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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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

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

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House of Lords

Tuesday 6 November 2018

11 am

Prayers—read by the Lord Bishop of St Albans.

Housing: Shared Ownership

Question

11.05 am

Asked by ***Lord Naseby***

To ask Her Majesty's Government what proposals they have to promote awareness of shared ownership amongst prospective house buyers.

Lord Naseby (Con): My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I declare an interest as co-chair of the All-Party Group on Shared Ownership Housing.

The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, we support the delivery of shared ownership through our £9 billion affordable homes programme. Since 2010, we have delivered around 60,000 new shared ownership homes. To help us go further, we announced in the Autumn Budget last week that we are inviting proposals from partners to deliver a new wave of shared ownership homes. The aim is to help more people to realise their dream of a home of their own.

Lord Naseby: I pay tribute to Her Majesty's Government for listening and for removing the stamp duty anomaly in relation to shared ownership. Is my noble friend aware that there is a sister scheme for affordable renting, on a secured tenancy basis, for a period of five to 20 years—depending on what the tenant wants to do—followed by purchase? Against that background, and bearing in mind that 90% of young people want to own their own homes, is it not time that Her Majesty's Government and Her Majesty's Opposition trumpeted these two schemes so that our young people can own their own homes?

Lord Bourne of Aberystwyth: My Lords, I thank my noble friend and pay tribute to his work on home ownership in Islington and in the other place. On the specific issue of affordable homes and social homes, the Green Paper that was out for consultation until today is taking views on how we can facilitate shared ownership. An example is staircasing, which allows people to increase their stakes by a single percent, rather than by 10%, as it is at the moment. As I have outlined, we have been taking proposals on private housing since the Autumn Budget.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I draw the attention of the House to my relevant registered interests. How does the Minister respond to the suggestion that shared ownership is the poor relation of Help to Buy on the Government's priority list?

Lord Bourne of Aberystwyth: Both are important parts of the buying programme. We have been encouraging Help to Buy; the noble Lord will be aware that it has been extended for two years. We are very keen on shared ownership. As I said, a consultation on social housing has just ended. We seek to extend this more to private housing and are therefore asking for proposals. That consultation is open until 1 February 2019.

Lord Shipley (LD): My Lords, does the Minister agree that the main reason why shared ownership is so important is the high price of houses? He referred to the announcement in the Budget. Will he explain further why Help to Buy, which has increased house prices and builders' profits, has been extended in the Budget to 2023?

Lord Bourne of Aberystwyth: My Lords, we value shared ownership very much. That is why we are looking at it in the private context as well as the social one, where it was focused previously. As I have indicated, Help to Buy has been extended for a further two years. It is very easy for those in this House, most, if not all, of whom will own their own homes, but we should recognise that this is an aspiration for a lot of people and that is exactly what the Government have done.

Lord Campbell-Savours (Lab): My Lords, does the route to affordable homes consultation—which I think the noble Lord was referring to—include looking at the price of land, which is at the heart of the problem?

Lord Bourne of Aberystwyth: My Lords, a consultation on the social housing Green Paper, with which the noble Lord will be familiar, has closed today. On shared ownership, we have announced a consultation that will look at private shared ownership and how we can encourage that. Necessarily, one of the matters it will look at is the price of land.

Lord Campbell-Savours: But when land in the London area, or outside London, costs anything from £3 million to £5 million an acre, and could previously have been purchased for perhaps £20,000 or £30,000 an acre as agricultural land, is there not a real problem that has to be sorted out before we can resolve this difficulty?

Lord Bourne of Aberystwyth: The noble Lord is right in seeking to identify the problem; what we do about it is another issue. But we are looking at issues around land value, such as compulsory purchase. These are part of the mix, but if it were a simple problem, it would have been solved by Governments long ago.

Lord Howarth of Newport (Lab): My Lords, if Help to Buy drives up house prices, how does it help the people to whom the Minister referred to realise their aspiration? Why do the Government not admit that they got it wrong with this policy?

Lord Bourne of Aberystwyth: My Lords, anything that increases demand for housing drives up house prices. People already aspire to own their own homes;

[Lord Bourne of Aberystwyth]
it is not that they are adding to the total of people seeking a home—they want to own their own home. We should recognise that that is a widely held aspiration among people. Not all people—many will want to rent, and we seek to provide for that as well. However, home ownership is something that many people want.

Baroness Byford (Con): My Lords, can my noble friend also bear in mind the tremendous challenges in rural areas for affordable housing, whatever scheme it might be? I point out to noble Lords that it is not just about the cost here in London and suburbia; there is a very real problem in rural areas. In particular, in some areas landowners have been quite willing to subsidise and give land, and make it available, and that scheme needs to be looked at again.

Lord Bourne of Aberystwyth: My Lords, my noble friend is quite right that, although there are particular problems associated with London and the south-east, we should not forget that there is a range of problems in rural areas, which differ from area to area. We have the rural exemptions, but we are focused on this, seeking to ensure that in parts of rural Britain people can afford their own home.

Lord Gadhia (Non-Afl): My Lords, if I may help my noble friend on land value, a report on a review of build out was commissioned by the Chancellor and led by Oliver Letwin, which I was also part of. That was published last Monday at the time of the Budget, and includes specific proposals to address the important issue of land value.

Lord Bourne of Aberystwyth: My Lords, I am grateful to my noble friend. I was aware that it had been published. We are now looking at that and considering how to take it forward. It certainly looks at issues relating to land value and compulsory purchase.

Lord Young of Norwood Green (Lab): My Lords, what are the Government doing to encourage community ownership, when it is still ownership but the land itself remains within the local authority?

Lord Bourne of Aberystwyth: My Lords, the noble Lord will be aware of community ownership proposals and policies relating to public houses and so on. I do not think he was getting at that, however; rather it was to do with residences. I will write to the noble Lord on that broader issue and copy it to the Library.

Immigration: Appeals

Question

11.13 am

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government what steps the Home Office will take to ensure that fewer decisions on immigration matters are reversed on appeal.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, UK Visas and Immigration is focused on improving the quality of all decision-making. While appeals are allowed for a variety of reasons, and many of those appeals being heard now are fairly historic, we recognise that continued improvement is necessary. That is why investment is being made via a stronger assurance regime, better and more frequent training, strengthening feedback loops and creating new governance and structures. Additionally, we are working with HM Courts & Tribunals Service on reducing the number of outstanding appeals and the time taken through the appeal system.

Lord Roberts of Llandudno (LD): I thank the Minister for those comments. She will be aware that whereas 17% of those who went to appeal in 2005 won their appeal, this year 35% won and last year the figure was 40%. This is totally wrong, as even the Government must understand. One thing we could do is record every interview from an applicant. Then we would not have disputes over what was said—whether the language was understood, the interviewer was hostile or the questioning was aggressive. We could go some way towards remedying this problem by keeping voice recordings of each of the interviews.

Baroness Williams of Trafford: I appreciate what the noble Lord is saying, and on face value it looks sensible, but quite often new evidence is presented just before the tribunal which is not available to the original decision-maker. For that reason, the noble Lord's point would not be valid. The consequence of information being presented too late is that it is often too late for the Home Office to then withdraw the case.

Lord Pannick (CB): My Lords, does the Minister agree that there would be fewer appeals if the immigration department was prepared to adopt the policy that, where it rejects an application because of inadequate documentation, it should then be open to the applicant to supply the missing documents rather than undergo the expense and delay of either appealing or making a fresh application. The Minister knows of my interest in this subject because she has been making heroic efforts to get an answer from the immigration department as to whether or not it is prepared to adopt such a practice in the case of Ramie Smith and Gideon Cohen, who married recently, as well as in other cases. When does the Minister think she will get an answer from the immigration department to this very basic question?

Baroness Williams of Trafford: It is a shame the immigration department is not at the Dispatch Box. I agree with the noble Lord; we have had several discussions on this. My right honourable friend the Immigration Minister is absolutely aware of this and is trying to make improvements in the process. What the noble Lord and I have been talking about is that the process is not entirely clear in some of these cases.

Baroness Lister of Burtersett (Lab): My Lords, will the review of Home Office culture and practices instigated by the Home Secretary include the "hostile"/"compliant" environment policy? If not, it is unlikely to have much impact on decisions on immigration matters.

Baroness Williams of Trafford: My right honourable friend the Home Secretary has made very clear that he does not want a hostile environment; he wants a compliant environment. That would benefit those with genuine reasons to come to this country as well as sifting out some of the more spurious claims for either asylum or immigration.

Lord Reid of Cardowan (Lab): My Lords, what steps is the Home Office taking to address the very serious accusations of inadequacies made by the former Home Secretary, Ms Amber Rudd?

Baroness Williams of Trafford: Like the noble Lord, I was very sad when my right honourable friend the former Home Secretary had to resign her position. I have seen the document—the Statement—that everyone else has seen. I am sure there will be measures in train to make sure that Ministers are sufficiently supported in the job they do.

Lord Woolf (CB): My Lords, I have been very pleased to hear what the Minister has said so far about the efforts that are being made. However, is it not quite obvious that one of the most important steps that could be taken would be to improve the representation available to immigrants, who often find the complex law on immigration beyond their capabilities?

Baroness Williams of Trafford: The noble and learned Lord makes a good point. My response to the noble Lord, Lord Roberts, threw up a slightly different but substantial reason for things being delayed and appeals being upheld—that is, documentation coming forward at the last minute, making it too late for the Home Office to withdraw the appeal and sort out the issue. The noble and learned Lord is absolutely right: for many, it can be a very confusing and distressing time. However, we are making huge efforts to improve the process—for example, by withdrawing cases at the 20-week point to make sure that they are looked at again and that we do not have the problem that noble Lords are referring to.

Lord Marlesford (Con): My Lords—

Baroness Hamwee (LD): My Lords—

The Minister of State, Ministry of Defence (Earl Howe) (Con): My Lords, we have not yet heard from the Conservative Benches.

Lord Marlesford: My Lords, is not a fundamental and long-standing problem the quality of management in the Home Office? If the Home Office were any sort of private sector outfit, the management would have been changed long ago. When there is a failure of management, the owners, whether they be the Government or the shareholders, insist on a change. It seems to me that until there is really good management at Civil Service level, there will not be an improvement.

Baroness Williams of Trafford: I know that my noble friend takes a rather dim view of some of the people who work in the Home Office, but he points to absolutely the right issue. We are now identifying and reviewing cases, and improving technical capability in the Home Office to help UKVI decisions, but we are also trying to ensure consistency in casework to prevent the occurrence of some of the issues raised by the noble Lord, Lord Pannick.

India: Scavenging

Question

11.21 am

Asked by ***Lord Harries of Pentregarth***

To ask Her Majesty's Government what representations they are making to the government of India about the continuance of manual scavenging.

The Minister of State, Department for International Development (Lord Bates) (Con): My Lords, Her Majesty's Government are not presently making representations to the Government of India on manual scavenging. The Department for International Development has been working to eradicate the abhorrent practice for many years. Advocacy organisations that have received DfID support have helped to strengthen the manual scavenging Act 2013, and DfID's urban work is supporting sustainable, safe and clean cities for all. The UK is exploring the possibility of further work to eradicate manual scavenging.

Lord Harries of Pentregarth (CB): I thank the Minister for his reply. The Government of India have indeed passed the manual scavenging Act 2013, but still 800,000 Dalits—the former "Untouchables"—are trapped in this degrading occupation and far too many deaths occur among them. Since January 2017, for example, there has been one death every five days among those cleaning out the public sewers by hand because of the toxic fumes. So will Her Majesty's Government encourage the Indian Government, first, to implement the law that they have passed and, secondly, to devote some of the vast resources and technical ingenuity shown, for example, in the space programme to developing mechanised methods of cleaning out the public sewers?

Lord Bates: The noble and right reverend Lord is absolutely right to raise the importance of this issue. It is inextricably linked to the caste system in India, and we have made consistent representations about the treatment of minorities. We believe that the manual scavenging Act, which provides for compensation, as well as education and retraining to help people into better jobs, is the right way forward and that it should be upheld. We will continue to work for that across all the areas in which we are involved in the Indian subcontinent.

Lord Collins of Highbury (Lab): My Lords, I am slightly disappointed by the Minister's response because this is one area where we should be making strong representations and advocacy. We have the 2013 Act and the 2014 decision of the Supreme Court setting levels of compensation, yet every five days someone is

[Lord Collins of Highbury]
killed in these terrible conditions. Surely that is a strong basis on which to make representations to the Indian authorities about this appalling situation.

Lord Bates: I do not want to give the impression that we are passive on this. We recognise that it is outrageous that this practice still happens in a civilised country such as India. That is why we funded some of the advocacy groups that helped strengthen the manual scavenging Act. We now want to see it implemented. A range of programmes we are involved with in India covers areas such as providing better sanitation and better rights for women, children and minorities to get them the help they need—but responsibility for the implementation of that law must rest squarely with the Government of India.

Baroness Sheehan (LD): My Lords, India is seventh in the world GDP ranking. It has the laws in place to tackle the loss of life in this most dehumanising of ways of making the most basic living we can imagine. In the Minister's view, what is the reason for the lack of urgency by the Government of India in bringing an end to such a monstrous method of eking out a living?

Lord Bates: It is inextricably linked to the caste system, as we have said. The economy of India is one of the fastest-growing in the world and, in all likelihood, will become the third-largest economy in some 10 years. It is still presently home to one-third of the world's poor, and 600 million people do not have access to basic sanitation.

Lord Alton of Liverpool (CB): My Lords, notwithstanding the 2013 legislation, the caste system and untouchability predate partition. Scavenging and degrading labour have persisted right across the Indian subcontinent, including in Pakistan. Is the Minister aware that, only last week, a 13 year-old was excluded from a classroom because he had touched the water supply in that classroom? He was beaten and his mother was told he had no place in that school because he was only fit for menial and degrading jobs. Is not this issue of untouchability also to be seen in the case of Asia Bibi, who has spent nine years in prison having touched the communal water supply in her village? She has been exonerated by the courts in Pakistan, yet is still held in custody and not allowed to leave that country. We have spent £2.8 billion over the past 20 years on overseas aid to Pakistan—that is £383,000 every single working day. What difference is that money making to the treatment of minorities and the abolition of things such as caste?

Lord Bates: It is making a big difference. I am certainly aware of these cases, because the noble Lord has made me aware of them, and I am grateful to him for that. We are looking at them and following up. The reality is that both Pakistan and India are signatories to the Universal Declaration of Human Rights. That has some very specific language in Article 18, which talks about recognising that all people are equal and that discrimination is against the law. It is also against their constitutions. We need to work with the Governments of these countries to ensure that they uphold the very laws they have—and we will continue to do that.

Lord Cormack (Con): My Lords, yesterday the House was reminded of the immense contribution from the Indian subcontinent in the war that ended 100 years ago on Sunday. Would it not be entirely appropriate to rescue these people who are mired in filth by taking a new initiative to mark the centenary of the end of the First World War?

Lord Bates: It is an interesting point. I attended, perhaps with the noble Lord, a lecture here last week on that contribution. I think that something like 1.3 million people were involved and 74,000 lost their lives. We remain open to whether further work needs to be done. I would be very happy to engage in a dialogue with noble Lords who have an interest in this area to see what shape that could take.

Yemen: Famine

Question

11.29 am

Asked by ***The Earl of Sandwich***

The Earl of Sandwich to ask Her Majesty's Government what steps they are taking to help end the famine caused by the war in Yemen.

The Minister of State, Department for International Development (Lord Bates) (Con): My Lords, Sir Mark Lowcock, UN Under-Secretary-General for Humanitarian Affairs, recently warned the UN Security Council of the "clear and present" danger of famine in Yemen. Famine has not yet been declared. The UK is providing £170 million this year to feed millions and to treat malnutrition. Ports are open and there is food in the main markets. We are working with the Central Bank of Yemen to reverse the currency devaluation so that food is again affordable.

The Earl of Sandwich (CB): My Lords, I thank the Minister for that. It is quite true that food is reaching maybe 8 million people, and that is in spite of the blockade, which is a year old today. But this war is not going anywhere. The port of Hodeida is still besieged; the peace process has completely stalled; half the country's health facilities no longer function; there is cholera; and 2 million young mothers and children are malnourished. What more can our Government do to end this near catastrophe?

Lord Bates: It is a catastrophe at the present time. What is happening there is a manmade disaster and, yet again, where there are manmade conflicts and wars, women and children are the first to suffer as a result. The situation is intolerable and we are working across a range of different headings. The only solution is for the parties to the conflict to come to the negotiating table. We thought that we were getting close to that in Geneva, through the work of Martin Griffiths, the

UN special envoy. However, one party did not turn up for that set of dialogues. The Foreign Secretary has indicated that discussions are under way with the UN Security Council to see what more can be done. In the meantime, we continue our efforts to work through international agencies to relieve some of the suffering. But ultimately, that suffering will be halted only when the conflict stops.

Lord Robathan (Con): My Lords, in this catastrophe, as my noble friend so rightly calls it, what has the response of Iran been, in this very difficult and complex situation, to the overtures for peace from the UN? We know well what the Saudis do, but the Iranian influence there seems to be somewhat more hidden.

Lord Bates: My noble friend raises an important issue. Some of the armaments that have been fired, including ballistic missiles, have been traced back to Iran. Essentially, if we are going to address the humanitarian crisis, which is the urgency, all parties to the conflict need to get round the table and, rather than seeking to apportion blame, seek to find a solution that provides a de-escalation of the situation, leading to a ceasefire.

Lord Collins of Highbury (Lab): My Lords, events in Turkey are influencing the situation, and no doubt the US initiative on peace is an important one. But it has to be sustainable peace. The Minister has mentioned that some parties are not participating, but how closely are we in contact with the US authorities to make sure that any peace deal that is made is sustainable and that all parties will be properly involved?

Lord Bates: We are in very close contact on this. As the noble Lord knows, we are the penholder at the UN Security Council on this issue. My right honourable friend Alistair Burt is doing a terrific job in trying to get the parties moving through dialogue and debate. Yesterday, the Foreign Secretary made an announcement that might be helpful for the UK's discussions with the UN Security Council, in which he said:

> "For too long in the Yemen conflict, both sides have believed a military solution is possible, with catastrophic consequences for the people. Now, for the first time, there appears to be a window in which both sides can be encouraged to come to the table, stop the killing and find a political solution that is the only long-term way out of disaster. The UK will use all its influence to push for such an approach".

That is a strong statement and we look forward to it being implemented.

Baroness Sheehan (LD): My Lords, over the past weekend, fighting has escalated around Yemen's key port city of Hodeida, with more than 150 combatants killed. Given that 80% of international aid comes through the Hodeida port, what impact might this have on the 8 million people at risk of starvation due to the looming famine? Does the Minister agree with his colleague, and former Secretary of State at DfID, that our support for the Saudi-led coalition means that the UK is complicit in the starvation of children in Yemen—those are his words?

Lord Bates: The last point is a very serious charge, which I do not accept. As the noble Baroness will know, the coalition in Yemen is operating under UN Security Council Resolution 2216. As I said before, there is no doubt that the situation is absolutely intolerable and we need to get everybody to the table. Our Secretary of State for International Development, Penny Mordaunt, played an instrumental role in breaking the blockade of the ports to allow food in through speeding up the UN verification and inspection process, and we will continue to do all that we can to ensure that help gets to those who need it.

The Lord Bishop of St Albans: My Lords, what representations have Her Majesty's Government made to the KSA and UAE about the use of British-built military hardware, which some people are really concerned could be used for, as is being alleged, war crimes?

Lord Bates: We have made very strong representations on that. That is why a joint centre was established to improve how targeting was done in a way that minimised civilians and in which allegations of breaches of international humanitarian law could be investigated and reports published. That is one way in which we seek to do that, but ultimately this will be solved only by the parties to this conflict coming around the table, allowing a ceasefire and allowing humanitarian agencies freedom to be able to address the catastrophic situation on the ground.

Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018

EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018

Motions to Approve

11.36 am

Moved by ***Lord Bates***

That the draft Regulations laid before the House on 24 July and 5 September be approved.

Relevant document: 1st Report from the Secondary Legislation Scrutiny Committee (Sub-Committee B), considered in Grand Committee on 30 October

Motions agreed.

Electricity and Gas (Energy Company Obligation) Order 2018

Electricity and Gas (Powers to Make Subordinate Legislation) (Amendment) (EU Exit) Regulations 2018

Motions to Approve

11.36 am

Moved by ***Lord Henley***

That the draft Order and Regulations laid before the House on 19 July and 5 September be approved.
Considered in Grand Committee on 30 October.

Motions agreed.

Arrangement of Business

Announcement

11.37 am

Lord Taylor of Holbeach (Con): My Lords, it may be for the convenience of the House if I say a few words about our proceedings today. Noble Lords will be aware that a parliamentary commemoration of the centenary of the end of World War I over at St Margaret's Church starts at 2 pm. In order for noble Lords to be able to attend the service, we will adjourn during pleasure at a convenient point close to 1.30 pm. The House will then resume at 3.20 pm. In practice, that will mean that the debates on the remaining Motions in the name of my noble friend Lord Bates are not likely to be reached until after the adjournment.

Lord Tunnicliffe (Lab): My Lords, for the convenience of those of us taking part in the debates in the House, given the vagaries of how these things happen, is the Government Chief Whip minded to make that a matter of fact as opposed to probability, so that we do not start the electronic money debates until after the adjournment?

Lord Taylor of Holbeach: That would be our proposal and my colleagues who are present for the debates are aware of our intentions.

Freedom of Information (Designation as Public Authority and Amendment) Order 2018

Motion to Approve

11.38 am

Moved by ***Baroness Manzoor:***

That the draft Order laid before the House on 12 July be approved. *Special attention drawn to the instrument by the Joint Committee on Statutory Instruments, 33rd Report.*

Baroness Manzoor (Con): My Lords, the purpose of this draft order is to bring the public functions of the National Police Chiefs' Council within the scope of the Freedom of Information Act. This is to make sure that there is continuity in the scope of the Act by extending it to the NPCC, in the same way as was done for its predecessor, the Association of Chief Police Officers.

Section 5(1)(a) of the Freedom of Information Act enables the Secretary of State to designate any person as a public authority if they appear to the Secretary of State to exercise functions of a public nature. Where a body is designated as a public authority under this limb, it is also necessary under Section 7(5) of the order to specify each of the body's functions that appear to the Secretary of State to be of a public nature. Only those functions specified in the schedule to the order will be subject to the Act. As with ACPO, it appears to the Secretary of State that the NPCC exercises functions of a public nature in relation to all of its functions. The NPCC provides national police co-ordination and leadership by bringing together police forces across the UK as well as in the Armed Forces and the Crown dependencies. Some of the NPCC's co-ordination and leadership functions are delivered in conjunction with the College of Policing, the professional body that provides the policing skills and knowledge necessary to prevent crime and protect the public. The functions set out in the order reflect those set out in clause 7 of the collaboration agreement that established the NPCC.

In addition to designating the NPCC, this instrument removes the designation of ACPO; this is a question of legislative tidying up. ACPO has been liquidated and no longer exists and the amendment updates the statute book to reflect that. The liquidators of ACPO were consulted as required and are content. As mentioned, there has been a statutory consultation with the NPCC to make sure that all the necessary functions were covered by this order as appropriate. The NPCC has made sure that there has been no retraction of transparency in the transition period when it took over the functions of ACPO. It publishes large amounts of information proactively and has responded to information requests on a voluntary basis in the short period when it was not formally covered by the Freedom of Information Act. This is highly commendable.

The order will enable the provision of a legally enforceable right to request information under the Freedom of Information Act. I commend it to the House and I beg to move.

Lord Paddick (LD): My Lords, I am grateful to the Minister for outlining the details of this order. I have a few questions to put to her. According to the Explanatory Memorandum accompanying the order, the National Police Chiefs' Council started its operations on 1 April 2015, presumably when it took over responsibility from the Association of Chief Police Officers. The noble Baroness said that ACPO is no longer in existence and that it had been liquidated, but the Explanatory Memorandum states that ACPO "is in liquidation". Is there a difference between the two? I am not legally qualified to know whether there is.

My concern is that if ACPO was still operating up until 31 March 2015, only three and a half years ago, limitations on civil proceedings which could in theory be taken against the association can normally be brought for up to seven years. I wonder whether removing ACPO from its freedom of information obligations is premature. The order also refers to the collaboration between the National Police Chiefs' Council and the College of Policing in connection with the implementation of standards and policies that are set by the College of Policing, the development in collaboration with the college of joint national approaches to criminal justice, value for money, service transformation, information management, performance management and technology, along with the development of joint national approaches to staff and human resource issues, including misconduct and discipline. Can the noble Baroness tell us whether the College of Policing is a designated public authority for the purposes of the Freedom of Information Act and if not, why not?

Lord Rosser (Lab): I too thank the noble Baroness for explaining the content and purpose of the draft statutory instrument. It is straightforward in its objective of designating the National Police Chiefs' Council as a public authority for the purposes of the Freedom of Information Act 2000. I have a few questions but if necessary, I am happy to accept a written response; we do support the draft order.

Article 2 of the draft SI sets out the functions of the NPCC for which it is designated a public authority under the 2000 Act. Do the functions include the NPCC's finances and administration, and correspondence between the NPCC and the Government, as being covered by the provisions of the Act? What functions of the NPCC, if any, are not covered under this draft order by the Act? Is the relevant body for police and crime commissioners also designated a public authority under the Act? If so, in respect of what functions? In a way, that follows on from the question asked by the noble Lord, Lord Paddick, about the College of Policing.

Paragraph 7.5 of the Explanatory Memorandum says that,

"it appears to the Secretary of State that the NPCC exercises functions of a public nature in relation to all its functions".

That is subject to the provisions of the Freedom of Information Act 2000. Does being subject to those provisions apply in relation to the NPCC, or indeed any other designated public authority, in respect of designated functions that it then outsources to an outside private firm or organisation? Is outsourcing part of its function—a means for anybody designated a public authority under the 2000 Act to get around or reduce the extent of the provisions of the Act being applied?

Paragraph 7.6 of the Explanatory Memorandum refers to the current revision of the agreement of 1 April 2015 that established the NPCC. What is the purpose of that revision? How extensive will it be? When will it be completed?

Paragraph 10.2 of the Explanatory Memorandum says that,

"the average cost … of handling a request for information … for public authorities in the wider public sector",

is £164. It goes on to say:

"There is no obligation for public authorities to comply with vexatious requests or those that exceed the costs threshold … Costs for disbursements can be recovered".

What is the costs threshold and how regularly is it increased? Do increases in the threshold reflect increases in either the cost of living or pay? What is included in the "costs for disbursements" that can be recovered?

Finally, when this draft instrument was discussed in the Commons, the Minister for Policing in the Commons stated:

"There is no statutory obligation to publish statistics".—[*Official Report*, Commons, First Delegated Legislation Committee, 30/10/18; col. 6.]

However, he said that he would check whether there had been any "specific requests" from the Home Office to the NPCC in that regard. What was the outcome of that?

Baroness Manzoor: My Lords, I thank the noble Lords, Lord Paddick and Lord Rosser, for their supportive comments and questions. I will endeavour to write to them to give clarity on their specific questions. In relation to the question asked by the noble Lord, Lord Paddick, I should say that ACPO was liquidated when the order was laid on 13 July. He also asked whether any obligations that ACPO had will be covered by the NPCC. My understanding is that that is the case. Any FoI request will relate to any information held. I will have to write to the noble Lords, Lord Paddick and Lord Rosser, on their particular issue relating to the College of Policing, crime commissioners and civil liberties.

The noble Lord, Lord Rosser, asked whether the order includes all ACPO's functions. Police and crime commissioners are covered by the FoI Act. He also noted that the NPCC's agreement is being amended and asked how that would affect the order. He is quite right: the NPCC's agreement is indeed undergoing revision and will shortly be superseded. However, the revised agreement list of the NPCC's functions is materially identical to the existing agreement. We have deliberately drafted the order so that its designation of the NPCC is future-proofed against the coming revision to the agreement.

Noble Lords also asked why the NPCC's functions in the order were not identical to those in its collaboration agreement. As I said, the NPCC's functions designated in the order reflect those set out in its collaboration agreement. However, they have been subject to minor adjustments. This reflects the different drafting requirements that apply to legislation compared with agreements. We are content that the drafting captures all the NPCC's functions. The NPCC is also content with the adjustments made.

The noble Lord, Lord Rosser, asked about extending this to contractors. The Government wholeheartedly accept that more public services are being contracted out to the private sector. It is important that they are delivered transparently to ensure accountability to the user and the taxpayer. We have previously considered how best to balance transparency in the use of public funds and reduce the burden of regulation on business. We believe that, for now, the most effective way is through model clauses in contracts. Also, central government contracts of more than £10,000 have been published on Contracts Finder since 2011.

The noble Lord, Lord Rosser, also asked about budgets and what information might be available. I am afraid that I do not have the answer on cost. Once again, I will put answers in writing to noble Lords to any questions that I have not answered and place a copy in the Library. Any information held by ACPO or currently held by the NPCC is subject to the FoI Act.

I think those were the questions asked but, if I missed anything, forgive me—I will write. The order is important. It will boost confidence in the NPCC's FoI compliance as it will bring it within the oversight of the Information Commissioner's Office. In doing so, the public and civil liberty organisations can be a

[Baroness Manzoor]
further assured that when exemptions are used they will be done so appropriately. I commend the order to the House.

Motion agreed.

International Road Transport Permits (EU Exit) Regulations 2018

Road Safety (Financial Penalty Deposit) Appropriate Amount) Order 2018

Trailer Registration Regulations 2018

Motions to Approve

11.54 am

Moved by ***Baroness Sugg***

That the draft Regulations and Order laid before the House on 13 September and 9 October be approved.

Relevant document: 1st Report from the Secondary Legislation Scrutiny Committee (Sub-Committee A)

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Sugg) (Con): My Lords, these draft instruments were laid on 13 September and 9 October following extensive industry engagement and consultation throughout this year. Together, they implement the majority of the proposals outlined during the passage of the Haulage Permits and Trailer Registration Act. The road haulage sector plays an integral role in keeping our economy moving and enabling businesses throughout the UK to trade with our international partners in the EU and beyond. In 2017, the UK haulage sector moved over 7.8 million tonnes of goods internationally. This is a crucial industry to the wider economy and the Government have been focused on putting in place the necessary arrangements for after we leave the EU in March 2019.

The International Road Transport Permits (EU Exit) Regulations 2018 will establish the framework and systems for the effective administration of a permit system. When the regulations come into effect, this regime will cater for our existing permit arrangements with non-EU countries and ECMT permits. From exit day, in the absence of a deal, it will cater for existing permit arrangements with EU member states, which are currently covered by EU law. The system will also be the basis for any future permitting arrangement which may arise from our negotiations with the EU. In those negotiations we are seeking reciprocal arrangements on road haulage. The current arrangements work well for both the haulage sector in the UK and hauliers in continental Europe. Our intention is to seek mutual recognition of international operating licences and access arrangements which do not restrict the current levels of trade.

However, the Government must prepare for all possible outcomes of our negotiations, including the prospect of no deal. As outlined in the technical notice on road haulage published earlier this year, in the event of no deal, hauliers will be able to use ECMT permits. In addition, we will seek to use existing bilateral agreements concluded prior to one or other of the parties joining the EU. There are 20 such agreements with EU countries which the Government expect to be reinstated once EU law ceases to apply, some of which require permits and others which do not. Where there is no existing bilateral agreement we will aim to conclude new arrangements with that country. Some existing agreements may need to be updated but we expect to have these arrangements, if required, in place to allow international road haulage to continue after exit day.

These regulations as they stand implement a permit scheme as it would operate on exit day if no new agreements were reached with the EU or member states. This will enable some continuity of road transport services in the event of no deal. Where new agreements are reached with the EU or individual member states that would require permits, we will amend these regulations to reflect the terms of these agreements. The regulations place a prohibition on undertaking international journeys without a permit where an international agreement requires one. It is important to note that these regulations by no means require the implementation of a permit regime with the EU or for any other international journeys. Rather, should an international agreement require that a permit is held by the operator and carried on the vehicle in question, these regulations allow that permit to be issued. Journeys that do not require permits are not within the scope of these regulations.

The regulations provide for how to make an application and how the Secretary of State will determine which applicants are allocated a permit where the number of permits available is limited. They set out matters that the Secretary of State must take into account when making a determination, and that are designed to deliver the greatest economic benefit from the permits, protect the interests of UK hauliers and apply a fair and consistent allocation process. This focuses primarily on how frequently a permit will be used and the proportion of an operator's haulage that is international. The regulations provide some discretion in these criteria so that there is sufficient flexibility to respond to changing demands and ensure that permits are allocated fairly. They also require the Secretary of State to provide guidance on the process to ensure this it is transparent for applicants. This has now been published. The circumstances in which a permit may be cancelled and the process for appealing the cancellation of a permit are also covered.

The permit system will be operated by the Driver & Vehicle Standards Agency, building on the existing vehicle operator licensing system which operators will already be familiar with. The system will launch on 26 November to take applications for the ECMT multilateral annual permits, with permits subsequently being issued well ahead of exit day. There will be an application window for these permits and a fee of £10 will be applicable for each permit requested. Successful applicants will be required to pay a £123 fee ahead of the permit being issued. These fee levels mean there is no change in the cost of obtaining an ECMT permit.

Noon

The Trailer Registration Regulations 2018 will establish a regime for the registration of trailers used internationally, to support our ratification of the 1968 Vienna Convention on Road Traffic. The convention will come into effect for the UK on 28 March 2019 and will apply irrespective of the outcome of negotiations with the EU. Under the 1968 convention, access to foreign roads is guaranteed only for trailers weighing more than 750 kilograms if they are registered. As such, the registration of trailers is commonplace throughout most of continental Europe; this has previously been a source of disruption for UK trailers used on international routes. These regulations will allow us to implement a registration regime for trailers, allowing them to meet the standards outlined in the convention.

Regardless of the outcome of negotiations, registration will be compulsory for trailers used for international journeys to, or through, a foreign country that has ratified the 1968 Vienna convention if the trailer weighs over 750 kilograms and is used for commercial purposes or if it weighs over 3,500 kilograms and is used for any purpose. The use of unregistered trailers in these categories for journeys to continental Europe will be prohibited from 28 March—the day the convention comes into force. The registration system will be operated by the Driver & Vehicle Licensing Agency, and users can register their trailers from early January. This will allow three months for trailer-keepers to register ahead of the prohibition on the use of unregistered trailers for international journeys, which, as I said, comes into effect on 28 March. The fee for trailer registration will be £26.

Finally, the Road Safety (Financial Penalty Deposit) (Appropriate Amount) (Amendment) Order 2018 will support the enforcement of both these regimes when they enter into force. Later this month a further order subject to the negative procedure will be laid, which will designate offences for permits and trailer registration as offences for which a fixed penalty notice may be issued or a requirement to pay a financial penalty deposit imposed. The order that we are considering today will set the level of the financial penalties associated with these offences. Financial penalty deposits are an effective system for enforcing road traffic law where the offenders are not from the UK or have no fixed abode.

The DVSA can issue fixed penalties to non-UK residents and UK residents, and request a financial penalty deposit from any offender without a fixed UK address. As such, fixed penalties ensure that enforcement can be undertaken regardless of whether a driver is from the UK or elsewhere. The offences and deposit amounts under both regimes replicate the existing enforcement regimes for international haulage and motor vehicle registration. Penalty deposits for haulage permits offences will be £300. For trailer registration they will be £100 except for the offence of obstructing an examiner, which will be £300.

Noble Lords may be particularly interested in how these instruments will affect Northern Irish hauliers. The regulations do not require Northern Ireland hauliers to carry permits when on international journeys to or through Ireland. This is in keeping with our position in the Haulage Permits and Trailer Registration Act: that we will not introduce permits on the island of Ireland without the consent of the Government of Ireland. On trailer registration, Ireland has not ratified the 1968 Vienna convention so UK trailers do not need to be registered to be used in Ireland. The enforcement orders cover only Great Britain; enforcement in Northern Ireland is covered by devolved legislation. It will be for the Northern Ireland Executive and Northern Ireland Civil Service to decide whether they wish to enforce these offences using financial penalty deposits. Nevertheless, the absence of the Executive will not prevent the Driver and Vehicle Agency in Northern Ireland enforcing these offences through the Northern Irish court system.

Approval of these instruments is an important step in ensuring that the UK haulage industry is ready to keep goods moving after we leave the EU in March 2019. The sector is incredibly important to the wider UK economy and we are focused on delivering the measures necessary for it to continue operating successfully after we leave the EU. This package of instruments will take concrete steps to enable us to offer greater clarity to industry over the requirements that will apply for international haulage in the future. We are clear on our negotiation objectives and making good progress towards an agreement that delivers for the sector. But it is crucial that we progress with these proposals, which prepare us for a range of outcomes—both our desired outcome and the unlikely prospect of no deal. I commend the regulations and order to the House.

Lord Berkeley (Lab): My Lords, I am grateful to the Minister for introducing these three draft statutory instruments. She has done well in trying to explain them in a reasonably clear way. This is highly complex and I can see quite a few pitfalls ahead. The Minister rightly said that there are 7.8 million journeys between the UK and the EU per year. If they are all to be replicated by licences, that is quite a load on the DVSA. Can she confirm that it will be staffed to do this? What will be the maximum time it will take for applicants to receive their licence? It says in the Explanatory Memorandum that applications open in November and the licences become valid from 1 January, so one might assume that the return time will be one month, but I hope it will not be much longer than that. If I ask for a categorical assurance I will not get one, but I hope the Minister can give us some response.

As I read it, Regulation 4 in Part 2 of the International Road Transport Permits (EU Exit) Regulations states that if you have a truck with goods on it heading out of the UK, it will be illegal to operate that truck in the UK if you do not have a licence. It says that,

"an operator must not use a goods vehicle for the carriage of goods on an international journey".

The international journey starts in the UK. I hope the Minister can confirm that that is not the case and that operators will be free to get to Dover or wherever without fear or favour. The Minister also mentioned Northern Ireland and the Republic of Ireland. I think these regulations apply equally to that, so everybody will have to have the same licences for that.

[Lord Berkeley]

My next question for the Minister is about the allocation of numbers. We discussed this a month or two ago and I was not wholly comforted. The allocation of numbers is obviously a bilateral arrangement and, as she said, it will probably have to be done separately with each member state. I do not know how much traffic will go to the non-member states listed in the regulations, but they still deserve negotiations. The Minister did not explain what all the exemptions for each country mean, probably mercifully for us. How will the allocation of permits be done fairly and transparently? As we know, about 80% of the trucks crossing between the UK and the EU are non-UK owned and operated. I think a large proportion are probably Bulgarian and Romanian. The Minister said that the process will be fair and transparent and that the Government will produce some guidelines. When will we receive those guidelines? What does the industry think about this? If this is not sorted out pretty quickly, the traffic jams at Dover that so many people are talking about could become a reality. The Minister and her colleagues have a mammoth task but, to keep traffic moving, it has to happen.

I have just one comment on the Road Safety (Financial Penalty Deposit) (Appropriate Amount) (Amendment) Regulations. I did not really understand the exemption that she mentioned between Northern Ireland and the Republic. There will of course be quite a few trucks that start in Northern Ireland, drive through the Republic and then catch a ferry to France. There are several ferry services operating at the moment and more will probably come. Will they be exempt from these regulations or not?

The penalties look pretty cheap to me; I imagine the drivers will just come with a few wedges of £100, and that will be all right. And who enforces these regulations? I expect the answer will be nobody and a blind eye will be turned to the whole thing. There is no point in putting all this time and effort into producing these lists of regulations and penalties if they are not enforced. If they are designed to discourage people from disobeying the law, they look pretty feeble. I look forward to the Minister's response.

Lord Bradshaw (LD): The Secretary of State visited Dover in the last few days. I preceded him by a few days and was absolutely shattered by the level of activity there, and how efficiently it is run. Some of the ferries go to France and back five times a day. They are unloaded with remarkable discipline, then loaded up again, and are on their way within 40 minutes or so.

Airy remarks have been attributed to various Ministers: things like "Oh well, we will divert the ships somewhere else". This is absolutely impossible. The infrastructure at the Port of Dover is not replicated anywhere else. As for getting ships, even if we wanted them, there are very few ro-ro ships available. This sort of airy-fairy remark trivialises the importance of the industry. Everybody is waiting for concrete evidence that we will reach some sort of deal. A no-deal situation would be absolutely catastrophic for the haulage industry.

There is an article about this in today's *Times*. It refers to the lottery, to which the noble Baroness also referred, and the fact that hauliers do not seem to know how a lottery will work. The big hauliers want the permits, if they are restricted in number, but the small hauliers want a fair share of the action. Everybody is crying out for fairness, but the idea that this will be conducted by some sort of Department for Transport lottery is very difficult to understand. The Road Haulage Association and the Freight Transport Association are pretty well in despair and do not know what they are to do if an agreement is not reached.

I also raise a point about foreign drivers. Britain's road haulage industry is very dependent on foreign drivers, by 30% or 40%. Reaching an agreement that enables us to keep our own traffic moving is important. These are very important issues, rather than trivia that can be swept aside. They really matter and will matter even more from the end of March onwards, in ensuring that we continue to have food on our tables and spare parts in our factories.

12.15 pm

Baroness Randerson (LD): My Lords, buried in these bureaucratic-sounding regulations before us today is what really amounts to a time bomb for the haulage industry.

I shall start by talking about the international road transport permits. These regulations were subject to a report by the Secondary Legislation Scrutiny Committee. As the Minister explained, the regulations are required as part of preparations for a no-deal scenario. I think I am safe in saying that, when we discussed the Bill in Committee—or Act as it now is—we did not envisage that we would still be expecting no deal to be a real possibility come November this year.

The stark statistics are that there are likely to be 80,000 applicants for 1,224 ECMT permits. Even with the ingenious DfT solution of dividing them up into monthly permits, they would cater for only 5% of the needs of UK hauliers. Needless to say, monthly permits would be massively bureaucratic—hugely expensive to the Government, but hugely expensive in particular to the haulage industry. I should explain that ECMT permits are intended for our hauliers who go beyond the EU. That is why the numbers are so small.

The Secondary Legislation Scrutiny Committee has drawn the attention of the House to these draft regulations because,

"they may imperfectly achieve their policy objectives".

That is a masterful understatement.

If any noble Lord is not yet persuaded of the devastating impact that Brexit uncertainty is having on the haulage industry, or not yet persuaded of the disaster that would unfold if there is no deal or we do not get a deal that mirrors what happens now, I would draw their attention to the evidence given last Thursday to the EU Internal Market Sub-Committee, of which I am a member. We took evidence from the haulage industry, and I beg noble Lords to read that evidence. I will give you just a brief flavour of it.

James Hookham, from the Freight Transport Association, said that plans being prepared by the Government,

"would probably not make a significant difference to the virtual collapse of trade across the channel in the event of a no-deal",

scenario. The Road Haulage Association was represented by Duncan Buchanan. He said that no one within the industry, either in Britain or in the EU, is prepared for what is to come, and that without a transition period, "there will be chaos". I recommend that the Minister, in particular, reads that evidence. It was very powerful. It was emotional to hear it. Most passionate of all was the owner of an SME who trades regularly across the channel. He said that he could not see how his company could survive in the following months.

The regulations create a framework for the granting of future permits, for a system currently covered by a single Community licence. As the Minister has made clear, there is a great hurry on this because permits will have to be issued this month for them to take effect on 1 January. If I may point out the blindingly obvious, this is far too late. As the noble Lord, Lord Berkeley, made clear, the timescale is ridiculously tight.

We discussed all this in Committee on the Bill in July. It is far too late for the DfT to be bringing forward such regulations at this stage while at the same time issuing plans with a huge gap in them. We have been waiting for detail about how the permits will be allocated, and that is the yawning hole at the heart of this. It is obvious that if we have to fall back on the ECMT permits, the vast majority of hauliers will not get one. Exactly what will the Government do to help the 95% of the industry that do not get a permit?

The regulations set out the broadest, vaguest of criteria. They refer to emissions. Exactly what will the rules be on emissions? If you have an older truck, is there any point in applying for a permit? We are also told that it will depend on the goods to be carried. Does that mean that only vehicles carrying staple, vital products will get permits? We are also told that frequency of use will be one of the criteria. Does that mean that only the big companies will get a permit, or does it refer to some other aspect that I have not yet thought of? Then there is the dreaded "random selection"—the government lottery for haulage—and, famously, "any other matters to be considered appropriate". What else might the Government be thinking of taking into account? The big question is: when will the Government make up their mind on the details of the criteria? How will we be told about them? Above all, how will the haulage industry come to know them? Where and when will they be published?

Hauliers are being asked this month to drop an application into a black hole. When will the Government provide publicity to fill that black hole? Apparently, the DVSA is devising an IT system. Can the Minister update us on that? Is it ready? As this is the month when people will apply, is the IT system up and running?

The Government state that they expect to reach a bilateral agreement with the Republic of Ireland. How are discussions on that going? Are the Government still confident of that?

Then we come to costs, which are £10 per application for an ECMT licence and an issue fee of £123 per year. That does not square with the costs cited in the Explanatory Memorandum. Paragraph 12.1 states that the annual cost to business and voluntary bodies is £163,000 with a £13,000 familiarisation cost. How were those figures reached? The industry includes 80,000 hauliers.

The Government expect to make bilateral agreements with the EU 27, but that will leave—as they clearly fear, hence the monthly ECMT permits—a time gap. Can the Minister confirm that the Government are developing plans for that time gap while the discussions are going on?

Finally, ECMT permits are intended for use in 43 countries, many of which are well beyond the EU. There are hauliers who make their living by transporting goods to those countries. They currently use ECMT permits; they never have a problem getting them because not many hauliers are making that sort of journey. However, they are going to be in stiff competition if EU-designated hauliers are going to be using the permits as well. What are the Government doing to guarantee an income and a livelihood for those hauliers who rely on ECMT permits?

I turn to the Trailer Registration Regulations, which are also part of the Brexit preparations. The Government estimate that, by next March, 80,000 trailer users will be required to register their trailers for international use for the first time. Most, but not all, of these are commercial operators. In contrast with the previous SI, there are very precise details here on the required size, placing and visibility of the registration plate. It is complex: you are going to need two registration plates—one for the trailer, one for the vehicle—you need to register your trailer, show relevant documents when you go to get your plate, and so on. The big question is the level of awareness across the very diverse haulage industry, and beyond, that will be affected by these regulations. There may not be many non-commercial trailers in this size category but, as the Government state, there are some. What have the Government already done to make trailer owners aware of what is coming? What are they planning to do, how and when?

In Committee, I raised the issue of the existing registration scheme run by the National Caravan Council. There is a real danger of confusion here, if the Government do not make their explanations crystal clear. Trailer owners who are already registered with the NCC could think that they do not have to register a second time. What discussions have the Government had with the NCC on the integration of these schemes and on making it absolutely clear that trailer users and owners will be required to register again?

On the road safety SI, I request an explanation on the territorial application, which is an issue I have raised before. It clearly says that it applies to Great Britain—hence it does not apply to Northern Ireland; that is clear—but why is Scotland picked out and Wales not mentioned? I draw attention to the fact that the Haulage Act applies to Northern Ireland, so there is going to be some confusion about the territorial application. I am sure that there is a technical tradition as to why Wales is not mentioned, but I wish the Government would abandon that as it is very confusing. This is becoming a serious issue because we have an avalanche of new legislation falling on the haulage industry and people wishing to travel, for whatever

[Baroness Randerson]
reason, from one country to another. Small businesses are trying to keep abreast of the industry. They may not belong to one of the big representative organisations that do a very good job of alerting their members. It makes it very confusing for them if it is not absolutely clear what applies in which bit of the UK.

12.30 pm

Lord Rosser (Lab): I too thank the Minister for setting out the content and purpose of these draft regulations and order. I share the concerns already expressed, and will revisit only some of them due to the time constraints that I know we are under today.

The draft international road transport permits regulations are laid, as are the others, under the Haulage Permits and Trailer Registration Act 2018. That Act allows arrangements to be put in place to enable international road haulage to continue after departure from the EU. Those arrangements create a framework for a single permit scheme that will deal with bilateral permit arrangements between the UK and non-EU countries, the multilateral European Conference of Ministers of Transport—ECMT—permit scheme and any future permit scheme that may be agreed with the EU. The draft order also includes provisions on applying for and granting a permit, along with provisions on cancellations, appeals and charging.

As has already been said, the ECMT permit scheme provides for a limited number of permits to be available to the UK. It is not much used at present, as the Community licence covers haulage to EU member states. However, if there is no deal for EU countries, Community licences will no longer be recognised from exit day, in which case UK hauliers will need either an ECMT permit for journeys to, in or through the EU, or a bilateral permit under an existing agreement with an individual EU member state to carry goods to, from or through the territory of that member state. But the number of ECMT permits available is limited, and demand for ECMT is expected to significantly exceed supply. Can the Minister say by how much demand for ECMT permits is expected to exceed supply in the event of no deal, and with which EU states there are existing bilateral agreements covering the carriage of goods—or alternatively, with which EU states there are no existing bilateral agreements?

The Explanatory Memorandum says that these regulations provide for an objective and transparent way of selecting which applications should be allocated permits. But what happens to those applicants who are not allocated permits from the limited number available to the UK? What will be the impact on them, and on our economy? If there is no deal or no satisfactory deal, how many applicants is it expected there will be who will not be able to get either an ECMT permit or a bilateral permit? How many UK hauliers currently have a Community licence? How will the Government assist operators who are not granted a permit and who may experience an adverse impact on their business as a result?

The Government have said that they are working to have bilateral agreements in place by exit day. Is that a bilateral agreement with each EU member state, and are the Government giving an assurance that such agreements with each member state will be in existence and effective by exit day? The Government have said that there are nearly 3,000 monthly ECMT permits. How will the operation of these monthly permits work in practice? Will UK hauliers have to reapply on a monthly basis, and how will the Government assist hauliers who need longer-term plans for their operations than monthly permits can provide?

The regulations grant the Secretary of State discretion to determine the allocation of permits where they are oversubscribed. How will the Government ensure that there is a fair and consistent approach, in particular over "random selection", which is referred to in the regulations and which has already been referred to in today's debate.

I will not go into the Trailer Registration Regulations 2018 at any length, except to say that I very much share one of the concerns in particular that the noble Baroness, Lady Randerson, expressed, on the level of awareness issue.

The road safety financial penalty deposit amendment order 2018 sets out the monetary amount of the financial penalty deposit—the FPD—for specified offences relating to the use of goods vehicles and trailers without the appropriate authorisation, FPDs or registration. FPDs can be taken immediately from a person without a UK address who is believed to have committed a specified offence. A separate order will designate specified offences relating to haulage permits, trailer registration and community licences as FPD offences. The specified offences under the Haulage Permits and Trailer Registration Act 2018 relate to failing to produce a permit when required to do so by an examiner, obstructing an examiner or breaching a prohibition on the use of a goods vehicle on an international journey.

Will the Minister say how the conclusion was reached that the level of deposits shown in the SI is appropriate for the offences in question, bearing in mind for example that,

"wilfully obstructing an examiner exercising powers",

and carrying out an inspection attracts an FPD of just £300; likewise, a similar amount for "breaching a prohibition" or,

"causing or permitting a breach of a prohibition …on taking a vehicle to a country without reasonable excuse".

We are talking about goods vehicles, trailers and safety issues since this is a road safety order. How wilful has the obstruction of the examiner got to be, and how blatant a breach of a prohibition, before an FPD is not considered appropriate? Once the requirement to pay an FPD has been imposed under the terms of this draft instrument, what further action will be taken in the light of the offence?

Baroness Sugg: My Lords, I thank noble Lords for their consideration of these draft regulations. Throughout the passage of the Haulage Permits and Trailer Registration Act there was valuable debate, which allowed us to refine and improve the Act and ensure that it laid out the necessary framework. I am grateful once again for the opportunity to consider the detail of this legislation. I shall attempt to answer all the questions, although I am not sure I will be able to in the time allowed. If there are questions I do not get to, I will follow up in writing.

On the requests for current haulage industry figures: there are 8,400 standard international licences currently in use and 32,000 Community licences. Our figures show that if hauliers were to make one trip per week on each permit, around 20% of current activity by UK HGVs could be facilitated on ECMT permits alone. However, 20% is not enough and we do not expect to rely solely on ECMT permits. These regulations and the published guidance refer only to ECMT permit applications. We do not yet know the outcome of negotiations, so we are not able to provide further information to hauliers on that. Whether with the EU or with member states, it could be that no permits are required at all. In that case, obviously these regulations will not come into force.

I will say a little more on the permit application process—

Lord Berkeley: I am grateful to the Minister for giving way. She is outlining what she probably thinks is the best case. If we get the worst case—no deal—there may be no trucks going across the Channel apart from the small number with the permits that she has just outlined. Will we be allowing Bulgarians—or Romanians, or anyone else—to come in and drive trucks, or will we just be cut off?

Baroness Sugg: My Lords, we will certainly not be cut off. The case I outlined—20%—is the worst-case scenario for UK hauliers under the ECMT permits. What happens with EU hauliers coming in—80% are non-UK hauliers—would depend on the negotiations. We have not yet made an agreement with the EU or member states but, of course, traffic goes the other way too.

On the permit application process, we have been working closely with the DVSA to build on existing IT systems for the online permit application system. As I have said, that is currently for ECMT but may be for other bilateral permits if we agree a permit scheme bilaterally. To apply for the permit, hauliers have to be registered on the vehicle operator licensing scheme—some 87% are already registered. The permit application scheme has been tested extensively with hauliers, who found it straightforward to use. I have seen the system myself and can attest to its user-friendly manner. Therefore, we are well prepared for that. As I said, the guidance that we have provided has given advance notice of the information that is needed, and we have tried to keep that information very simple to help the application process.

The noble Lord, Lord Berkeley, asked about the timing. Permits will be allocated and notifications will be made in good time to ensure that permits are with the successful applicants by January 2019. They will receive an email notification as soon as the permits are allocated and the system will allow applications to be considered promptly. However, as I said, this is for ECMT permits, and until we know where we are with the wider negotiations or bilateral agreements, that is the only information we are able to give.

The noble Lord, Lord Rosser, asked about monthly permits. We will have around 2,800 monthly permits, which will be available for mostly Euro 6, as opposed to Euro 5, vehicles. The noble Baroness, Lady Randerson, asked about the emissions criteria. It is purely a case of whether a vehicle is categorised as Euro 5 or Euro 6. We have chosen to take out the maximum number of monthly permits, as we think that that will give us the maximum possible flexibility. Exactly how these permits will be used will depend on the outcome of negotiations with the EU or with member states. As yet, we have not reached a firm decision on how they will be allocated. The guidance published yesterday related to annual permits. We will begin to take applications for annual permits later this month and will offer monthly permits closer to exit day.

The noble Lord, Lord Berkeley, asked about international journeys. Hauliers who plan to travel to the EU will need a valid permit to make an international journey, and they should not start that journey if they do not have the appropriate documents. They will be subject to the usual checks, although we would not specifically check for an international permit because they are not needed domestically. As I said previously, 80% of haulage is undertaken by international hauliers, and these regulations refer only to UK hauliers. Subsequent decisions about EU hauliers will be published at a later date when we see the outcome of the deal.

The noble Lord, Lord Bradshaw, was quite right to point out that we rely on foreign drivers. We have already said that we will recognise EU-issued driver qualifications, such as the CPC, so that foreign drivers can continue to work for UK hauliers. That was set out in our technical notices.

Specifically on the bilateral agreements, as I said, we remain confident of getting a good multilateral deal with the EU. There is obviously a clear mutual interest in reaching a good agreement that benefits both our haulage industries, but we are preparing for other outcomes. With regard to the number of bilateral deals, in the past we have concluded 26 such agreements with EU member states. Of those, the Government consider the agreements with 20 EU countries to be extant, with the other six having been terminated.

Some of those bilateral agreements will require permits, although a number are liberalised. We are expecting to have to update them and are preparing for that. In practice, we need to work with the member states on the agreements, so at this stage I am not able to give detailed information about them. However, should we get to the point where we go down that route, we will of course share that information. Any future agreement will be brought into force under the permits SI through the negative procedure simply by adding a member state—if permits with it are required—to the list under Regulation 1. However, obviously any bilateral agreement will be properly scrutinised and brought before Parliament.

We will be using the criteria that we have decided on to deliver the principles of obtaining the greatest economic benefits from the permits, protecting the interests of UK hauliers, and applying a fair and consistent process. To achieve that, we will consider the exhaust emissions, the goods that will be carried, how frequently the permit will be used and what proportion of the applicant's haulage is international. Again, all that is set out in the guidance, which has

[Baroness Sugg]
now been published. It shows the exact questions that we will be asking and the specific measurable data that hauliers will need to provide. As I said, we have designed the guidance alongside research with hauliers so that it is clear for them and so that the system is straightforward.

Assessment of the criteria will be based on the numerical data that hauliers provide, and the IT system will automatically assess the applications. The criteria are included in broad terms, as we think that these are the key considerations for the permits to be allocated effectively. The regulations will ensure that the Secretary of State continues to consider the relevant guidance, and he must also provide guidance on how they will be applied.

Random selection was brought up by many noble Lords and we discussed it at length during the passage of the HPTR Bill. There are many objectives of the allocation criteria. Scoring purely on other criteria without that random element could mean that only a few hauliers got all the permits they applied for and others got none at all. Not only would that be that uncompetitive; it would also mean that smaller international hauliers who still use these permits intensively would get none, which we think is unfair. It is important to have as large a number of UK hauliers as possible to be able to continue to haul goods internationally in the unlikely case that we have to rely on the ECMT.

The random element acts to distinguish between very similar applications while preserving the basic principle that the most intense users of permits, and the hauliers most reliant on international work, have a greater chance of being allocated permits. To be clear, this does not mean that permits will be allocated by chance and without considering those criteria. It is not a lottery. Applicants who use permits more intensely and who perform a greater proportion of international haulage will always be more likely to get permits. We will look at the proportion of goods currently carried internationally when allocating them. Modelling that the department has done suggests that at least four times as many different hauliers will be awarded permits under this system than would be without the use of random allocation.

12.45 pm

Baroness Randerson: Can the Minister explain how small businesses are going to be taken into account according to those criteria? You could be a small business doing 100% of your business with the EU but have only one lorry. You are therefore going to be at a huge disadvantage in the numbers game, compared to big companies. A small business could well go to the wall as a result.

Lord Berkeley: May I ask a question supplementary to that? If the criterion is going to be the greatest economic benefit, how can the Government identify something vital for a small business, as the noble Baroness suggested—25 tonnes of oranges, or the parts for a major car manufacturer who says, "If I do not get the parts today, I am going to close the whole thing down"—when we are only going to get a quarter or so of the permits we need at the moment? It seems there is going to be chaos either way. Does the Minister have a solution?

Baroness Sugg: My Lords, it is of course incredibly important that we protect the interests of small businesses. The impact of the legislation on small businesses has been carefully considered. We are very aware of the tight operating margins the sector faces. As we said in the impact assessment, a large majority of the sector is made up of small and medium businesses. In the case of the permits regime, we are looking at the proportion of business that is international. The criteria have been designed not to disadvantage smaller operators. For example, the number of international journeys made by a haulier is measured per permit rather than by the actual number of journeys. The inclusion of an element of random selection also ensures that small businesses are not disadvantaged.

On the point made by the noble Lord, Lord Berkeley, we are aiming to replicate the current mix of goods carried by hauliers, and we will do that as we issue the permit allocations. We have worked carefully with the haulage industry on that throughout the passage of the Act and in the run-up to the publication of the guidance and the legislation. We will continue to work closely with the trade associations—the Freight Transport Association and the Road Haulage Association—as well as lots of industry associations and small business. Industry supports our negotiation objective to maintain and develop the existing access for commercial haulage. I will read the evidence mentioned by the noble Baroness, Lady Randerson, but I am very clear where industry is. It is very keen to continue with the open access we have now, and that is our negotiating position. It also welcomes that the Government are working to ensure we have the right system in place and are able to allocate the ECMT permits, should we need to rely on them.

The noble Baroness, Lady Randerson, also briefly mentioned caravans. This does not replace the NCC scheme. We are working very closely with it on the CRiS scheme, and with it and caravan council members to make sure they understand how this will affect them. We also have a communications campaign aimed at both hauliers and those with trailers to ensure that they are aware of this.

The noble Baroness also mentioned Wales. I looked into this thinking that it might come up again, and it is a standardised text, as England and Wales are a single legal jurisdiction. It is therefore not referred to separately. The standardised language is to show that EVEL does not apply. However, I will go back and reiterate her point that that could cause confusion.

These instruments represent an important stage as the Government progress with plans for leaving the European Union. We all agree that we do not want to rely on ECMT permits, and that is not the Government's position. Haulage is of course a key industry and integral to the success of our wider economy. It is this that led to our focus earlier this year on bringing forward the primary legislation underpinning these regulations and the technical systems for implementation. If we do end up with just the ECMT, we will be ready, but, as I said, that is not where we want to end up.

Whether it be through an agreement with the EU, which we are optimistic for, or through updated or new bilateral agreements with other member states, it is clear that that is in our mutual interest. We are keen to get that in place as early as possible to provide certainty for all the haulage companies that contribute so much to our economy. As I said, our negotiating position with the EU is clear as we look to achieve a deal with reciprocal arrangements that work for the industry. However, we are putting in place solid preparations for a range of outcomes, including the unlikely event of no deal.

Motions agreed.

Government Vision on Prevention

Statement

12.51 pm

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord O'Shaughnessy) (Con): My Lords, with the permission of the House, I will repeat a Statement made in another place by my right honourable friend the Secretary of State for Health and Social Care on the publication of the Government's prevention vision document. The Statement is as follows:

"Last week, the Chancellor confirmed that the NHS budget would rise by £20.5 billion over the next five years, because we care about the NHS being there for everyone. As well as money, however, reform is crucial. Before Christmas, we will bring forward a long-term plan for the NHS. We know that so much of what contributes to good health comes not just from what happens when someone is in hospital but from what we do to stay out of hospital. Prevention is better than cure. Today, I have laid before the House our vision for the prevention of ill health. It covers what the NHS needs to do, including more funding for community and primary care and the better use of technology. The plan also outlines what we need to see more broadly; everyone has a part to play.

As well as the rights we have as citizens to access NHS services, free at the point of use, we all have responsibilities too. Individuals have responsibilities, and we want to empower people to make the right choices. For instance, smoking costs the NHS £2.5 billion each year and contributes to 4% of hospital admissions. That is despite the massive reduction in smoking over the past 30 years. The next step to a smoke-free society is targeted anti-smoking interventions, especially in hospitals.

As well as stopping smoking, we must tackle excess salt. Salt intake has fallen 11% in just under a decade, but if it fell by a third, that would prevent 8,000 premature deaths and save the NHS over £500 million annually. We are working on new solutions to tackle salt, and we will set out more details by Easter and deliver on chapter 2 of our obesity plan too.

Next, prevention can save money and eliminate waste. At the moment, it takes too long, with too many invasive tests, to diagnose some illnesses. Doctors often have to try several different treatments before they alight on what is right for a patient. However, two new technologies—artificial intelligence and genomics—have the potential to change that. I want predictive prevention to help prevent people becoming patients and to deliver more targeted interventions with better results when people do fall ill. Instead of simply broadcasting messages to the nation, technology allows us to support much more targeted advice, messages and interventions for those most at risk.

Turning to environmental factors, our health is not determined only by what happens in hospitals. In fact, only a minority of the impact on anyone's healthy lifespan is delivered by what hospitals do. The other factors include the air we breathe, whether someone has a job and the quality of our housing. That means our GP surgeries, our hospitals and our care homes all working more closely with local authorities, schools, businesses, charities and other parts of our communities.

Of course, the record number of people in work is good news on that front, and employers have a big role in helping their staff to stay healthy and to return to health after illness. That is where we can learn from the excellent record of our brave armed services, which have an 85% return-to-work rate after serious injury, while the equivalent rate for civilians is only 35%. Building on all that, the Government will next year publish a Green Paper on prevention, which will set out the plans in greater detail. This is all part of our long-term plan for the future of the NHS.

If I may, I will now address two separate issues that I know are of interest across the House today: the treatment of those with learning difficulties and autism, and the medical use of cannabis. Since becoming Health and Social Care Secretary, I have been shocked by some of the care received by those with autism and learning difficulties. Where people deserve compassion and dignity, they have been treated like criminals, and that must stop. Like everyone across the House, I have been moved by the cases of Bethany, Stephen and so many others, whose stories have laid bare what is wrong with our system and what needs to change. I have instituted a serious incident review, but this is not just about individual cases; it is about the system.

Three years ago, the Government committed to reducing the number of people with learning disabilities or autism in secure mental health hospitals by at least a third. Currently, it is down by a fifth, but that still leaves 2,315 people with learning disabilities or autism in mental health hospitals. I want to see that number drastically reduce. I have asked the NHS to address that in the long-term plan, and I know that its leadership shares my determination to get this right. I have also instigated a Care Quality Commission review into the inappropriate use of prolonged seclusion and segregation. The long-term use of seclusion is unacceptable both medically and ethically. It must stop. The review will recommend how to protect vulnerable people better and how to ensure that everyone is cared for with the compassion, respect and dignity they deserve.

On the prescription of medicinal cannabis, I pay tribute to my right honourable friend the Member for Hemel Hempstead, my honourable friend the Member for Dover and the honourable Member for Inverclyde for their campaigning on this issue. We have changed the law to make it possible to prescribe medicinal

[LORD O'SHAUGHNESSY]
cannabis where clinically appropriate. Urgent cases have been brought to my attention, including concerns that those who have received treatment on an exceptional basis are now being denied that treatment. There is no reason for that to happen. The treatment of each individual patient is, and must be, down to the decision of the specialist doctor, working with patients and their family to determine the best course of treatment for them.

I met the head of the NHS on that this morning, and I have immediately instigated a system of second opinions. We have put out a call for research to develop the evidence, and we have also commissioned the National Institute for Health and Care Excellence to produce further clinical guidance on this issue. No one who currently gets medicinal cannabis should be denied it, and there is a system in place now for those who need to get it in future.

We want to deliver the best possible care to the most vulnerable, and we want to help build a more sustainable health and care system for all. Today's announcements will help to do that, and I commend this Statement to the House".

My Lords, that concludes the Statement.

12.57 pm

Baroness Thornton (Lab): I thank the Minister for repeating the Statement and I welcome his remarks on the use of medicinal cannabis. I also welcome his comments on the appalling, barbaric abuses of those with learning disabilities and autism. Indeed, my honourable friend Barbara Keeley MP is raising that issue in the Commons right now, as the noble Lord is probably aware, and is asking, as I am, for further information about how to end the long-term seclusion and how to deal with the deaths of autistic people and people with learning difficulties. Everyone is shocked by what we have learned about what has been happening in our hospitals and in these units. Is it now time that these institutions were either closed or completely changed?

I am pleased that the new Secretary of State has discovered at this early stage in his career that prevention is better than cure. I certainly welcome the emphasis and focus on prevention. But as the saying goes, "Fine words butter no parsnips"—although in the case of public health perhaps we should not be buttering anything anyway. In other words, the new Secretary of State and his enthusiasm for prevention can be judged only by actions and results. In that context, he is starting, I am afraid, with some dismal facts that he has to overcome to achieve his ambitions.

The first of those is the £700 million-worth of cuts to public health services, with more cuts to those services being pencilled in for the next year, including £17 million of cuts to sexual health services, £34 million of cuts to drug and alcohol services, £3 million of cuts to smoking cessation services and £1 million of cuts to obesity services. As noble Lords will be aware because it is something that has been mentioned in the House for many years, every single pound spent on prevention provides £14-worth of social benefit. This is not a sensible economic decision.

In the context of obesity, when do the Government plan to outlaw or ban the advertising of junk food on family television as part of the drive to tackle childhood obesity? Immunisation for children has fallen for the fourth year in a row, so a big part of prevention surely has to be a focus on investment in children's and early years health services. However, health visitor numbers have fallen by more than 2,000, school nurse numbers have gone down by 700 and 11% of babies miss out on mandated health checks. My first question about the prevention programme is this: what are the Government's plans to reverse these cuts, particularly of health visitors and school nurses?

Yesterday, the Association of Directors of Public Health said that the spending review should allocate an extra £3.2 billion for the public health grant next year. Does the noble Lord accept that figure? As we all know, prevention is not just about public health, as he has said—it is also about social determinants, jobs and housing being the most obvious. According to research by Sir Michael Marmot, the world-recognised authority on public health, improvements to life expectancy have stalled since 2010 and inequality is widening. There is now a life expectancy gap of 13 years between women living in the poorest and the richest parts of the country. Does the noble Lord agree that deficiencies in the funding of our health and social care system along with the availability of resources to provide prevention services are key to this?

Prevention also concerns the availability of, and access to, primary care. GP numbers are now down by 1,000 since 2015, and as I have said, since 2010 district nurse numbers have been cut by 3,000. People with serious mental health problems die on average between nine and 20 years earlier than others. This is one of the starkest inequalities in our country. One in four adults and one in 10 children will experience mental health illness. On social care, some of the most disadvantaged in our communities are the elderly and the disabled. If the Secretary of State intends to lead a drive for better health in later life, how can that be achieved without addressing the parlous state of social care in many areas?

Can I seek clarification from the Minister about the different strategies and Green Papers that are in play at the moment? Is the recent announcement part of the 10-year strategy that is to be drawn up before Christmas, is it separate from that or is it in addition? How is this linked to what seems to be the Green Paper on social care that never arrives? We were promised a national plan after the Budget, hotly followed by a Green Paper, while yesterday the Minister talked about a prevention plan "next year". I confess myself to be confused because if we add to that the fact that there is a commitment to transform mental health services by 2020, the Minister needs to clarify for the House how all of these are going to be integrated and in what order we can expect them to appear.

We welcome a focus on prevention and we have long called for it. However, a genuine commitment to prevention must start by reversing the public health cuts that we can see before us at the moment because on that basis, I fear that the parsnips really are not going to be buttered.

Baroness Walmsley (LD): My Lords, at last we have a Secretary of State who has been listening to my speeches over the years, or perhaps, more realistically, he has come to the same conclusion all by himself that the NHS is unsustainable with the changing demographics and higher demand unless we do something to prevent the 40% of illnesses that are preventable. I am therefore delighted to welcome the Secretary of State's new focus on prevention.

However, he said in his speech yesterday that it is difficult to divert money into prevention unless funding is rising, because otherwise you will be taking money from treatment. Well, funding is rising. The Minister spoke about diverting part of the extra £20 billion for the NHS into prevention, but that is only part of the answer. This a whole-government problem. People do not live in hospitals or GP surgeries. They live in cities with polluted air, often in overcrowded and damp homes, in areas with too many fast-food outlets and too few fruit and vegetable shops where the local sports centre or swimming pool has closed. They are stressed about paying the bills on low wages or benefits.

Then there are lifestyle decisions. Often when people are in their own homes or the local pub, they smoke or send out for a high-fat and high-salt takeaway or drink too much alcohol. Many do not take enough exercise. They are subjected to large amounts of TV advertising for the wrong kind of food and drink, and far too many ads encourage them to gamble. None of this is good for their physical or mental health.

My point is that the organisations that can help them with this are often not the NHS or wider national government, although both can do a lot. I am speaking about local authorities, whose overall funding, particularly for public health services, has been cut since July 2015 and is projected to carry on being cut. Does the Minister think that this is in line with the Secretary of State's vision? There is evidence that sexual health services, sports centres and weight management services have closed. Smoking, alcohol and drugs prevention and treatment services have been discontinued. Does the Minister not agree that some of the new funding should be diverted from the NHS into local authorities and ring-fenced to allow them to reinstate and widen these services? Of course, NHS professionals must be involved, but this should come under the public health responsibility of local authorities, where it correctly lies.

Councils run as many of these good services as they can but they cannot afford as many as are needed to stall the national epidemic of obesity and other preventable health problems. According to a systematic review of the available evidence, published online in the *Journal of Epidemiology and Community Health*, every £1 spent on public health saves £14 on average, as referred to by the noble Baroness, Lady Thornton. In some cases, significantly more than that is saved. We should listen to such a meaty piece of research. Local directors of public health claim that they can spend money more efficiently than the NHS to prevent ill health. Why not fund them to do so?

Turning to two other matters, I applaud the Secretary of State's initiatives for people with learning difficulties; I strongly wish them well. However, the Minister will understand from my background in cannabis-based medicines that I am still very concerned about the too-restrictive guidance that has been published on prescribing pharmaceutical-grade cannabis-based medicines. It seems that there is still a bureaucratic nightmare for patients who thought that the Government's recent relaxation of regulations meant that their troubles were over. I fear we do not have time now to go into this in detail, but I welcome the intention expressed in the Statement to get it right. What further reassurance can the Minister give me that clinicians will be given the information from patients and other countries to enable them to make sensible prescribing decisions—not just for Sativex and Epidiolex? Can he assure me that it will not have to be done as a last resort when a lot of licensed drugs with nasty side-effects have already been tried unsuccessfully?

Lord O'Shaughnessy: I am very grateful to the noble Baronesses, Lady Walmsley and Lady Thornton, for their questions. I concur completely with their point that the NHS is not sustainable if it is a national hospital service, which the Secretary of State was trying to get across yesterday. He used the stark figures of £97 billion being spent each year on treating illness and only £8 billion on preventing it. Clearly, we need a shift there. Investing more money makes that shift easier; I am glad that the House recognises that we are doing that.

Before I get on to the specifics of responsibility for health, I concur with the idea that this is a whole-government challenge. It is also a societal challenge; it is not just for government to make this happen. It is about people as well, as the Secretary of State said in his point about personal and family responsibilities. We all have a role to play in making it easier for people to do the right thing. That is quite different from a finger-wagging approach; it is about making sure that it is easy to make healthy rather than difficult choices. When you talk to people about that, they feel it is a sensible approach.

On the funding question that both noble Baronesses asked about, it is worth pointing out that local authorities received £16 billion over this SR period. That obviously involves a reduction, as they pointed out. The recent Budget did not change the funding. It has been suggested that it reduced it, which it did not. Clearly, any new budget for public health specifically and for the role of local authorities will be decided at the spending review next year. I hope the noble Baronesses will forgive me if cannot say more about that, other than that I absolutely concur that local authorities have a critical role working with the third sector, industry and others. So does technology. Noble Lords will know that we have a real technophile in the Secretary of State. He is absolutely right that, while technology will not necessarily change everything, it gives us the possibility to change behaviours much more cheaply and more cost-effectively than in the past, which I hope means that we can do more with our money. That is the promise of new technology if we get it right.

On the specific questions on the prevention strategy, the noble Baroness, Lady Thornton, asked about junk food advertising. The consultation on that is due to be published before Christmas. We are trying to train

[LORD O'SHAUGHNESSY]
more staff on children's health. We are working with Health Education England on a health and care workforce plan as part of the long-term plan. She also mentioned health inequalities. The Prime Minister had been very clear that she wants people to enjoy five more years of healthy life. At the moment, on average, children being born today will live to the age of 81 but might have 18 years of unhealthy life and there is a great discrepancy in that depending on one's demographic. The greatest gains from that will therefore be for the least advantaged. That is something we are focused on. It is part of the NHS mandate today and it will be part of the plan.

We have debated GP numbers in this House. There are record numbers of GPs in training and that flow will continue over the coming years. We are also determined to make sure that there is much better treatment for mental health, not only because people with mental illness die earlier—sometimes dramatically earlier—but because, as we have discussed and as is being discussed now in the other place, there is too much unacceptable use of in-patient facilities for people with mental illness, learning disabilities and autism. I am glad that the Secretary of State's strong words on this have been well received. He is absolutely determined, as we all are, to ensure that we deal with this. We have made some progress but we have not got as far as we needed.

As to whether such facilities will be needed in the future, I think that they will. I visited Springfield University Hospital in south London recently. It is being redeveloped from a classic Victorian institution to something being designed with patients to be much more suitable for their needs, with better access to light and to communal areas where appropriate. These facilities have a role to play when properly modernised, but they ought to be used for only a short time. They ought to be close to home and there ought to be a discharge plan in place before they are used. Clearly, in some cases none of those things is happening and unacceptable care takes place, which we need to stop.

On the various Green Papers and so on, the Secretary of State has set out vision documents in areas he has identified as early priorities. A lot of this stuff will be wrapped up in the long-term plan that we will publish before Christmas. As we move ahead there will be Green Papers on key areas. Social care will be one, for not just older adults but working-age adults; there will be a prevention Green Paper on that in the new year. There will be many more for us to discuss, to the great delight of the House, I am sure.

The noble Baroness, Lady Walmsley, asked about cannabis medicine. We are treading a fine line in difficult territory. We know the great benefits that these medicines can bring and are bringing, particularly to children with some horrendous epilepsies and other illnesses. At the same time, we know that there are risks associated with the active ingredient THC. It is about trying to move forward in a way that is compassionate to patients but does not put them at undue risk while evidence is still being gathered.

I will say three things. First, we are trying to fund more research so we understand the real world impact of these kinds of medicines. Secondly, by rescheduling them to Schedule 2, THC-based medicines can be procured through an unlicensed medicines route, which was not something that was there before. That goes beyond the Sativex and Epidiolex question, in terms of licensed drugs at the moment, although again that will be done with care and caution by specialist doctors. NICE is working on a clinical guideline to supersede those currently in place, which are temporary guidelines. It will be gathering evidence as broadly as possible internationally from patient groups, clinicians, families, industry and elsewhere. I am confident that, while we have clearly not perfected the system yet, there is a genuine attempt to get a much better, more compassionate system that ensures that drugs such as this can get to people who will benefit from them when they need them. I am confident that we will get to the right position eventually.

1.15 pm

Lord Ribeiro (Con): My Lords, the Statement makes reference to the use of predictive prevention to deliver more targeted interventions. At the recent meeting of the American College of Surgeons in Boston two weeks ago, the director of the National Institutes of Health—he likes to call them the national institutes of hope—said on targeted interventions that they are taking a new approach to disease prevention through the All of Us research programme and that, by taking account of individual differences in lifestyle, environment and biology, researchers will uncover paths towards delivering precision medicine. To date, since May this year, 100,000 people have signed up. What plans does the department have in the UK for a similar programme, and to use genomics for the benefit of all?

Lord O'Shaughnessy: I am very grateful to my noble friend for that question: he speaks with great wisdom and insight on this. The great promise of technology is to take all the information we hold about people—their health and care records, their genomic data, their lifestyle data—and use artificial intelligence to tailor health advice to them. There will be not just broadcast public health messages that everyone sees, but specific messages that will change my behaviour or your behaviour, to make sure that we live the kind of lifestyles we actually aspire to live, even if we do not always fulfil that.

I highlight three things we are doing. The first is our commitment to sequence up to 5 million genomes over the next five years. Secondly, we will try to make sure that AI is used in the right way to support healthcare and that relationships are entered into by the NHS and tech companies on a proper basis to bring the maximum possible benefit to the NHS and patients. Thirdly, we will try to take advantage of the enormous opportunity we have with the data that is available in a single-payer comprehensive health system by reassuring people that it is being kept and used safely and legally, but then utilising it so that it is joined up as a single integrated health and care data record, available for direct care and—critically—for research. Then we can start to tailor the medicine we deliver and move to a truly personalised NHS.

Baroness Uddin (Non-Afl): My Lords, those of us who have worked in community developments over 40 years have understood and valued the notion of prevention. It has to be recognised that funding has dissipated over the last 10 or 15 years, due to the finance extracted from local government. I welcome the Statement and I particularly welcome the fact that the Secretary of State makes reference to wanting to integrate housing and health and social care. This is very important. More specifically, I want to make a couple of points on learning disability and autism.

The Secretary of State recently came to a meeting of the All-Party Parliamentary Group for Disability and we were really pleased that he stayed and listened throughout. However, the point that is still missing—I would like the Minister to respond—is on how the Government will ensure that organisations that have worked solidly with sterling records on the ground will be part of this discussion, because they know the answers. Minister after Minister and officer after officer will change, but many of these organisations have remained rooted, whether they have been funded or not, and I would like some assurance that they will have their say. Millions have been lost in services over the past decades, particularly in disadvantaged communities, so women and people with disabilities have not been able to access services adequately, either because they do not know that services exist or because government organisations simply fail to connect with them.

Noble Lords: Question!

Baroness Uddin: With respect, my Lords, I state my objection at being shouted at to move on; many Members would simply carry on.

Lord O'Shaughnessy: I am grateful to the noble Baroness for the question. On learning disabilities and autism, I know that the Secretary of State has been very moved by some of the cases that he has become aware of since taking the job in the summer. He has instigated not only serious incident reviews into individual cases but a thematic review by the CQC, with contributions from NHS England, on how to improve the system and ensure that we move more services out of in-patient facilities and into the community. I am absolutely confident—I will confirm this to the noble Baroness—that the best providers, from wherever they are, will be able to contribute to that review.

Lord Kakkar (CB): My Lords, I declare my interests as chairman of UCLPartners and business ambassador for healthcare and life sciences. In repeating the Statement, the Minister focused on the important opportunities provided by genomics and the application of artificial intelligence to transform the landscape for prevention. In answer to a previous question, he identified the importance of trust for the ability to marshal this vast amount of deeply personal data and ensure that it can be appropriately applied for individual benefit and, more broadly, population benefit. In that regard, I make two points to the Minister.

First, what progress has been made towards achieving that social licence which will ensure broad trust with regard to the mechanisms available and the security of the structures, not only for data collected in hospital but now in the community and the prevention setting, so that it may be shared and applied for individual as well as population benefit? Secondly, there will need to be a substantial investment in skills to ensure that not only professionals who work in healthcare for the delivery of health services but those who will have to engage more broadly in the prevention agenda are able to respond to this vast amount of data, and help individual citizens and patients apply it for maximum benefit.

Lord O'Shaughnessy: On the question of trust and social licence, which is a very good expression, KPMG published a report in September which found that the NHS was the most trusted organisation in the country when it came to looking after people's data. That is a very precious thing and we must not lose it, so a number of steps are being taken to try to reinforce that degree of trust. We have introduced a national data opt-out and very recently had the national data guardian Bill, which puts the National Data Guardian on a statutory footing to provide that security and statutory guidance to government, so that we can ensure we build on that trust. On investment in skills, we have commissioned Eric Topol to carry out a review of the skills needed in the workforce to adopt new technology, which will report soon. We also have to recruit new professions: it turns out that bioinformatics is one of the most important things to have in taking advantage of that. We do not currently train enough people in that field but we need to ensure that we do, so that every patient and every clinician can take advantage.

Lord Robathan (Con): My Lords, in commending this Statement may I pick up on what the noble Baroness, Lady Walmsley, said about the obesity epidemic? I think that she used that word. Does my noble friend agree that all of us, be it in Parliament or as health professionals or teachers, have a role in setting examples to others? Does he also agree that young people and others look to us to see what we do? If we eat or drink too much, or if we smoke, they may follow. Does he also think that health professionals should perhaps be less understanding when people are grossly obese and tell them that, if they do not lose weight, they will die early and cost the NHS a huge amount through diabetes and other diseases?

Lord O'Shaughnessy: My noble friend brings to mind the quote—I forget who it was by—saying that children never listen to their parents but have never failed to imitate them. There is a point about setting an example, which I agree with. I do not quite agree with the force of his opinion about how health professionals should speak to people suffering weight problems of that kind. These things can be genetic or epigenetic; there can be all sorts of causes. The most important thing is to get people on board with losing weight and motivate them to do so. We have lots of good understanding about how to do that, which is at the heart of the obesity strategy.

Lord Sherbourne of Didsbury (Con): My Lords, on the question of obesity, will the Minister look carefully at the two successful public health campaigns which

[Lord Sherbourne of Didsbury]
helped to change behaviour? One was the campaign on AIDS many years ago and the other was the campaign over many years against smoking. Both had beneficial effects on behaviour.

Lord O'Shaughnessy: My noble friend is quite right. The campaigns took quite different approaches. One used tax and regulation and the other used destigmatisation and the provision of services, but they were highly successful and I reassure him that the knowledge and learning from those campaigns influence our current prevention strategy.

Lord Framlingham (Con): Given how unhelpful much of the advertising is nowadays, how brave are the Government prepared to be in curtailing it?

Lord O'Shaughnessy: We have said that we will clamp down on junk food advertising. Clearly we have cut down on the advertising of alcohol, smoking and many other things over successive Governments. This country has led the way in dealing with this sort of issue, so I am confident that we will have the necessary approach.

Baroness Masham of Ilton (CB): My Lords, will the Minister assure us that some of the most important things that are not in the Statement are not downgraded? They are antibiotic resistance, vaccination and immunisation, drug misuse, the prevention of hepatitis C in prisons and sexually transmitted diseases which are becoming resistant.

Lord O'Shaughnessy: I can provide the noble Baroness with that reassurance. This is a vision document, not a plan. It does not go into detail in every area, but merely tries to set out an ambition for the kind of health service that we want. All the issues that the noble Baroness raises are incredibly important, and I promise her that they form a big part of the department's agenda.

Baroness Barran (Con): My Lords, I join other noble Lords in welcoming the focus on prevention. A key point in prevention is early childhood, the so-called first 1,000 days of a child's life. I looked at the paper from the department and found several references to this, but they were nearly all in relation to the impact on adult mental health as opposed to physical health. The evidence on the impact on physical health, including obesity, cardiovascular disease, diabetes and cancer is overwhelming from the research done by some of the big health insurers in the States and from the Harvard Center on the Developing Child. Will my noble friend reassure me and other noble Lords that greater prominence will be given to the prevention of the so-called adverse childhood experience, the toxic stress that very young children experience, which impacts on their mental and, crucially, physical health as adults?

Lord O'Shaughnessy: I agree with my noble friend. There is a strong desire for the Green Paper to be cross-government and therefore, like the vision document, take us into areas that go well beyond the remit of the Department of Health and Social Care. My noble friend Lord Farmer has published an interesting paper on the impact of family stress, marriage breakdown and other things on childhood outcomes. It is quite disturbing. Clearly making sure that we support families in all their forms is a critical part of giving children the best chance in life.

Lord Robathan: Since my noble friend thinks I am a bit harsh, does he not agree that the ghastly photographs on cigarette packets of people suffering from diseases caused by smoking have contributed to the reduction in disease from smoking and that therefore we should perhaps be a little bit harsher in explaining to people that they will die early if they do not take control of their own lives?

Lord O'Shaughnessy: I do not disagree with the content, in a sense, of what my noble friend said, but I think it is important that we communicate it in a way that will motivate people rather than terrify them into inaction. The difference with smoking is that there is no good or safe amount that you can smoke whereas there is clearly a good and safe amount that we can eat and drink and for sugar and salt intake and so on. It is about striking the right balance.

Lord Scriven (LD): My Lords, while I welcome the Statement, particularly around prevention, and the use of AI, technology and data, there are two issues that come to mind. My first question is this: what regime will there be on issues related to the ethics of AI and data use? This is quite important, and there needs to be some form of regime and regulation about what the health service does there.

The second issue is on prevention. As a former health service manager, I know that hospitals are huge sunk costs, and the issue of prevention has been around for many generations. The key is how you move resources from the sunk costs in hospitals into prevention. What work and ideas do the Government have on that? It has always been the Achilles heel of prevention and dealing with hospitals.

Lord O'Shaughnessy: I absolutely agree with the noble Lord about ethics. In a sense, everything that we do in this area has to pass the basic fairness test that people apply to it: is this a fair use of resources and a fair distribution of benefit? A number of programmes have been set up to support our work in this area. There is the Centre for Data Ethics and Innovation set up within DCMS. I also point the noble Lord to the code of conduct for data-driven technologies in health and care that I published at the NHS Expo in September. This is our first attempt to provide some rules of engagement on how NHS trusts or other bodies can enter into relationships with technology companies in a way which brings the maximum possible benefits to the NHS. We will do more on this in due course.

Lord Patel (CB): My Lords, I support what the Minister said about the importance of the national data guardian legislation. That will give the public the confidence they need that their health data will be properly used and protected. I hope that legislation will not be held back.

On the Statement, one of the factions of our society that is at higher risk of diabetes and obesity is the south Asian population. I declare my interest as a patron of the South Asian Health Foundation. Any health education programme needs to target that population in order to reduce the incidence of diabetes, which probably runs at around 40% of the population. If we are to benefit from the information that genomics will provide, we need not just bioinformatics but data scientists, with the ability to mine genomics data. My question for the Minister is: what is the plan for further education for both bioinformatics and data science?

Lord O'Shaughnessy: I am very grateful to the noble Lord for welcoming the NDG legislation, as he did when we dealt with it in this House. I hope that that can progress at full speed.

On the noble Lord's point about diabetes, he is absolutely right that prevalence differs from population to population. I will send him details of the NHS Test Beds programme, which includes quite a few diabetes programmes aimed at different parts of the country, which obviously have different ethnic make-ups. We are conscious of the need to tailor messages to particular groups.

The noble Lord is also absolutely right about the workforce. That is why I mentioned the Topol review. It is critical to making sure that people who are in the service are retrained properly, and that we have enough data scientists, bioinformaticians and others.

I apologise to the noble Lord, Lord Scriven; I did not answer his second question about the sunk costs of hospitals. We are in the process of moving to a system of integrated care services, which is an attempt to integrate primary, secondary and tertiary care—we know what the goal is. These things are up and running and are showing some great benefits through the new models of care programme in moving care out of hospital, improving outcomes and reducing costs. That is clearly something that we need to take nationwide.

1.34 pm

Sitting suspended.

3.20 pm

Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018

Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018

Motions to Approve

Moved by ***Lord Bates***

That the draft Regulations laid before the House on 9 October be approved.

The Minister of State, Department for International Development (Lord Bates) (Con): My Lords, these statutory instruments form part of the work being delivered to ensure that there continues to be a functioning legislative and regulatory regime for financial services in a scenario where the UK leaves the EU without a deal or an implementation period. In this instance, they will fix deficiencies in UK law relating to the regulation of e-money institutions, payment institutions and account information service providers, and make transitional provisions.

The approach of the European Union (Withdrawal) Act is to maintain existing legislation at the point of exit, to provide continuity. While the fundamental elements of current financial services legislation will remain the same after exit, it still needs to be amended to ensure that it works effectively once the UK has left the EU. This is the approach that has been followed here.

EU directives on payments and electronic money, implemented in the UK through the Payment Services Regulations 2017 and the Electronic Money Regulations 2011 respectively, as well as the EU's directly applicable credit transfer and direct debits in euro regulation, collectively create the regulatory regime applying to payment institutions, electronic money institutions and account information service providers, and set the rules for facilitating payments and issuing electronic money for these institutions. Given that the UK would be outside the EEA, and outside the EU's legal, supervisory and financial regulatory framework in a no-deal scenario, the existing legislation needs to be updated to reflect this, and amended to ensure that its provisions work properly in this scenario.

Furthermore, in a no-deal scenario, the UK will no longer automatically maintain participation in the single euro payments area. The single euro payments area—hereafter abbreviated as SEPA—enables efficient, low-cost euro payments to be made across EEA member states and non-EEA countries which meet the governing body's participation criteria. As such, it represents a key enabler of trade between the UK, other current EEA member states and non-EEA participants. The Government therefore intend to retain relevant EU law in such a way that it maximises the prospects of the UK maintaining participation in SEPA in a no-deal scenario.

These SIs therefore will make amendments to retained EU law related to the Payment Services Regulations 2017, Electronic Money Regulations 2011 and the EU's credit transfer and direct debits in euro regulation, to ensure that they continue to operate effectively in the UK once the UK has left the EU, and to maximise the prospects of the UK maintaining participation in SEPA.

In setting out the Government's approach to these issues, I will first outline the approach taken in the draft Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018. I will then outline the approach taken to the draft Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018. I will finally set out the interaction between the UK's future participation in SEPA and the provisions made in both SIs.

[Lord Bates]

The Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018, which amends the Payment Services Regulations 2017 and the Electronic Money Regulations 2011, make the following principal amendments. First, this SI creates a temporary permissions regime for payments firms. If the UK leaves the EU without a deal, there will be no agreed legal framework on which the passporting system for EEA payments firms, implemented under the payment services regulations, can continue to function. As a result, any references in UK legislation to the EEA passporting system would become deficient at the point of exit, and firms from the EEA would not be legally able to operate in the UK. To correct this deficiency, this SI would create a temporary permissions regime akin to that contained within the EEA passporting rights SI for firms regulated under the Financial Services and Markets Act.

Secondly, this SI makes changes to ensure the continued effective safeguarding of consumer funds. The Payment Services Regulations require payment institutions and electronic money institutions to safeguard consumer funds—to protect consumer funds—if an institution becomes insolvent. If the payment institution or electronic money institution enters insolvency, the consumer funds would be paid out in priority to other creditors.

The most prevalent method used to safeguard funds is for the firm to hold them in a segregated account with a credit institution. A significant number of UK firms hold safeguarding accounts in the rest of the EU. These firms will still be able to do so once the SI comes into force, but they will also have the option of using safeguarding accounts based elsewhere in the world, subject to adequate guarantees of consumer protection. This is in line with existing practices for protecting client assets in investments.

Thirdly, this SI removes current provisions which require supervisory co-operation with EU authorities. In a no deal scenario, it would not be appropriate for UK supervisors to be unilaterally obliged to share information or co-operate with EU authorities. As such, current provisions requiring co-operation and information-sharing with the EU have been removed. However, this will not preclude UK authorities from sharing information with EU authorities if appropriate, as the existing domestic framework for co-operation and information-sharing with countries outside the UK already allows for this on a discretionary basis.

Finally, the electronic money, payment services and payment systems regulations transfer functions currently carried out by EU authorities to the appropriate UK bodies. Under the payment services directive, implemented by the Payment Services Regulations, the responsibility for drafting regulatory technical standards currently sits with the European Banking Authority. In line with the Government's cross-cutting approach on the transfer of functions, this SI ensures that these functions are transferred to the appropriate UK body. In this case, that is the Financial Conduct Authority. Once the SI comes into force, the FCA will update its handbook and relevant binding technical standards to reflect the changes introduced by this SI and address any deficiencies due to the UK leaving the EU.

I turn to the Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018. I propose that we consider the SI, which makes amendments to the retained EU credit transfer and direct debits in euro regulations 2012. This SI makes the following principal amendments. First, it introduces the concept of a qualifying area to which the SI applies. This qualifying area comprises the EEA and the UK. This means that the SI will apply to UK payment service providers' euro-denominated transactions in the UK and EEA. This qualifying area is broadly aligned to the geographical scope of SEPA. It does not, however, include three existing non-EEA country participants within SEPA: Switzerland, San Marino, and Monaco. This is because the EU law does not include these three countries and therefore it is not possible to include them in UK law under the European Union (Withdrawal) Act.

3.30 pm

Secondly, this SI transfers functions currently carried out by EU authorities to the appropriate UK body. Under the credit transfer and direct debits in euro regulation, the European Commission may adopt delegated acts to take account of technical progress and market developments. In line with the Government's cross-cutting approach on the transfer of functions, this SI ensures that these functions are transferred to the appropriate UK body—in this case, HM Treasury—which will be able to make regulations subject to the negative procedure to achieve a similar outcome.

Finally, I turn to the interaction between the UK's participation in SEPA and the provisions made in both SIs. For the UK to maintain participation in SEPA as a non-EEA country in a no-deal scenario, the UK payments industry is required to make an application to maintain participation in SEPA. I understand that UK Finance, the body responsible for that, which represents UK payment service providers, has made such an application to maintain UK participation in SEPA in a no-deal scenario, on behalf on the UK payments industry. Applications from non-EEA countries are determined by the European Payments Council by reference to its published criteria for non-EEA country participation.

Through these SIs the Government therefore intend to retain relevant EU law in such a way as to maximise the prospects of the UK maintaining participation in SEPA as a non-EEA country in a no-deal scenario. In the event that the UK does not maintain participation in SEPA in a no-deal scenario, UK payment service providers would be unable to comply with some of the requirements in UK law that presuppose the existence of euro-denominated transactions within SEPA. To cater for this scenario, the credit transfers and direct debits SI gives the Treasury limited powers to revoke requirements to prevent the detrimental effects on UK payment service providers of having a requirement which they cannot meet. These powers are exercisable by the SI, subject to annulment in pursuance of a resolution of either House of Parliament.

In summary, the Government believe that these SIs are necessary both to ensure that the regulatory regime applying to payment institutions, electronic money institutions and account information service providers

works effectively if the UK leaves the EU without a deal or an implementation period, and to maximise the prospects of the UK maintaining participation in SEPA, to the benefit of UK consumers, businesses and the wider UK economy. I hope noble Lords will join me in supporting both these draft regulations, and I commend them to the House. I beg to move.

Lord Kirkhope of Harrogate (Con): My Lords, that all sounds terribly straightforward. I shall just make a short comment and ask my noble friend one or two questions. In the European Parliament I was involved in matters such as the SWIFT banking arrangements for fast transfer of funds, particularly across the Atlantic with our United States friends, so I have a little background in this. As my noble friend correctly said, the single euro payments area covers 34 entities at present: the EU members; the other EEA members; Monaco and San Marino, which he mentioned; and Andorra, which, unless I am mistaken, he did not. Within that area, those countries have a combination of institutional and commercial arrangements. Looking at the effects on providers, or those involved in transfers, my noble friend mentioned negotiations taking place without the institutional arrangements of being members of the EU or another European institutional situation, such as the EEA. Is it possible to have an arrangement to remain part of the single euro payments area even if we are not members of any of those European institutions?

On the temporary permissions regime that my noble friend talked about, again, I question this. A lot of the SIs we are now looking at with regard to the withdrawal agreement seem to refer to temporary provisions. However, here in the Explanatory Memorandum we are talking about the cut-off date for this set of provisions. Is that extendable? Perhaps my noble friend could clarify.

In addition, part 2 statements, which are always attached, as my noble friend knows, never really illuminate one at all. The part 2 statement attached to this first SI includes an appropriateness statement; the Minister clearly states that it is appropriate and, when asked to give good reasons, answers by saying, "I think it's reasonable". We never get any fuller justification at all. Is my noble friend of the opinion that part 2 statements are integral sufficiently within the SI to be justiciable? Is it in fact possible for these to be challenged in courts as either inadequate or in themselves questionable?

My noble friend mentioned a general point about all scenarios. In paragraph 7.3 of the Explanatory Memorandum, "all scenarios" are referred to. Are all the scenarios the ones he has set out today, or are there further scenarios that could occur in the event of our not reaching a satisfactory conclusion with the European Union?

Finally, paragraph 7.4 of the Explanatory Memorandum refers to a sunset clause and mentions consequences. Can my noble friend elaborate slightly for us on what those likely consequences could be in relation to the sunset clause itself? It says that the power,

"falls away two years after exit day",

but that does not take us much further along the road, particularly through a transition period, which we anticipate for financial matters.

Baroness Kramer (LD): My Lords, I am afraid your Lordships have the reserve team from these Benches, since my noble friend Lady Bowles was the intended lead on this series of statutory instruments. However, with the change in the timing of the debate in the House today, she has had to go to the Economic Affairs Committee, so I am a very last minute stand-in. I am grateful to the noble Lord, Lord Kirkhope, for asking some of the most insightful questions, and I look forward to the Minister's answers.

Underlying this, we appreciate that the Treasury is trying to do this, and do it sensibly and properly. At one time there was a fear that the Treasury might try to use these SIs as an opportunity to extend powers in a way not intended. It is not doing that, and we on this side very much appreciate it. It is also necessary to say that payment services are absolutely core to the financial life of this country, so getting this right is critical, and we appreciate that range of issues.

To return to SEPA, which the Minister described and the noble Lord, Lord Kirkhope, raised, I too am trying to understand the implications of allowing Monaco, San Marino, and possibly Andorra into that club. Whether or not that is a template for a third country to remain involved in SEPA, I understand that there are underpinning monetary agreements between the EU and those entities. Can the Minister enlighten us as to the characteristics of those entities, which presumably we would need to echo if we were to have third-country membership? We would find that extremely helpful. I also underscore that the only way we will get reciprocity in our arrangements in this area is if we are a player within SEPA, so it is exceedingly important for both individuals and businesses in the UK.

I will also pick up the issue of transitional—temporary—permissions and their extendability. I understand that the initial temporary permission can be extended, but I am slightly unclear whether it involves Parliament in any way. It appears from reading these documents that this is a decision of the regulator combined with HM Treasury. Can the Minister enlighten us on how that issue is to be handled and whether it would be appropriate for Parliament to have some sort of engagement or oversight on something pretty fundamental to the economic life of the country?

We have also noticed in the reading of the temporary provisions for European entities that receive such permissions—these are intended to last through the transitional or implementation period, or whatever one chooses to call it—that this is not intended to be a long-term arrangement. The implication is that entities with branches in the UK—I give just one example—would need to create subsidiaries instead, a far more costly and burdensome approach, which many have suggested they would not be willing to take. However, it suggests they will have to create subsidiaries and I believe the SI allows for that. However, it does not deal with how to prevent a disruption when moving from a temporary permission—under the branch arrangement, for example—to the new entity that would come in as a subsidiary. Presumably, any kind of hiccup would be of real concern. How is the SI intended to deal with those issues in a relatively short period, as we might soon be facing that set of problems?

[Baroness Kramer]

I also want to look at safeguarding and the "keeping money safe" regime. As the Minister said, given our current membership of the Single European Payments Area, UK banks are able to keep clients' money safe in accounts anywhere within the EU. In fact, this may be outside SEPA; it might relate to EU membership—I am not entirely clear, as my noble friend Lady Bowles would have been. In any event, the regime of keeping clients' money safe anywhere within the EU is now to be extended globally, provided consumer protections are in place.

One of the fundamentals of the regime of permitting UK banks to keep those deposits—which are cash deposits—anywhere within the EU is that there is a common jurisdiction making it possible to act to ensure that money is kept genuinely safe. The arrangement of just recognising that another country has suitable consumer protection is a far weaker standard. The Minister compared it to the rules that apply to invested assets, but those can be tracked and identified in a way that cash never can. There is always a good deal of anxiety about cash sitting in deposits that can disappear and be untraceable. Can he comment on that regime and whether there are concerns and risks embedded in the change of which, frankly, we should be aware?

I shall make a couple of further points. HM Treasury was kind enough to give us an electronic link to its policy guidance associated with these SIs. In that—it was not in the Explanatory Notes—we identified that cross-border payments regulation is not included in the new arrangements. If I understand correctly, that is because this is a cross-border issue. Obligation to the EU end cannot be ensured and therefore the rationale is that there should be no cross-border payments regulatory scheme at the UK end. I hope that good sense and discussion will make sure that we keep cross-border payments regulation, in which case is the SI missing the relevant powers for the UK end or is there some other mechanism by which they can be introduced? That is important because, as the Minister will know, we have cross-border payments regulation to prevent unhealthy price competition driving deposits out of one country and into another.

3.45 pm

My final point is a small one concerning drafting, which I suspect only my noble friend Lady Bowles has noticed. If the Minister looks at Regulation 8 of the Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018, he will see that paragraph (4) states:

"Omit paragraphs 4 and 5".

However, the next paragraph then says in effect that paragraph (4) needs to be reincorporated to read paragraph (1). So it is deleted and then undeleted, which is a fairly inelegant way of dealing with the matter. I have no idea why we have to go through a deletion and then an undeletion under certain circumstances. It raises the curious prospect of how, if we end up staying in the EU, we can simply undelete the various changes that we have put in place. It is a small point but rather a strange one.

Lord Tunnicliffe (Lab): My Lords, I thank the Minister for introducing these SIs. They are two of the 70 that we have to deal with and it is a rare privilege to do so in such a crowded Chamber. Normally, the noble Lord, Lord Bates, and I are allowed the privacy of the Moses Room along with one representative from the Liberal Democrats and no others. During debate on an earlier SI, I talked about the value of these meetings, because at the end of the day the Minister knows, as do I, that we will not oppose these statutory instruments. However, I made the point that they create a record that might help the people who use the regulations to understand them. However, so far this SI presents the biggest challenge when it comes to understanding, and my further comments might reveal that I have totally failed to understand it. I look forward to the tutorial in the Minister's response.

My understanding is that the sorts of things we are talking about are BACS, CHAPS, LINK, the NICC, Mastercard and Visa Europe. I understand that these are regulated in the United Kingdom by the Payment Systems Regulator, which works to a set of standards, directives or frameworks that are the UK manifestation of EU directives and so on. Therefore, my first question is: who will set the standards after exit day? I think that the Minister said that it would be the FCA, but does that mean that effectively, wherever there is a reference to the EU, this SI takes it out and puts in the FCA?

Then we have the complication of who sets the standards for EU firms trading in the UK. Once again, I assume that that is a passporting issue that will die on exit day if we have no alternative agreement. Therefore, what does the instrument do for EU firms after exit day? The Minister says there is a temporary regime, but could he perhaps expand a little on what it does? As I understand it, the temporary regime is time-limited, so what happens at the end of the temporary period? I did not get the sense—as the noble Baroness, Lady Kramer, did—that it was extendable.

Turning now to SEPA, it seems that the Government's aspiration is to retain membership of it, even if there is no deal, but this is slightly different from the pure no-deal situation, in the sense that it will require international agreements between the UK and other SEPA members. Could the Minister expand a little on how the SI facilitates such agreement? More importantly, could he explain the consequence of no agreement? It is, presumably, theoretically possible that we will not be able to achieve a third-country—or whatever the right term is—membership of SEPA. What will that mean, in practical terms, to UK citizens in their day-to-day lives and their desire to use various means of transport in EU countries?

I turn now to what I loosely call the big picture. If we get a Brexit deal, as I understand it, we do not need these SIs. They are essentially no-deal SIs, but I cannot see in them how they are revoked. Are there articles deep in these pages that allow the SIs to be revoked? The commencement paragraph actually specifies the time when they become active. I will now make my standard moan on these occasions: that there is no impact assessment. The value of impact assessments, quite apart from the actual numbers, is that they usually speak in fairly plain language about who is affected and the level of impact on those institutions. Can we try to ensure that the promised impact assessments for these SIs are available before we debate the instruments themselves?

Because I could not understand the SI in any depth, I worry if it really is just about translating three or four simple ideas into fact. I notice that it is 24 pages long. It strikes me that it is like a bit of computer software, with lots of lines. As we all know from our experience with Microsoft, every now and then it does not get it right. What systems do the Government have to assure themselves that these SIs actually work? While they seek to introduce a number of relatively straightforward ideas—I hope they are; I hope not to be told that I have none of it right—they take an awful lot of articles to do that. Is there a checking mechanism to make sure they work? They are going to have to work at a moment in time. If they do not, the chaos could be frightful.

I repeat my request, to which I have not yet had an answer from the last set of SIs, that those of us involved—I am sure my Liberal colleagues would agree—have a fully updated and amended copy of the Financial Service and Markets Act 2000. We are often told to go to commercial copies of these things. There is a commercial organisation—called Westlaw, I think—and I looked up the Financial Services and Markets Act in its system. Because it records every change since the year 2000, the document is 1,569 pages long. I put it to the Minister that that is not user friendly.

Finally, I echo the welcome for this SI from the noble Baroness, Lady Kramer—

Lord Kirkhope of Harrogate: I am sorry to intervene, but the noble Lord is making a point about an impact assessment. If he looks at page 27, he will see that there is a specific reference to an impact assessment. However, I will say that, when I tried to find it on the appropriate website this morning, it was not there.

Lord Tunnicliffe: I thank the noble Lord for that.

The Minister knows exactly what I am going to say. On page 6 of the Explanatory Memorandum, paragraph 12.6 and beyond states:

"An Impact Assessment will be published in due course on the legislation.gov.uk website … The Treasury's decision to publish the regulations without a final Impact Assessment aims to ensure that industry and regulators have as much time as possible to familiarise themselves with the regulatory changes".

The reason the Minister and I are familiar with those two paragraphs is that they have appeared in every Explanatory Memorandum on Treasury SIs so far; and on every SI so far, the Treasury has failed to produce an impact assessment, despite the fact that it is promised in the body of the document. For the life of me, I cannot see why it would bother, given that we will have approved the SI by the time it arrives.

Let me turn back to the good news for the Minister. We are certainly not going to challenge this SI. I echo the view of the noble Baroness, Lady Kramer: it is good to see, as far as one can because of the sheer complexity of it, that it sticks with the Government's commitment to make only the necessary changes to have a smooth transition. I cannot detect any effort from the Government in this SI to try to introduce any policy changes.

Lord Bates: My Lords, I thank noble Lords for their questions and their scrutiny. The noble Lord, Lord Tunnicliffe, is typically assiduous, as he is on all these matters—he has even gone through the 1,569 pages of the FiSMA, which is some achievement. We appreciate that, and we appreciate the noble Baroness, Lady Kramer, stepping in for the noble Baroness, Lady Bowles, at such short notice. Let me start by dealing with as many of the questions for which it is possible to get immediate answers, and I will then review the debate and write to noble Lords if necessary.

All three noble Lords who contributed commented on what is happening with the impact assessments. Five impact assessments have been prepared across the financial services SIs. Noble Lords will be familiar with the process for this: they go before the Regulatory Policy Committee, which is the non-departmental public body under BEIS, and it assesses the impact of the regulations. What we are trying to do is save British consumers and businesses the costs that would come into effect were we to leave with no deal and not have these statutory instruments in place. That would imply a cost. We are not being as bold as to say that the effect of the SI is to make a saving, but that is the reason why the attempts to quantify this have been challenging. However, they are under way, as I said.

4 pm

The noble Lord, Lord Tunnicliffe, asked about quality control for these instruments. They have passed through the usual quality control procedures and the Treasury has engaged with industry on their content. We published these SIs in draft on 5 September, two months ago, so the industry could review them. Of course, the industry is very supportive of all these initiatives that we are taking under the no-deal procedure because it wants business continuity provisions to continue.

The noble Lord asked about SEPA itself. The single European payments area is an initiative to simplify payments between participating states. It covers the EEA and a number of non-EEA countries. I will come back at a later stage to my noble friend Lord Kirkhope's question about Andorra's status.

The noble Lord, Lord Tunnicliffe, also asked what would happen to these no-deal SIs in the event of a deal. The legislation has been put in place to ensure that, in the event of a no-deal exit in March 2019, there is a functioning legal regime for financial services from day one. The legislation would not come into effect in March in the event of an implementation period, which would be delivered through a separate piece of legislation, the EU withdrawal and agreement Bill, which of course would be primary legislation before your Lordships' House.

I touched on consultation. In terms of the powers to extend the duration of the regime, which was asked about by the noble Baroness, Lady Kramer, while the Financial Conduct Authority has a credible working estimate of the number of eligible EEA firms that will apply for authorisation under the onshored payment service and electronic money regulations, there is an unavoidable degree of uncertainty about the process. That, coupled with the varying degrees of complexity in some of these firms' applications, means that a power to extend the length of the regime is necessary.

[Lord Bates]

The noble Baroness and the noble Lord, Lord Tunnicliffe, asked about how Parliament would be able to scrutinise any extension of the regime. The overall powers in these regulations are subject to the scrutiny of Parliament now through this affirmative instrument. As I noted previously, tight restrictions have been placed on the use of this power. It will not simply be relied on as a matter of course. Parliament will be able to scrutinise and question both Treasury Ministers and regulators on the use of the power through the Select Committee system as Parliament does now.

On the point raised by the noble Baroness, Lady Kramer, about whether EEA firms would be required to set up a subsidiary, the electronic money and payment services SI provides powers to the Financial Conduct Authority to create a temporary permissions regime that will enable EEA payment services providers who currently provide payment services under financial services passports to continue providing services in the UK for a limited period after exit. An EEA payment firm will be required to set up a subsidiary on leaving the temporary permissions regime if it wishes to continue providing payment services, as it would then be a third-party country for those purposes.

Baroness Kramer: The point that I was trying to understand is that we have two entities—company Y and subsidiary company Y—dealing with the same customer base, the same transactions and the same business. Is a mechanism included to enable a smooth transfer from one to the other, or do we have a potential hiccup of significance in place?

Lord Bates: We are trying to address that through the whole strategy of enhanced equivalence, which seeks to make sure that our regulations that we are introducing here are as compliant and consistent as possible with those that already exist and that we have transposed into UK law from the European Union. So we hope there would not be the potential for the hiccup that the noble Baroness referred to.

The noble Baroness also asked whether we could keep the cross-border payments regulation. The CBPR sets limits on charging for cross-border euro transactions. Were the CBPR to be automatically retained in UK law, it would be inoperable. Applying the CBPR to UK payment service providers making cross-border euro payments to the EEA would place obligations on them which they could not fulfil. These SIs are for a no-deal scenario. They do not prejudge the outcome of any future agreement.

On the safeguarding front, we believe that the most prevalent method used to safeguard funds is for firms to hold them in a segregated account with a credit institution. A significant number of UK firms hold safeguarding accounts in the rest of the EU and they will still be able to do so once this SI comes into force.

The noble Baroness, Lady Kramer, and the noble Lord, Lord Tunnicliffe, asked what happens if an EEA passporting payments firm does not apply to enter the temporary permissions regime. Firms should enter the temporary permissions regime which will allow them to continue to carry out their business as before, writing new contracts and servicing existing contracts. This will enable them to obtain UK authorisation and transfer business to a UK entity as necessary.

My noble friend Lord Kirkhope asked about the geographic scope of the SI. It is broadly in line with the geographic scope of SEPA. However, it does not include three existing non-EEA country participants within SEPA: Switzerland, San Marino and Monaco. This is because EU law does not include those three countries and therefore it is not possible to include them in UK law under the EU withdrawal Act.

The noble Baroness, Lady Kramer, and my noble friend Lord Kirkhope asked what the criteria are for participating in SEPA as a non-EEA country. A number of the provisions are here but I will not go into all the detail about the tests. However, for the record and in response to the specific questions, they will cover areas such as the capital requirements directives, the money laundering directives and the Rome convention on the law applicable to contractual obligations. Finally, they must demonstrate that all United Nations Security Council financial sanctions are implemented to the same extent as they are implemented and regulated within the EU itself

My noble friend Lord Kirkhope asked about the justiciability of part 2 statements. Part 2 statements made about these instruments are statutory requirements under the EU withdrawal Act and are intended to assist the House in considering the proposed exercise of the powers under that Act.

The noble Lord, Lord Tunnicliffe, asked what would happen to these SIs for a no-deal scenario in the event of a deal. I think I have covered that. The Government White Paper on the EU withdrawal agreement Bill states that provision may be needed to defer, revoke or amend SIs and that is likely to be included in the withdrawal agreement Bill.

My noble friend Lord Kirkhope asked me to explain the consequences of the sunset clause referred to in paragraph 7.4 of the Explanatory Memorandum. The power in the EU withdrawal Act to fix deficiencies in retained EU law falls away two years after exit day. This was debated during the passage of the Bill—now the Act—but instruments made during that two-year period will remain in force after it ends.

The power to revoke was addressed by my noble friend Lord Kirkhope and the noble Lord, Lord Tunnicliffe. This relates to the credit transfers and direct debits regulations. The entirety of credit transfers and direct debits in euro regulation would be revoked in those circumstances. The relevant articles of the Payment Services Regulations could be revoked via the negative procedure by statutory instruments.

I turn now to the question of the noble Lord, Lord Tunnicliffe, about what will happen if the UK is unsuccessful in its application to SEPA. I mentioned that UK Finance has submitted an application. SEPA enables efficient, low-cost euro payments to be made between participants. In the unlikely event that the UK does not maintain participation in SEPA, UK consumers would face higher transaction costs and longer transaction times when making euro payments.

That is why we want these provisions in the event of no deal, but it remains the firm resolve of Her Majesty's Government to seek a deal so that these no-deal scenario provisions are not required.

The noble Lord, Lord Tunnicliffe, asked about the criteria for participating in SEPA as a non-EEA country. I mentioned the criteria earlier in terms of capital requirements and anti-money laundering et cetera.

The noble Lord then asked about impact assessments. I began by explaining the situation there and where we are coming from. I would just add that we have prepared an impact assessment and hope to publish it shortly.

On the whole, these SIs will reduce significantly the costs to businesses in the event of a no-deal scenario; without them, the legislation would be defective and firms would be left to deal with an unworkable and inconsistent framework that would disrupt their businesses substantially. In making these changes, we have attempted to minimise the disruption to firms and their customers, as well as maintain continuity of service provision. That is the purpose of the SIs. I beg to move.

Motions agreed.

Deposit Guarantee Scheme and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018

Motion to Approve

4.10 pm

Moved by ***Lord Bates***

That the draft Regulations laid before the House on 9 October be approved.

The Minister of State, Department for International Development (Lord Bates) (Con): My Lords, this SI also forms part of the work being delivered to ensure that there continues to be a functioning legislative and regulatory regime for financial services in a scenario where the UK leaves the EU without a deal or an implementation period.

In this instance, the SI will fix deficiencies to legislation on the UK's deposit guarantee scheme and in certain areas of financial services legislation such as the Financial Ombudsman Service, to ensure that they continue to operate effectively post Brexit. The approach taken in this legislation aligns with that of other SIs being laid under the EU withdrawal Act, providing continuity by maintaining existing legislation at the point of exit but amending it where necessary to ensure that it works effectively once the UK has left the EU.

Deposit guarantee schemes are an integral part of enhancing financial stability. They protect people's savings and deposits up to a certain level if their firm fails. Many noble Lords will be familiar with the Financial Services Compensation Scheme, known as the FSCS. It is the UK's deposit guarantee scheme, which compensates savers up to £85,000 per person when their bank, building society or credit union is unable to repay their deposit.

The EU deposit guarantee schemes directive, which was adopted in the UK in 2014, sets the level of deposit protection across the EU at €100,000 and empowers the European Commission to review the protection level every five years. Non-euro countries can convert the €100,000 into the equivalent amount of their national currency. The directive also stipulates that deposit guarantee schemes such as the FSCS protect their members' deposits in other member states. This means, for example, that a UK bank's operations in the EEA will be FSCS-protected, and vice versa—when an EEA firm fails, the customers of its UK business are protected by the relevant EEA scheme.

An administrative arrangement in the directive builds on this co-operation. Currently, if an EEA-authorised firm were to fail, the FSCS would administer compensation to UK depositors on behalf of the EEA protection scheme. This occurs only after the EEA scheme has provided the FSCS with the funds to be transferred. In a no-deal scenario, the UK would be outside the EEA and outside the EU's legal, supervisory and financial services regulatory framework. The Deposit Guarantee Scheme Regulations 2015, which were part of the UK's transposition of the directive, need to be updated to reflect this and ensure that the provisions work properly in a no-deal scenario.

These draft regulations make two amendments to the Deposit Guarantee Scheme Regulations 2015. They will transfer the power to set the maximum deposit protection level from the EU to the United Kingdom's Prudential Regulation Authority. This approach retains the principles of the current arrangement by giving the power to a technical body that is best placed to make that judgement. The PRA is the appropriate body to take on this role as it has the required level of technical expertise and resource to do such a task. Indeed, it already has an existing role under the EU framework in setting the sterling deposit protection level in accordance with the EU level.

This arrangement also mirrors the domestic process for setting the coverage level for insurance and investments whereby the regulators are responsible for making a technical judgment, balancing factors such as consumer protection, financial stability and costs to firms. However, given the importance of deposit protection for the wider economy and the public interest, any changes to the protection level will be subject to approval from the Treasury. In addition, the Prudential Regulation Authority is required to consult on any changes to the level.

4.15 pm

The SI will also remove the obligation on the FSCS to co-operate with EU protection regimes, given that EU schemes would in turn no longer be obliged to co-operate with the FSCS. After exit, EEA member states will become third countries and will be treated in the same way as existing third countries. Therefore, when an EEA firm fails, UK customers of EEA firms will need to seek compensation directly from the EEA protection scheme, rather than through the FSCS. In the unlikely event that an EEA firm fails just before exit day but a UK depositor has not yet received compensation after exit day, the SI will enable the FSCS to continue to administer payments to UK

[LORD BATES]
depositors on behalf of the EEA scheme. This is sensible, given that EEA protection schemes may not, for example, have initially put in place systems to deal with UK customers, such as advice or helplines in English.

Let me be clear that this provision and the changes in the SI will not directly affect the general UK population, the overwhelming majority of whom hold their deposits in the UK with authorised firms that are FSCS-protected. For firms such as Santander, which are UK-incorporated subsidiaries of EEA firms, their customers will continue to be FSCS protected, as they currently are.

The SI also removes provisions in UK legislation that continue to impose EU obligations on the UK. An example of such an obligation is the requirement on the PRA to notify the European Banking Authority every year of the total amount of protected deposits in the UK. It also fixes deficient definitions and legislative references relating to the Financial Ombudsman Service in the Financial Services and Markets Act 2000, which will have no impact on the operations of this body.

The Treasury has been working very closely with the PRA, the Financial Conduct Authority and the FSCS in drafting this instrument. It has also engaged the industry on the SI and will continue to do so. In advance of laying the instrument, the Treasury published it in draft, along with an explanatory policy note in August 2018 to maximise transparency to Parliament and to take the opportunity to consult with the industry. No concerns have been raised on the approach taken by the SI.

In summary, this gives the Government the legislation necessary to ensure that the rules governing the UK's deposit guarantee scheme and the other elements mentioned function appropriately if the UK leaves the EU without a deal or an implementation period. I hope that noble Lords will join me in supporting these regulations and I commend them to the House.

Baroness Kramer (LD): My Lords, I will be relatively brief on this statutory instrument. Again, it makes sense, but I have a couple of questions. One was raised by the Minister's comment: I think he said we could be in a situation where we had an EEA entity effectively being supervised by the UK regulator, but its deposit guarantee scheme would be an EEA scheme. That sounds like a recipe for serious trouble. Surely one would expect the deposit guarantee scheme and the supervision to go together. Perhaps he could enlighten me as to whether I misunderstood that point.

Noble Lords will be aware that the reason there is a single, cross-EU level of deposit guarantee is to stop countries competing with each other. I think that Ireland at one time provided unlimited guarantees, so deposits flooded from across the EU, including the UK, into Ireland to take advantage of that greater level of protection. This was to try to bring everybody into a fairly narrow range, so that that unhealthy competitive element would not be there distorting the financial markets. Is it the Government's intention to stay in line, basically, with the EU in this arena? If so, we come across a couple of curiosities. At the moment the UK guarantee is fixed at £85,000. If I understand the SI and the Minister correctly, that remains the level until a review in 2021. Of course, since that period we have had a devaluation of sterling, so if one was to do a current valuation of the €100,000 cap, it would be something more like £87,500. I understand that there is no need to review that till 2021, but a discrepancy is building.

I note that the Statutory Instrument says that:

"The first review … must not commence before 2021 unless unforeseen events necessitate an earlier review".

Many people would say that a no-deal scenario would inevitably lead to a very sharp devaluation in sterling. Would that be considered an unforeseen event? I think it might be considered to be a foreseen event by many people, but for the purposes of this would it be considered an unforeseen event such as would necessitate an earlier review? It would be helpful to know, and to understand the intent that sits behind all that. Will the Minister help me with those issues?

Lord Tunnicliffe (Lab): My Lords, unlike with the previous SIs, I feel that I actually understand what the regulations do, and the Minister has said nothing to shake my faith in that belief. They seem to have fallen within the overall government assurances, in introducing no policy change but smoothing the scenario, and I have nothing more to add.

Lord Bates: I suppose it passes as a small victory for the Front Bench when it is said that they have not actually said anything to shake the confidence of the spokesman for Her Majesty's loyal Opposition. That is how we want to keep it: we want to keep the confidence of all parties that we are prepared and ready for all eventualities through this complex process of negotiation.

The noble Baroness, Lady Kramer, asked for some points of clarification. She asked how the €100,000 actually corresponds across. She said that there had been a devaluation of sterling, but that was not an instrument of government policy; it may be something that happened over time, as currencies fluctuate. The Prudential Regulation Authority already has a role in setting and keeping track of that link between the guarantee sums, and we envisage that that will continue. She asked how the Financial Services Compensation Scheme protection will be affected in general by EU exit and whether anyone will lose. The SI does not deal with consumers who are protected by the FSCS. However, I can confirm that FSCS protection for customers here in the UK being served by businesses of a UK-authorised firm will not change as a result of exit. What will change is deposit protection for customers in the EEA who have business with EEA branches of UK firms in future. It will be the relevant EEA authorities who are responsible for ensuring that these customers are protected. Details of the scope of FSCS coverage are set out in the rules by the PRA and the FCA.

The noble Baroness asked about our plans to keep ourselves in line with the level set for deposit guarantees. There are no plans for the coverage level to depart from the current level. The PRA stands ready to review in the event of any urgent circumstances which make such a review necessary. With those brief clarifications, I thank noble Lords again for their contributions.

Motion agreed.

Tax Collection and Management (Wales) Act 2016 and the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (Consequential Amendments) Order 2018

Motion to Approve

4.25 pm

Moved by ***Viscount Younger of Leckie***

That the draft Order laid before the House on 10 October be approved.

Viscount Younger of Leckie (Con): My Lords, the draft instrument we are considering will make changes to UK legislation arising from the National Assembly for Wales's Tax Collection and Management (Wales) Act 2016 and the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017. Perhaps it would be helpful if I first give some background to this order.

As noble Lords will recall, the Wales Act 2014 implemented the vast majority of the recommendations in the Silk commission's first report to devolve tax and borrowing powers to the National Assembly for Wales and Welsh Ministers. This included powers to replace stamp duty land tax and landfill tax in Wales, as well as the creation of Welsh rates of income tax. The Wales Act 2014 represented a significant moment in Welsh devolution, enabling the Assembly to legislate to establish the first specifically Welsh taxes in almost 800 years—a land transaction tax and a landfill disposals tax—and to establish the Welsh Revenue Authority, or WRA, to collect and manage these new devolved taxes. I am pleased to note the positive collaboration that has taken place between the UK and Welsh Governments to manage the transition to these devolved taxes, which came into effect from 1 April. The Government continue to report annually on this work, and the fourth report on the implementation of the finance provisions in the Wales Act 2014 will be presented to Parliament next month.

Noble Lords will no doubt recognise that 1 April was also significant as the date on which the new reserved powers model of devolution for Wales, put in place by the Wales Act 2017, came into force. The Wales Act 2017 further demonstrated the Government's firm commitment to devolution. Alongside the new model of devolution, the Act devolved further powers that can make a real difference to people's lives in areas such as elections, transport and natural resources.

This order, made under powers in Section 150 of the Government of Wales Act 2006, makes consequential provisions on the establishment of the Welsh Revenue Authority and the creation of land transaction tax. It has four provisions. Article 2 inserts the new WRA into Schedule 1 to the House of Commons Disqualification Act 1975, so as to disqualify the chairperson and non-executive members of the WRA from being Members of the House of Commons. This puts the WRA on the same footing as HMRC in this respect. Following the devolution of powers over Assembly elections in the Wales Act 2017, it is of course a matter for the Assembly as to whether the chairperson and non-executive members should also be disqualified from being members of the National Assembly for Wales.

Article 3 inserts the Welsh Revenue Authority into the list of public bodies at Part 6 of Schedule 1 to the Freedom of Information Act 2000, thereby providing a right of access to information held by the WRA. In doing so, the order brings the WRA within the definition of Welsh public authority under that Act.

Article 4 of the order inserts a reference to the Welsh Revenue Authority in the schedule to the Public Interest Disclosure (Prescribed Persons) Order 2014, ensuring the same protection for whistleblowers who contact the WRA under the Employment Rights Act 1996 as that afforded to whistleblowers who assist HMRC.

Finally, Article 5 inserts a reference to land transaction tax to Regulation 45 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. Under those regulations, HMRC is required to maintain a register of the beneficial owners of certain trusts. This amendment provides that these reporting requirements apply to trusts that are liable to pay land transaction tax in Wales.

This order again demonstrates the Government's continued commitment to work with the Welsh Government to deliver the effective implementation of devolved taxes in Wales. In assuming tax and borrowing powers, devolution in Wales has truly come of age as the devolved institutions become responsible not just for how money is spent in Wales, but how it is raised. Following the implementation of Welsh rates of income tax, the Assembly will be responsible for raising more than £2 billion in tax revenue, around 15% of the Welsh block grant. These fiscal powers, together with the powers devolved through the Wales Act 2017 and the fiscal framework, pave the way for the Assembly to become a fully-fledged Welsh Parliament. I beg to move.

4.30 pm

Lord Wigley (PC): My Lords, I thank the Minister for introducing this order. I have two very brief questions for him. First, although he partly covered this in his speech, can he assure the House that the National Assembly fully supports the changes that have been made by this order? Secondly, as a considerable amount of devolution came into force on 30 April, does he foresee any further orders of this sort?

Baroness Humphreys (LD): My Lords, I am grateful for the opportunity to speak in this debate on the order which updates UK legislation as a consequence of the Tax Collection and Management (Wales) Act 2016 and the rest of it. On these Benches, we welcome the order and recognise the landmark stride forward it represents in the Welsh people's devolution process. We also recognise the work of the Welsh Government in designing, in their words,

"a fiscal regime that works much better for Wales",

and results in,

"better taxes, more suited to Welsh priorities, with more Welsh tax revenues spent in Wales and improved accountability".

We particularly welcome the setting up of the Welsh Revenue Authority as a separate legal body from the Welsh Assembly. As the Minister said, from 1 April

[Baroness Humphreys]
this year, the WRA took over responsibility for the collection and management of land transaction tax and landfill disposal tax which together should raise approximately £300 million a year. The Welsh Revenue Authority will also be responsible for setting rates of income tax in Wales, and I am pleased that the Welsh Government have seen fit to maintain income tax rates in line with those of England and Northern Ireland for the coming year. However, the power to vary rates remains, and we welcome the further status the implementation of this power gives to the Welsh Government and the Welsh Revenue Authority.

From 6 April next year a proportion of income tax collected from Welsh taxpayers will, for the first time, be devolved to the Welsh Government. Income tax will continue to be collected by HMRC, but a proportion will be transferred directly to the Welsh Government to be spent on public services in Wales. The Welsh Government estimate that in total these three taxes will raise £2.5 billion for Welsh services.

These Benches also welcome the amendments contained in this order to ensure that whistleblowers who help the Welsh Revenue Authority in relation to these new taxes are protected in the same way as individuals who assist HMRC. It is a welcome inclusion. The rights of those who see wrongdoing and report it must be protected. However, I seek clarification from the Minister in relation to Section 7.3 of the Explanatory Memorandum. The second sentence reads:

"The amendments ensure that whistleblowers … are potentially protected by the provisions of the Employment Rights Act 1996".

I wonder why the word "potentially" has been included. It seems to convey an element of uncertainty, but perhaps its use here has a legal connotation of which I am unaware.

The Welsh Government have, as I said at the beginning, cited the improved accountability that should result from these changes, and I look forward to seeing increased scrutiny from politicians and the electorate of how the money from these taxes is apportioned and spent.

Lord Griffiths of Burry Port (Lab): My Lords, every point I might have wanted to make has been made either by the Minster or by those who have spoken. I will be interested to hear the Minister's answer to the question from the noble Lord, Lord Wigley, about whether the Assembly has been fully consulted and whether it is the full opinion of the Assembly to move down this line. He seemed to suggest that there had been the fullest of collaborations, so I expect an affirmative answer, but it will be interesting to see how that comes back.

The process is under way: the various Acts of Parliament have been established, the revenue-gathering authority has been set up, and the elements that now need to be integrated into other Acts of Parliament are all referred to here.

I have just one remark, apropos of nothing except that I want to seem responsible in standing at the Dispatch Box, with something to say. It seems extraordinary that all these existing Acts of Parliament now have to be modified to include a reference to the organisations we are setting up. The complexity of the cross-referring required to root this measure in the legislative material of the Assembly, and of Wales in general, is really rather interesting. Given that it is so complicated to get such a simple measure established, heaven help those who are negotiating our exit from the European Union.

Viscount Younger of Leckie: On the back of those comments from the noble Lord, Lord Griffiths, let me give a fairly short reply to the questions that have been raised.

I thank the noble Lords, Lord Wigley and Lord Griffiths, and particularly the noble Baroness, Lady Humphreys, for their general support for these measures. The noble Lord, Lord Wigley, raised a couple of questions and the answer is in the affirmative: the National Assembly has been kept fully in touch with these measures and is fully behind them. There are no ifs or buts on that point.

We will continue to work with the Welsh Government on further orders, and will bring forward any that are required as a result of Assembly legislation. They may or may not be required, but hopefully that gives an answer.

On the question raised by the noble Baroness, Lady Humphreys, I think it is more of a legal point, and I hope that I can give an answer that will satisfy her. It is fair to say that the word "potentially" is a legality; what it really means is that the protection is covered, provided the Employment Rights Act 1996 process is met. It is a process legality. I hope she is nodding. If she is shaking her head, I am more than happy to write her a letter giving the legal explanation.

I think that covers all the points that were raised. Without further ado, I commend this order to the House.

Motion agreed.

Police Pension Liabilities

Statement

4.38 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, with the leave of the House, I shall now repeat in the form of a Statement the Answer given by my right honourable friend the Minister for Policing and the Fire Service to an Urgent Question in another place on police pension liabilities. The Statement is as follows:

"It is important that public sector pensions are affordable for the long term. That is why the Government announced changes to the discount rate at Budget 2016 and Budget 2018. These are based on the latest independent Office for Budget Responsibility projections for future GDP growth.

This change will lead to increased employer pension contribution costs for all unfunded public sector pensions, including police forces. Budget 2018 confirmed that there will be funding from the Reserve to pay for part of the increase in costs for public services, including

the police in 2019-20. My officials are in discussions with representatives from the NPCC and the APCC to discuss how this additional funding will be distributed. Funding arrangements for 2020-21 onwards will be discussed as part of the spending review. As the Chancellor made clear at the Budget, the Government recognise the pressures on the police, including from the changing nature of crime, and we will review police spending power ahead of announcing the police funding settlement for 2019-20 in December".

4.40 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, my honourable friend in the other place, the Member for Bradford South, Judith Cummins MP, first raised this matter with the Prime Minister at Prime Minister's Questions on 24 October, and received a less than satisfactory answer, to say the least. Following that answer from the Prime Minister, the National Police Chiefs' Council and the Association of Police and Crime Commissioners issued a joint statement in the names of Chief Constable Sara Thornton and Police and Crime Commissioner Mark Burns-Williamson. Their statement backs up the question from the Member for Bradford South and makes clear that the first notification which enabled forces to calculate the impact of pension changes came in September 2018. The impact of the changes risks a reduction in the number of police officers at a time of rising crime. It is not good enough to say today that some funding will be available, unless the issue is tackled comprehensively. The only people who will welcome the situation are the criminals, as there will be fewer police officers to tackle them and bring them to justice.

Baroness Williams of Trafford: My Lords, I thought that there might be a question in there, but there was not—it was a statement. I do not think the noble Lord asked me a question, but I acknowledge the points that he made. He may be aware that my right honourable friend the Policing Minister has absolutely pledged to work with the Treasury and the NPCC to ensure that the funding needed to service the pensions will be forthcoming. Additionally, on the police budget itself, he has pledged to review police spending power ahead of announcing the police funding settlement for 2019-20 in early December.

Lord Dholakia (LD): My Lords, I thank the Minister for repeating in your Lordships' House the Answer to an Urgent Question asked in the other place. I think that the Answer reflects two issues, the first of which is the implications for the police budget. It is estimated that the loss of more than 10,000 officers from an already badly overstretched service would lead to an increase in crime and pose a serious threat to the criminal justice system. This is happening at a time when knife crime has increased by 62%, firearms offences by 30% and homicides by 33%. We are now hearing an interesting debate in policing among people such as Sara Thornton, backed by Cressida Dick, who are talking about dealing only with serious crimes, as against the former chief constable of Nottinghamshire, who has talked about dealing with the other issues as well.

Does the Minister accept that public confidence in the police is shaped by the quality of the service they provide, but that their ability to provide that service is fairly limited? If we disturb the tripod of police commissioners, who represent the community, the local police force, which represents itself, and the Home Office, which may face a judicial review on this matter, it is unlikely to build public confidence in how the service operates. What does the Minister have in mind for the future of policing in this country in the light of the substantial cuts to police pensions? The effects of such cuts last for eight or 10 years. As early as the 1980s, when I was a member of a police authority in Sussex, the impact on resources of the police contribution to pension funds was pretty clear.

Baroness Williams of Trafford: My right honourable friend the Policing Minister has absolutely recognised the impact on police funding of the pension contributions. He will therefore be working with both the Treasury and the police to come to a solution very soon to ensure that police forces have the resources they need to service the pensions of their police officers. In addition, my right honourable friends the Chancellor in his Budget, along with the Policing Minister and the Home Secretary, recognised the changing demands on the police and will be working towards a comprehensive settlement for 2019-20.

Baroness Donaghy (Lab): My Lords, when people enter a pension scheme in the public sector, as anywhere, they have expectations. They also expect a certain amount of notice of any changes and to be told whether increased costs will impact on their job security. This does not seem to have been handled all that well—but that is not the nature of my question, which is: will the police be fully consulted? Will the Police Federation be fully consulted? Will there be decent notice of any proposed changes to the police pension scheme?

The Minister talked about the changing nature of work, but people have built up their pensions over many years and have expectations about what they will get at the end of their career. We would not want any unintended consequences from people applying for early retirement when they see little hope of enhancement in the future. Will she give some information about what consultation will take place with the Police Federation to give sufficient notice to the police of any changes?

Baroness Williams of Trafford: The Budget in both 2016 and 2018 made the changes clear, but the discount rate has changed as growth predictions have changed. Demand on the police has changed. Those two factors are absolutely clear. On consulting the Police Federation and, indeed, the police, my right honourable friend the Policing Minister is working with both the police and the Treasury to ensure that pensions can be serviced. As the noble Baroness said, we do not want police officers feeling that they have to retire early. That should not be the case, so we will be working hard with both the police and the Treasury to ensure that the pension will be fully serviced.

Lord Kennedy of Southwark (Lab Co-op): My Lords, the response on 25 October from the National Police Chiefs' Council and the Association of Police and Crime Commissioners makes it clear that they have received no guidance on what the changes will mean. Does the noble Baroness think that that is acceptable?

Baroness Williams of Trafford: I have not seen the guidance, but I can certainly say that the Policing Minister will be working with the police to ensure that future pension arrangements are sustainable.

House adjourned at 4.48 pm.