not previously experienced—through the voices of children. I must say that if every debate started that way, this would be both a happier place and a more informative one. I genuinely thank her for the approach that she has taken and the time that she obviously took with those children. I thank all noble Lords for their, as ever, wise and challenging contributions and will attempt to answer as many questions as I can.

I do not disagree with the characterisation of what we are discussing as an epidemic, because childhood obesity is undoubtedly one of our top public health challenges. We have heard some data about the prevalence rates, but the simple fact is that a quarter of children entering primary school start off overweight or obese—I

am conscious of the distinction that my noble friend Lord Balfe makes—but that rises to a third by the time they leave. Something is happening during those years. There is also a generational aspect to this. Cancer Research UK has shown that the millennial generation is on course to be the most overweight in history. Given the lack of housing and other things they are grappling with, we must address this issue.

As my noble friend Lord Balfe said, there is some encouragement and hope in the plateauing of obesity rates: it is not a cause for despair. However, the evidence shows that, as several noble Lords have mentioned, there is a deprivation gap and this is increasing. The costs of this are mental as well as physical. My noble friend Lady Mone and the noble Baroness, Lady Benjamin, talked about the mental health impacts, including depression, that come from obesity. Other risks that we face are type 2 diabetes, heart disease and an extra likelihood of common cancers such as bowel and breast cancer. It is also a major risk factor for non-alcoholic fatty liver disease. These represent a cost, not just to individuals, but to all of us as taxpayers. The figures used today talk about a cost to the NHS of £5 billion annually. The cost to society is perhaps between five and 10 times that amount.

We all know the scale of the problem and agree that it is complex. It will not be solved overnight. The noble Baroness, Lady Thornton, spoke about the importance of urgency. We need urgency, but it will take time to see results. I am pleased that the mood of this debate is a determination to work together to solve the problem.

What have the Government been doing? As several noble Lords have referred to, we launched our childhood obesity plan in 2016, informed by the latest evidence and research in the area. At the heart of the plan is a desire to change the nature of food that children eat and make it easier for families to make healthier choices. The plan poses challenges for us all to play a role in reducing childhood obesity levels: national government, local government, business, the NHS, schools and families. Some of the key measures that have been talked about today include the soft drinks industry levy, the sugar reduction and wider reformulation programme—which I will return to—and helping children to enjoy an hour of physical activity every day.

Real progress has been made since the plan was published. The soft drinks industry levy has come into effect and PHE has formulated a comprehensive sugar reduction programme with the aim of a 20% reduction in sugar in key foods by 2020, including a 5% reduction in year one. Industry has responded to these frameworks and that gives us cause for hope. There is sometimes a sense that industry will not respond, but companies such as the makers of Lucozade and Ribena, Kellogg's, Waitrose and Nestlé have been leading the way by removing millions of tonnes of sugar from products. Through my noble friend Lady Neville-Rolfe, I commend the action of Tesco. We enjoyed the services of Tesco Extra in the Isle of Wight over the weekend. Its offer of free fruit for children was extremely welcome; it stopped them fingering packets of Haribo and other things instead. These little things do make a difference.

[LORD O'SHAUGHNESSY]

We now expect almost half of all drinks that would otherwise have been in scope of the sugar levy to have been reformulated as a result. That is a cause for celebration. We know that there was scepticism about the levy when it was introduced, but I think most people would agree that it has been a success. We believe that there is a philosophical reason for acting in this way. Children do not always make their own choices and they certainly do not always make choices with a full suite of information. Government has a history of intervening to protect them; insisting on children using car seats is one example. Children need protecting from the effects of sugar and obesity, for their current and future health. It is right to act to develop good habits. I reassure noble Lords that we believe that to be the case. We do not have an ideological problem with acting in this area to tackle obesity.

An area that I thought might be touched on this evening which I want to highlight is the consumption of energy drinks. These often have a high sugar content and are linked to poor sleep. Again, this is an area where we have seen industry responding positively as regards restricting sales. I have personally seen the havoc that these drinks can wreak in schools and in diets. We are continuing to focus on this area. Therefore, these are a number of areas we are taking forward under the banner of reducing the impact of sugary soft drinks.

On the other things we are doing now, I will just step outside my brief and stress the role of schools. First, the levy is funding a doubling of the primary school PE and sport premium, and providing £100 million in 2018-19 for a new healthy pupils capital fund, with appropriate distribution for the DAs under the Barnett formula. I can reassure the noble Baroness, Lady Grey-Thompson, and other noble Lords that regardless of the income from that levy, the funding is guaranteed for the coming year; off the top of my head, I think it is £320 million. I will ask for confirmation from the DfE about what the plans are for that. However, it is not a true hypothecation, so that funding is there regardless of the income that comes in.

It is also important to say that as a consequence of the levy we are also investing £26 million in breakfast clubs. These are particularly focused in about 1,500 schools in opportunity areas, which are areas that have been targeted for government action because of poverty. An important issue that has come out of this debate, highlighted by the noble Lord, Lord Addington, the noble Baronesses, Lady Grey-Thompson and Lady Thornton, and my noble friend Lady Mone is the direct link between poverty and obesity. As I said at the beginning, the gap is still growing. We are therefore conscious, as my noble friend Lady Jenkin said, that this is an issue of social justice and that there is a need to act. The breakfast clubs have been focused in the opportunity areas because that is one way we are trying to address that issue.

We have said that schools are well-placed to support action. After a coalition policy we introduced free lunches in reception, year 1 and year 2. I have to disappoint the noble Baroness, Lady Benjamin, that at this point there are no plans to extend the free lunches for all pupils beyond those year groups, but of course

children on benefits are able to get free school meals throughout their school life. We have other routes by which we can encourage good habits. I focus on PSHE, for example, and cooking classes, and in the primary curriculum lessons on healthy eating. The children of St Joseph's had obviously taken on board many of those lessons.

One of the things we also have to do is to provide education about personal responsibility. My noble friends Lady Neville-Rolfe and Lord McColl made the point that this is about taking responsibility based on information. As a child, you are inevitably impulsive, but becoming an adult is about developing good habits, and schools have a critical role to play in this. They also have a role in educating parents, and the best schools get parents in to give them these kind of lessons to make sure that they are able to support their children as well.

The noble Baronesses, Lady Walmsley and Lady Thornton, talked about advertising. There has of course been a ban on adverts and I know that there is a call for further bans on advertising across all media. Any policy must be evidence-based. We are of course always open to that evidence, and it is important to view these kind of actions as one way in which we can help parents. I reassure noble Lords that we are keeping it under consideration. The noble Lord, Lord Berkeley, asked about swimming. It is part of the national curriculum, so I can assure him that we consider it important.

I also stress that the obesity plan is not just about school-aged children but about the early years foundation stage, when children not only learn about healthy eating—play is a key part of that. For smaller children going to formal childcare settings, that will become more part of their everyday life. We have been clear that we have considered a number of different policies, we will continue to consider other policies, and we will focus on those which will have the biggest impact on childhood obesity. I stress that we want to follow an evidence-based approach.

My noble friend Lady Jenkin talked about the work that she has been doing with the CSJ. I thoroughly commend her for that work and for the elucidation she has brought to what is happening in Amsterdam, which I believe she visited with my honourable friend the Parliamentary Under-Secretary of State for Public Health. We are trying to learn the lessons from that.

One of the opportunities that we have here concerns devolution. We recently passed a statutory instrument to give more public health powers to Manchester as part of its devo deal. Manchester is often in the lead in these kinds of issues. We see an opportunity at a city-wide level—mirroring the Amsterdam example—to get all the agencies around the table to act. Greater Manchester has introduced *#GMMoving: The Plan for Physical Activity and Sport 2017-21*. It involves the Greater Manchester Combined Authority, the NHS in Greater Manchester and Sport England. It is exactly that kind of partnership that we need to see more of.

Partnership working is of course at the heart of what we are doing, and I pay tribute to the many organisations that are active in this area—not just the ones that have sent briefings to noble Lords but those

that are spending a great deal of money to raise the salience of these issues, such as Diabetes UK, Cancer Research UK and others.

I want to finish by touching on a couple of other issues that noble Lords have raised. The reports and data that we publish on progress will be open to scrutiny. We will be absolutely transparent in the work that we are doing, including Public Health England's assessment of progress on the sugar reduction policy, which will be published this spring. We are also funding a new obesity policy research unit and will be publishing the details of its projects. That will give us the evidence base that we need to act.

Many other issues were raised. I thoroughly recommend Malcolm Gladwell's "Revisionist History" podcast, which deals with a fantastic set of issues concerning how fat became the enemy and sugar the friend, and how that has driven changes in eating policy, probably for the worse. I also thoroughly

recommend a book called *Why We Sleep*. This radically transformed my attitude towards sleep. It would not surprise me if at some point in the not-too-distant future we had a government sleep strategy—and I am not just referring to me droning on as a way of helping people to get to sleep. The consequences of poor sleep are very dramatic and, frankly, terrifying. We do need to get more sleep.

On the basis that we want to get home and get some sleep, I shall finish by saying that we are continuing to act in this area. We should focus on smoking. We have not banned it but we have had a thoroughgoing and comprehensive policy which has reduced smoking on a voluntary basis. It is that attitude that we need to take towards obesity, and the Government will continue to work on many fronts to do that. I look forward to working with all noble Lords so that we can start to reduce childhood obesity.

House adjourned at 8.47 pm.

