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

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

House of Lords

Tuesday 19 March 2019

2.30 pm

Prayers—read by the Lord Bishop of Chester.

Security: Planned Strike Action
Announcement

2.36 pm

The Lord Speaker (Lord Fowler): My Lords, with the leave of the House, I would like to make a short statement about security and access to the Parliamentary Estate.

It is likely that there will be a strike of parliamentary security staff tomorrow. The strike action is due to begin this evening and conclude on the morning of Thursday 21 March. During this time, access to the Parliamentary Estate for non-passholders will be extremely limited. Should this action take place, I would like to reassure the House that security will in no way be compromised. Security is everybody's responsibility, and I should remind Members that it is imperative that we all wear our passes when on the Parliamentary Estate. I would advise the House that anyone failing to display a security pass is liable to challenge.

Folic Acid
Question

2.38 pm

Asked by ***Lord Rooker***

To ask Her Majesty's Government, further to the reply from Baroness Manzoor on 9 January (HL Deb, col 2212), when they will commence the consultation announced on 22 October 2018 regarding the mandatory fortification of flour with folic acid to help prevent foetal abnormalities.

Baroness Vere of Norbiton (Con): My Lords, I have good news, I hope. The Government have now received advice on tolerable upper limits of folate from the Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment. Other work streams are also progressing well. We therefore expect the consultation documents to be published within the next month.

Lord Rooker (Lab): Thank you.

Baroness Corston (Lab): My Lords, I am sure that we are all delighted that my noble friend Lord Rooker has at last had some success, given how many Questions he has asked on this subject, and I congratulate him. The Minister might like to know that I tabled a Parliamentary Question in January asking,

"how many babies have been born in England with neural tube defects, such as spina bifida, in the last five years for which figures are available".

The Answer said that the total number of cases was 889. There were 150 live births, 26 foetal deaths and 713 terminations of pregnancy—that is, 889 families traumatised by something which is entirely avoidable. Can the Minister promise us that this consultation will not be interminable?

Baroness Vere of Norbiton: I certainly can promise the noble Baroness that the consultation will not be interminable. We believe that it will run for around 12 weeks. Once we have had the opportunity to ask the various stakeholders who we hope will take part—people from the scientific community, the manufacturers of bread, whether large or small, and the public—how they feel about the fortification of bread, we will look at the evidence and revert as soon as we can.

Baroness Finlay of Llandaff (CB): My Lords, I add my congratulations to the noble Lord, Lord Rooker, and I thank the Government for giving us good news. However, will they be working with the devolved Administrations during the consultation, recognising the burden of spina bifida that has occurred in south Wales in particular?

Baroness Vere of Norbiton: I thank the noble Baroness for raising that issue. This is a devolved matter, and obviously we are mindful of the practical aspects of the proposals, given the amount of trade that occurs within the United Kingdom's single market. We are working very closely with officials in the devolved Administrations and, although it is not quite there yet, we anticipate that it will be a UK-wide consultation.

Baroness Chisholm of Owlpen (Con): My Lords, when I was on the Front Bench, I used to dream about the noble Lord, Lord Rooker, and folic acid.

Noble Lords: Oh!

Baroness Chisholm of Owlpen: It seemed to be a Question that came up every day, and I am very pleased that finally there seems to be some resolution. However, I should like to ask the Minister about the problems that could occur with flour bought from abroad. A lot of artisan bakers now buy their flour from abroad, so how will we deal with fortification in that regard?

Baroness Vere of Norbiton: My noble friend is quite right, and that is why the consultation is so important. A number of bakers buy their flour abroad. Noble Lords will be aware that, in many—in fact, in all—European countries, there is no fortification of flour at all; they are not in favour of fortification. We have also to consider the smaller-volume producers, for example, who might find fortification difficult as they try to combine folic acid with smaller quantities of dough for bread.

Baroness Tonge (Non-Afl): My Lords, first, will the Minister come clean and tell the House why exactly it has taken so many years to get this measure introduced in this country? Secondly, it is very good news that the consultation paper will be produced in a month's time, but can she tell us whether that will be a short month or a long month?

[Baroness Tonge]

Baroness Vere of Norbiton: I am happy to "come clean", as the noble Baroness suggests. It was important to the Government to make sure that we had the right scientific evidence and advice from the advisory committees to get to the stage where we could have a consultation. The Scientific Advisory Committee on Nutrition, which reported in July 2017, said it would support fortification only if there were restrictions in place on voluntary fortification—lots of manufacturers already put folic acid in, for example, breakfast cereals. This is not as simple as it may at first appear. As I mentioned earlier, we then had the report from the Committee on Toxicity, which looked at the upper levels of folic acid and whether it would be tolerable for people. To a certain extent, if we did not have that, there could possibly be problems with the diagnosis of pernicious anaemia.

Baroness Thornton (Lab): Can the Minister tell the House whether the consultation will take on board compelling international evidence about the use of folic acid? Research has already been done, and there is compelling evidence about the efficacy of folic acid. Can the Minister also tell us how long the consultation will last? I am anticipating the next set of Questions from my noble friend Lord Rooker, when the consultation ends and we are waiting for its findings to be enacted.

Baroness Vere of Norbiton: I cannot wait for those Questions from the noble Lord, Lord Rooker, either. As I said, the consultation would probably be 12 weeks, which is a normal consultation period. The noble Baroness raises an important point about what has happened internationally. As I mentioned earlier, EU countries have not fortified their flour. However, many countries have done so—some have been doing so for quite a long time. One quite important issue to cover here is that fortification is not intended to completely replace the taking of supplements by those who need them. For example, if we were to fortify at the same rates as the US, in terms of receiving the same amount of folic acid, a childbearing lady would need to eat eight pieces of toast. So it is not a complete panacea. We must recognise that a folate-rich diet is also important, as are supplements.

Lord Rennard (LD): Three years ago, in this House, the then Health Minister acknowledged that the link between folic and reducing neural tube defects was fairly well proven. As it has taken so long to act on that, and on decades of evidence in the United States and elsewhere, once we have finished this 12-week consultation period—in which all professional bodies and royal colleges are unanimously of the opinion that we should act to add folic acid to flour—how long will it take the Government to act?

Baroness Vere of Norbiton: As I have tried to point out to noble Lords, we are certainly looking to act as soon as we can when we have had the opportunity to review all the evidence presented. Certainly, the scientific evidence in this area is very strong, but there are two other factors that we must consider: the operability of any changes we impose—because we would not want to get that wrong—and public opinion. In other countries, there is public opinion against the mass medication of foods, and we need to make sure that the public are behind this as well.

Insect Population

Question

2.45 pm

Asked by ***Baroness Boycott***

To ask Her Majesty's Government what plans they have to deal with the decline in the insect population.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, I declare my farming interests as set out in the register. The Government recognise the importance, value and role of insects in ecosystems. There are over 24,000 species in Britain, around 1,500 of which are pollinators. Increasing habitats benefits insects. Since 2011, over 320,000 acres have been established for wildlife-rich habitat. We will introduce an environmental land management system to reward farmers for environmental outcomes. In addition, integrated pest management, zero tolerance of the Asian hornet and continued research make up our approach to addressing long-term declines.

Baroness Boycott (CB): My Lords, I thank the Minister for that Answer. Unless an insect is a butterfly or a bee, it does not get a PR champion. Most of us think they are really annoying. However, three-quarters of all the food we eat is pollinated by this largely unsung army of trillions of bugs. They provide a service to the world that is estimated to be worth around $500 billion a year. It is a service most of us barely think about, but in the Maoxian valley in China, where insects have been entirely wiped out, workers now pollinate apple trees by hand at a cost of $19 a day, and they can do only five trees every day. We all know that this rapid and desperate decline, at a rate of 2.5% over the last 25 to 30 years, is because of the use of chemicals in farming. Will the Government set a date for phasing out the noxious chemicals that are destroying insects?

Lord Gardiner of Kimble: My Lords, I specifically mentioned integrated pest management, which is about finding a reduction wherever possible. Indeed, the area of land in the UK under integrated pest management has grown; by March 2017, there were close to 17,000 plans covering nearly 11 million acres. Farmers are helped with a range of chemical, physical and biological controls to manage pests in an economically and environmentally sustainable manner. Finding alternatives and continuing research is the way forward, but clearly we need to ensure that we also have food to eat.

Lord Rotherwick (Con): My Lords, is my noble friend aware that oilseed rape suffered a loss of approximately 10% last year, owing to the cabbage

stem flea beetle? It is forecast that these losses will be considerably greater this year, with the ever-increasing numbers of these insects, putting the viability of this crop into question. Oilseed rape is the most important arable rotational crop, producing edible vegetable oils, livestock feed and biofuels. As a farmer, I am aware of this.

Lord Gardiner of Kimble: My Lords, I declare that I have also had some losses on rape crop this year due to flea beetle, so I understand the noble Lord's point. We have supported tough restrictions on neonicotinoid pesticides, for instance, following scientific advice. The overriding principle is that we have to sustain the environment, because it is the environment from which our food is grown. We will always act on the best scientific advice. We have a UK Expert Committee on Pesticides. Research is important, as it helps us to find better alternatives.

The Countess of Mar (CB): My Lords, does the noble Lord agree that it is not just farmers who should look after insects? Every single person who has a garden should do so, by planting plants which attract insects and stopping concreting or tarmacking their front gardens.

Lord Gardiner of Kimble: My Lords, I entirely agree. That is why the department has supported the Bees' Needs campaign and why Carnaby Street was renamed "Carnabee Street" last year. The owners of the street put up 720 window boxes to attract pollinators to our capital city. We all need to do something like that, whether with allotments, gardens or window boxes, or on large estates and the state estates. We need to do more to encourage the insect populations.

Baroness Jones of Whitchurch (Lab): My Lords, I refer to my entry in the register of interests. The Minister talked about how much land was now being farmed in a more environmentally sound way. A number of farmers are embracing that principle and working to create biodiversity on their farmland. However, we need the research; we need the evidence that backs us up in saying that this is the most effective way to increase farm food yields in the long term. Can the Minister say a little more about funding for research, so that it is not just niche farmers providing that biodiversity but is extended as good practice across the board?

Lord Gardiner of Kimble: My Lords, I referred to improving our evidence base: that is why we want to work with the scientific councils, which continue to fund research on insects. Our evidence base is improving because of that. For instance, the University of Bristol's recent assessment has identified gardens and allotments as particularly good for pollinators; that refers back to the noble Countess's question. Clearly, research is where we will learn more about alternatives to pesticides and ways to improve a habitat.

The Lord Bishop of St Albans: My Lords, will the Government's environmental land management schemes specifically have a long-term strategy to address the decline in pollinators, particularly bees?

Lord Gardiner of Kimble: Yes. One of the extremely important things in the agri-environmental packages is to make it easier for farmers to provide flowers on fields to support wild pollinating insects. Of course, in improving things for wild pollinating insects, we are also improving things for insects that may not be pollinating. It is important that we get this diversity, because that is the way our ecosystem survives.

Baroness Parminter (LD): My Lords, the overuse of pesticides is a major contributor to the serious decline in our bees. Therefore, why are the Government not supporting pre-approval tests for bee safety in the pesticide approval process, unlike France and Germany?

Lord Gardiner of Kimble: My Lords, as I have said, we will always support the advice of our experts. That is why we have the Health and Safety Executive and the UK Expert Committee on Pesticides. We act on their advice.

Lord Lilley (Con): My Lords, given that the use of pesticides is the principal threat to pollinators, can I commend the work of Rothamsted Research in my old constituency? It is developing new varieties of plants which do not need pesticides because they are immune to the bugs concerned and therefore protect the pollinators. It produces these new varieties by both conventional and genetically modified means. Will this country not be freer to use the latter, with appropriate regulation and protection, once we leave the EU?

Lord Gardiner of Kimble: My Lords, as I said in my answer to the noble Baroness, Lady Jones, we will always act on the best scientific advice at the time. I congratulate Rothamsted Research and other research institutes; it is research that will help us out of the mess that we have created.

Holiday Accommodation

Question

2.53 pm

Asked by ***Baroness Doocey***

To ask Her Majesty's Government whether they have plans to improve transparency for consumers comparing the quality of holiday accommodation.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con): My Lords, consumer protection legislation protects consumers when buying holidays. Currently, the law requires information such as inclusive pricing to be clear and transparent, so that consumers can make an informed purchasing decision. Failure to comply with the legislation results, where appropriate, in enforcement action.

Baroness Doocey (LD): I thank the Minister for that Answer. However, it is not mandatory for hotels and guest houses in England to display food hygiene ratings. Even some five-star hotels choose not to display

[Baroness Doocey]
them, because they have either had a very poor rating or, in some cases, failed the hygiene inspection. Will the Government make it a legal requirement—as it already is in Northern Ireland and Wales—for food hygiene ratings to be displayed prominently in order to drive up standards and, crucially, to enable informed consumer choice?

Lord Henley: My Lords, I note what the noble Baroness says. She will know that we review this legislation every five years, and are currently reviewing it. There is a call for evidence at the moment; no doubt she and others will want to feed into it, and we can then consider whether changes can be made.

Baroness Gardner of Parkes (Con): My Lords, is the Minister aware—I am sure he is—of my interest in short-term accommodation? Rarely do the people letting such accommodation reveal their situation. Does he consider that comparing the quality of holiday accommodation—as is referred to in this Question—should include the issue of whether or not it is legal?

Lord Henley: I am aware of my noble friend's interests in this matter. Her question is slightly wider than the one on the Order Paper, but I will ensure that her point about making sure that it is legal is taken into account.

Lord Rooker (Lab): I say to the Minister that there is no legislation to be reviewed because there is no legislation—in England it is voluntary. Wales passed legislation; so did Northern Ireland. When I launched the scheme, as chair of the Food Standards Agency, in December 2010, the plan was to get every local authority to join voluntarily. By about three years ago they all had. It does not cost anything to display membership of the scheme: the only cost involved for the person in the premises is to take the sticker out of the envelope that they have been sent, walk to the window and put it on the door. That is the only cost involved in making sure that we have mandatory display.

Lord Henley: I am very grateful for the advice that the noble Lord is passing on to us. He is right that there is no legislation that insists that food standards advice should be put up. There is consumer regulation in this field: I refer him to the Consumer Protection from Unfair Trading Regulations 2008 and the Consumer Contracts (Information, Cancellation and Additional Payments) Regulations 2013, which he probably remembers from his time as a Defra Minister.

Baroness Burt of Solihull (LD): My Lords, food hygiene ratings exist to help raise food safety standards in business, and consumers welcome the "scores on the doors". However, in England—the only nation in the United Kingdom where it is not compulsory to publish these ratings—only 28% of food businesses that score between nought and three display them. Does the Minister agree, therefore, that standards will not improve until businesses are made to display their ratings and literally clean up their act?

Lord Henley: Again, I do not think I can take the noble Baroness much further than in previous answers, other than to note what she says and promise that it will be taken into account.

Lord Harris of Haringey (Lab): My Lords, I may have misread the Question, because I thought it was about the transparency of the costs of holiday accommodation—although we have covered many other interesting points. But can the Minister tell the House what the Government plan to do about search engines such as Google which have a mechanism for ensuring that it is not always immediately transparent whether they are displaying those offers where they get a rake-off—or are paid for advertising—high up their list? More particularly, what will the Government do about biases in their listings of the prices of particular holiday accommodation? I refer to my interests in the register.

Lord Henley: My Lords, like the noble Lord, I probably misread the Question, because I thought it was going to be about the matters that he referred to—I did not think we would be talking about food regulations in restaurants. But that is by the by. I agree with him, however, that one needs to be careful about the consumer comparison sites. It is an area that might need further regulation; it might not. At the moment, however, I think that such sites can help consumers compare costs of holiday accommodation—for hotel bookings or whatever.

Baroness Hayter of Kentish Town (Lab): To follow that up, the CMA has finally done some really good stuff—started by this House—on things such as viagogo, and the fact that Google takes money to put things in a particular order. Will the Minister undertake at least to have a similar conversation with the CMA about what it can do about these comparison websites?

Lord Henley: My Lords, I think that the noble Baroness is referring to the investigation that the CMA launched in 2017 into accommodation booking sites. We are very grateful for the work that it has done. The investigation followed the CMA's market study of online comparison tools. The CMA had its concerns and expressed them—about how a lack of clarity and accuracy in the presentation of information can mislead people. The important thing is that the CMA will monitor compliance with the commitments that the industry—the various booking sites—made, and I hope that, following that monitoring and having listened to any further advice that the CMA gives, the industry will take note. The CMA is clear that its advice should be followed.

Brexit: Farming Tariffs

Question

3 pm

Asked by ***Baroness McIntosh of Pickering***

To ask Her Majesty's Government what assessment they have made of the impact of their proposed tariffs in the event of a no-deal Brexit on farming in the United Kingdom; and when such tariffs would expire.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, I declare my farming interests as set out in the register. In developing their tariff policy, the Government considered the interests of consumers and domestic producers. In agriculture, there will be tariff rate quotas for beef, poultry, sugar and rice, as well as tariffs for lamb, pigmeat, butter and cheddar-type cheeses. Further tariffs will be retained on products such as bananas, where preferential access to the UK market is important for developing countries. This tariff regime would apply for up to 12 months.

Baroness McIntosh of Pickering (Con): I thank my noble friend for that Answer. While I welcome these protections, I ask my noble friend why beef, lamb and dairy have been included but not eggs, cereals and horticulture, and why whole-animal products have been included but not specified meat cuts, which is the norm. Could he confirm that discussions were held with the Irish Government before the tariffs were announced and that approvals have been obtained from the World Trade Organization?

Lord Gardiner of Kimble: My Lords, the Government have sought to bring forward a balanced approach, which in part follows the five principles set out in the Taxation (Cross-border Trade) Act 2018. The first two are the interests of consumers in the UK and those of producers in the UK. We were conscious in our considerations that this would be a temporary tariff regime in the event of no deal—which I emphasise we do not wish—and that there were areas where we wanted to get the balance right in protecting sensitive sectors, such as the sheep sector, while there were other areas where though that prices to the consumer were also important.

We will obviously take very seriously our obligations under international law. We have taken into account the unique social, political and economic circumstances of Northern Ireland. I was not party to any discussions because that would be for other departments, but it is clear that in the event of no deal there would have to be immediate contingency arrangements and urgent discussions with the Irish Government and the Commission.

Lord Cunningham of Felling (Lab): My Lords, why have the Government specifically excluded eggs from the proposals? We have much higher welfare standards for egg production in this country than many other countries that will seek to exploit our market. It seems a very odd omission and could seriously damage egg production in the UK.

Lord Gardiner of Kimble: My Lords, domestic production in eggs is around 86% of UK supply. The noble Lord mentioned questions of lower quality. We remain committed to high standards of food safety and animal welfare. Existing UK import standards will still apply. The level of tariff applied does not change what can and cannot be imported.

Lord Cameron of Dillington (CB): My Lords, can we assume that the Government are aware also of the serious dangers posed to agriculture by EU tariffs on our exports in the event of a no-deal Brexit? If, for example, our beef exports were to suffer the current EU tariff of 80% to 90% or our lamb industry were to export through a 35% to 40% tariff it would kill those two industries dead and undermine the agricultural economy of large swathes of our countryside.

Lord Gardiner of Kimble: My Lords, the Government take this very seriously. It is one reason why we have said that British farmers will have a higher level of certainty than anywhere else in Europe vis-à-vis total funds in farm support until the end of this Parliament. We have also provided farm support under Pillar 1 and Pillar 2 under the current CAP. However, we expect it to be one of the consequences of no deal that the EU's most favoured nation tariff regime would apply to UK exports, which we think would cause disruption. It is why we have brought forward the tariff regime that we have and it is why we need to work to ensure that we do not have a no-deal scenario.

Lord Trefgarne (Con): My Lords, can my noble friend confirm the broad outline of the subsidy arrangements which will apply to the British agricultural industry following Brexit and the ending of EU subsidies?

Lord Gardiner of Kimble: My Lords, as I have said, this country has gone further. The CAP finishes in 2020 and we have pledged to continue to commit the same cash total in funds for farm support until the end of this Parliament. If it runs until 2020—and of course no Parliament can bind its successors—that means a further two years of the same amount. This is why we are bringing forward our schemes for environmental land management, which will have the dual purpose of supporting farmers in their production of a good environment as well as good food.

Lord Carrington (CB): My Lords, I confirm my interests as a farmer. I am worried about what has been said in terms of certainties and uncertainties. There should be one certainty for farmers—that the subsidies they have been promised on schemes they have entered into are paid on time. This is not the case and I would like to know why. In particular, under the Countryside Stewardship Scheme, payments of 75% were due in January and 25% are due in June. The subsidies for January have not been paid. I would be interested to hear how these things are dealt with. The farmers have made their commitments and paid the money necessary to claim under these schemes.

Lord Gardiner of Kimble: My Lords, the Secretary of State has said from the start that he is not happy about the manner in which payments for countryside stewardship and environmental stewardship have been paid. This is why they have been transferred to the Rural Payments Agency. Progress is now being made, but I agree that we have to do better in this area.

Cyclone Idai

Private Notice Question

3.07 pm

Asked by ***Lord Elton***

To ask Her Majesty's Government what response the UK is making to help address the impact of Cyclone Idai in parts of southern Africa.

Lord Elton (Con): My Lords, I beg leave to ask a Question of which I have given private notice. In so doing, I declare my interest as a member of All-Party Parliamentary Group on Zimbabwe, with friends in Zimbabwe.

Baroness Stedman-Scott (Con): My Lords, this cyclone disaster is shocking and devastating and our hearts go out to all those impacted by it. Her Majesty's Government have formally approved the provision of £6 million to DfID to alleviate the situation. We have deployed a team of DfID experts, aid supplies are on the ground, the UK is leading the donor response and we stand ready to scale up our support in any way we can.

Lord Elton: My Lords, my interest was first sparked by the fact that the cyclone struck three countries: Mozambique, Malawi and Zimbabwe. There was no mention of Zimbabwe, either in the report in the *Daily Telegraph* or on the BBC's website. Zimbabwe is not a member of the Commonwealth, but it remains part of the human race and the suffering there is appalling.

I will read a little bit of an email I received this morning from a friend of mine in Chimanimani in Zimbabwe:

"800 mm of rain in one day caused a huge mudslide … at 7.30 at night … swept away our sawmill, workshops, tree nursery with most of this year's avo and mac trees for planting and all of next years and most terrible of all 37 out of 39 x 8 room workers rooms killing 5 with another 15 odd missing presumed dead and masses injured".

One washed up six kilometres away. It went on:

"Fields that were full of nut-laden … trees now look like dry river beds just rocks not a spoonful of earth".

The Countess of Mar (CB): My Lords, I am sorry to interrupt the noble Lord, but this is a Private Notice Question and should be treated as a Question, not as a Statement.

Lord Elton: I am sorry. I thought my question was self-evident from the start. What is being done to ensure that this aid is distributed throughout the three countries and not pinned down to two of them through favouritism?

Baroness Stedman-Scott: I assure my noble friend that the Government will not be treating countries in an unbalanced way. In Zimbabwe, we have already carried out satellite mapping of affected areas to assess damage and provided hygiene kits, cholera kits, essential medicines, tracing and psychosocial support for children, and water sanitation. Before I came into the Chamber, I had a telephone conversation with two of the DfID aid workers in Mozambique. I did not think I would be able to say that without getting very emotional. Their stoicism and what they are doing are amazing. I assure my noble friend that money will be allocated to Zimbabwe, and we will know how much in the next 24 hours.

Lord Collins of Highbury (Lab): My Lords, I welcome the Minister's response and the Government's response to the urgent situation in the countries mentioned. In fact, I met representatives of the IRC this morning, who had already undertaken an immediate response in Zimbabwe, providing medical aid and support. But there is another issue here: the port that supplies these countries is also in Mozambique, so a long-term situation could develop. What sort of response are the Government preparing to deal with that long-term situation to ensure that supplies continue?

Baroness Stedman-Scott: I am pleased to be able to tell the noble Lord that the port has not been affected by the cyclone. Our first phase of trying to help in this situation is dealing with the devastation, providing medical supplies and temporary housing, and saving lives. The second phase will be to try to help put the infrastructure back together and get people and their businesses back on their feet. I cannot give any figures, but I will ask the officials whether any exist and whether they can get some to answer the noble Lord's question.

Lord Chidgey (LD): I too welcome the Government's immediate response to this crisis. Just over an hour ago, Save the Children reported that, due to the River Buzi in Mozambique bursting its banks, the town of Buzi could be under water in 24 hours. What immediate relief action is in hand to save Buzi's 2,500 children from the threat of drowning? According to the UN agencies, this is one of the worst weather-related disasters ever to hit the southern hemisphere. As chair-in-office of the Commonwealth, are the Government considering initiating Commonwealth-wide relief and reconstruction measures across the region in the longer term?

Baroness Stedman-Scott: The two aid workers that I spoke to before I came into the Chamber were very concerned about the river that the noble Lord mentioned. The Met Office has been absolutely splendid in its support for the region by helping with information. Unfortunately, it looks as though, in the next six days, there could be more terrible weather. As for the question about Commonwealth-wide relief programme, I do not know the answer but I will get one for the noble Lord. Let noble Lords be assured that everybody is doing everything they can to avoid letting children and other humans die.

Lord Judd (Lab): My Lords, when the Government speak about the future of foreign policy after Brexit—one way or the other—does this situation not re-emphasise the indispensability of having a dedicated DfID as an independent department, which is building up its expertise in helping respond to situations such as this and which also understands the context in which aid going into such a situation can be used effectively? So much aid can be misused because there is no understanding of the situation.

Baroness Stedman-Scott: The noble Lord raises a very important point. All the DfID officials I have ever spoken to or been involved with in preparation for this Question understand the real needs and what needs to be done. They do an absolutely outstanding job. He is absolutely spot on: a dedicated department is absolutely critical. I know of no intention for that to change. I assure noble Lords, as I have before, that DfID is doing everything it can to alleviate the problems that people are facing.

Baroness Hayman (CB): My Lords, I remind the House of my interests as laid out in the register. As well as the very welcome efforts being made by DfID, will the Minister confirm that UK agencies are already active in the field—including Christian Aid in Zimbabwe, which I know of—in those countries and doing what they can? Will the Government look very carefully at what assistance and support they can give to those organisations already working in the countries concerned?

Baroness Stedman-Scott: I can confirm that aid agencies are on the ground, working in partnership to maximise the impact of their work. There is no doubt about that. I have no reason to suspect that the Government will not support them, but on a very serious subject the noble Baroness would not want me to get into trouble by writing a cheque at the Dispatch Box—that would be foolish. I will, however, make sure that the officials go away and find out exactly who is working where. I shall also try to find out what the number might be.

Baroness Anelay of St Johns (Con): My Lords, I welcome my noble friend's response and the rapid commitment given by the UK Government. The noble Lord, Lord Collins, mentioned the long term. For the long term, DfID will now look very constructively at applications from small charities—much as I admire the big ones such as ICRC—which work on the ground with people they know and have really good insight into what is needed for the long term.

Baroness Stedman-Scott: Yesterday, the Secretary of State made a speech at the Bond Conference; she outlined the Small Charities Challenge Fund. Small charities, while they may be small in size, have an amazing sense of innovation and impact. They will all be encouraged to apply to that fund so that they can make all the difference that they can.

The Lord Bishop of St Albans: My Lords, such is the devastation that reports are only slowly coming in from some of the most damaged areas. We are hearing reports from a number of the Anglican dioceses in different parts of the Communion and from a number of bishops, including Archbishop Thabo Makgoba, who has launched an appeal and is mobilising people on the ground. Will the Minister assure us that DfID will work closely with those networks and organisations on the ground, such as the dioceses and the Christian communities which have the networks in place and know what is going on locally?

Baroness Stedman-Scott: I thank the right reverend Prelate for his question. I can confirm 100% that DfID is co-ordinating with partners on the wider humanitarian response to make a big difference in this terrible situation. I will be amazed if it is not working with the Church.

Animal Welfare (Service Animals) Bill

Order of Commitment Discharged

3.18 pm

Moved by ***Viscount Trenchard***

That the order of commitment be discharged.

Viscount Trenchard (Con): My Lords, I understand that no amendments have been set down to this Bill and that no noble Lord has indicated a wish to move a manuscript amendment or to speak in Committee. Unless, therefore, any noble Lord objects, I beg to move that the order of commitment be discharged.

Motion agreed.

Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019

Rural Development (Amendment) (EU Exit) Regulations 2019

Rural Development (Rules and Decisions) (Amendment) (EU Exit) Regulations 2019

European Structural and Investment Funds Common Provisions (Amendment) (EU Exit) Regulations 2019

European Structural and Investment Funds Common Provisions Rules etc. (Amendment etc.) (EU Exit) Regulations 2019

Motions to Approve

3.19 pm

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

That the draft Regulations laid before the House on 12, 13 and 14 February be approved.

Relevant documents: 18th and 19th Reports from the Secondary Legislation Scrutiny Committee (Sub-Committee B). Considered in Grand Committee on 13 March.

Motions agreed.

Detergents (Amendment) (EU Exit) Regulations 2019

Detergents (Safeguarding) (Amendment) (EU Exit) Regulations 2019

Organic Production (Control of Imports) (Amendment) (EU Exit) Regulations 2019

Organic Production and Control (Amendment) (EU Exit) Regulations 2019

Motions to Approve

3.19 pm

Moved by ***Baroness Vere of Norbiton***

That the draft Regulations laid before the House on 13 and 14 February be approved.

Relevant document: 18th Report from the Secondary Legislation Scrutiny Committee (Sub-Committee B). Considered in Grand Committee on 13 March.

Motions agreed.

International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019

Motion to Approve

3.19 pm

Moved by ***Lord Henley***

That the draft Regulations laid before the House on 31 January be approved.

Relevant document: 17th Report from the Secondary Legislation Scrutiny Committee (Sub-Committee B). Considered in Grand Committee on 12 March.

Motion agreed.

Healthcare (European Economic Area and Switzerland Arrangements) Bill

Third Reading

3.20 pm

Clause 1: Power to make healthcare payments

Amendment 1

Moved by ***Baroness Manzoor***

1: Clause 1, page 1, line 3, leave out "a European Economic Area country" and insert "an EEA state"

Baroness Manzoor (Con): My Lords, the proposed government amendments in the name of my noble friend Lady Blackwood of North Oxford seek to clarify and remove any potential legal ambiguity in the drafting of the "global scope" amendments made at Report and to clarify the drafting of Clause 2(2) to ensure the other place can consider a legally unambiguous Bill when it returns there from this House.

As noble Lords are aware, the Government resisted the amendments at Report, but I emphasise that these are purely technical amendments and reassure noble Lords that their aim is not to change the policy intention behind the original amendments passed at Report. These technical amendments ensure the other place can review the Bill in a version which is based on government drafting guidance.

The Interpretation Act 1978 uses the definition of an "EEA state", and this term is used throughout the statute book. Amendments 1, 2, 4, 5, 6 and 7 therefore seek to change the references to "European Economic Area country" to "EEA state" in the Bill.

Turning to Amendment 3, as the phrase "for example" was removed from Clause 2(2) at Report, it is important to ensure the intention behind the amendment is clear from the drafting and avoids the potential for any legal uncertainty. This amendment therefore clarifies that regulations under Clause 2(1) could only include one or more of the types of provision listed in Clause 2(2). The amendment removes any potential argument—even if unlikely—that regulations under Clause 2(1) would have to provide for everything on the list in Clause 2(2), even when it is not applicable or appropriate.

I hope these amendments are clear and will have your Lordships' support, but it will of course be up to the other place to consider the revised Bill when it returns there. Notwithstanding that, I would like to keep working with noble Lords to ensure we achieve the best possible outcome for this important Bill, which is aimed at providing the Government with the appropriate means to support comprehensive reciprocal healthcare arrangements and the people reliant upon them. I hope that these amendments will be able to command the support of this House. I beg to move.

Lord Hope of Craighead (CB): I thank the Minister for Amendment 3. That was an important matter to clear up, and the way in which it has been done is entirely in accordance with the wishes of those who were concerned about the previous wording. We are most grateful.

Baroness Thornton (Lab): My Lords, I thank the Minister for introducing these amendments and explaining their intent. With the exception of Amendment 3, they seek to make the Bill consistent and coherent, its intended scope now being the EEA and Switzerland. I checked on the meaning of Amendment 3; it looks to me like it does the trick, so I thank the Minister for that.

At this stage, given the uncertainties we face over Brexit and what might happen in the next 10 days, surely the Government take the view that right now we have to focus on the challenge before us: the healthcare needs of UK citizens. We need to think about their healthcare arrangements and leave other parts of the world to be considered in due course. That requires a decision by the Secretary of State, and everybody would understand if he felt that the Government had enough on their plates right now.

Indeed, the Secretary of State might have been reading my mind, because at 12:54 today—lo and behold—we received an update in the form of a Written Statement about the continuity of reciprocal healthcare arrangements in the event that we exit the European Union without a deal. I commend this Statement to all noble Lords and hope that they will read. I have one or two questions for the Minister arising out of it. The Statement says,

> "We have proposed to EU member states and EFTA states that we should maintain the existing healthcare arrangements in a no-deal scenario until 31 December 2020 with the aim of minimising disruption to UK nationals and EU and EFTA states citizens' healthcare provision".

This relates to the passage of the Bill, because the discussions all took place in Committee and on Report.

The Statement went on to say that current arrangements could only continue if there was a deal and an implementation period. Previously, it was said that 27 bilateral agreements would have to be negotiated, so we welcome what the Secretary of State is saying, but I would like the Minister to clarify whether my understanding is correct.

Furthermore, in Committee, Members—including some on these Benches—suggested that UK nationals and others for whom the UK is responsible and who have applied for or are undergoing treatment in the

EU prior to and on exit day should be recompensed for up to one year. The then Minister said that this would not be possible because it would place a huge financial and administrative burden on the NHS. She said:

"It would make it less likely that individuals would take the steps they need to, even if they were able to. It would undermine our approach to member states in negotiating reciprocal agreements".—[*Official Report*, 19/2/19; col. 2255.]

However, it has to be said—and I welcome it greatly—that this Statement goes some way to meeting that, and suggests that the Government will be prepared to recompense and pay for the treatment of UK residents. I welcome that but seek some clarification from the Minister. The point is that the Secretary of State's Statement really only reinforces the need for the amendments that this House has put forward and voted on at every stage of this Bill, and that the Government themselves brought forward and voted on at Report. The lengthy Statement addresses the healthcare issues that we face and merely underlines the importance and urgency of sorting this matter out whichever way things go.

Baroness Manzoor: My Lords, on behalf of my noble friend Lady Blackwood and myself, I thank all noble Lords who have contributed to the constructive deliberations and review of the Bill during its passage over the past weeks. In that time, it has been the subject of spirited and carefully considered debate, both inside and outside of this Chamber. As we approach the final leg, I would like, in particular, to offer my thanks to the noble and learned Lords, Lord Hope and Lord Judge; the noble Lords, Lord Patel, Lord Kakkar, Lord Lisvane, Lord Foulkes and Lord Marks; the noble Baronesses, Lady Thornton, Lady Jolly, Lady Brinton and Lady Wheeler; and my noble friends Lord Lansley and Lord Dundee, for their considered contributions to this important debate. I am also grateful to my noble friend Lord O'Shaughnessy, who has been an invaluable supporter of this Bill. I also thank my noble friend Lord Young and the Bill team for all their support and hard work. I fully acknowledge the invaluable role played by my noble friend Lady Blackwood in leading on this Bill.

This Bill has been subject to considerable scrutiny and continues to be so, as the noble Baroness, Lady Thornton, has just said. I am grateful to the noble Lords who sought to improve and strengthen this important Bill.

3.30 pm

I am pleased to hear that the noble Baroness, Lady Thornton, supports the Statement made by my right honourable friend the Secretary of State for Health in the other place. I can reassure her that, as she will be aware, we have two SIs that will come before the Grand Committee on Thursday, and I look forward to her support for those regulations. As she rightly highlights, our intention is to continue the reciprocal arrangements where we possibly can. In addition, through those SIs we will look at reciprocal healthcare arrangements with member states for urgent treatment where it may have started or is in the process of being started.

I thank the noble and learned Lord, Lord Hope, for his supportive comments. I say to the noble Baroness, Lady Thornton, and other noble Lords that our amendments have significantly reduced the scope of the Bill's powers and are a response to this House's clear request for increased opportunities for parliamentary oversight. We have removed the consequential Henry VIII power; limited the ability to confer functions to public bodies only; provided greater parliamentary scrutiny of regulations relating to data processing; provided greater transparency concerning the financial aspects of future reciprocal healthcare policy, in the form of an annual report; placed a statutory duty to consult the devolved Administrations where regulations under Clause 2 make provision within a devolved authority's legislative competence; and finally, and significantly, sunset two of the three regulation-making powers in Clause 2 so that they can be exercised only for a period of five years after exit day.

Of course, the other place will now need to decide if it agrees with the amendments made in this Chamber. Notwithstanding that, again I extend my offer to keep working with noble Lords to ensure that we have the best possible outcome for the Bill and for the people reliant upon reciprocal healthcare arrangements. I beg to move.

Amendment 1 agreed.

Clause 2: Healthcare and healthcare agreements

Amendments 2 and 3

Moved by ***Baroness Manzoor***

2: Clause 2, page 1, line 8, leave out "a European Economic Area country" and insert "an EEA state"

3: Clause 2, page 1, line 11, after "may" insert "only do one or more of the following things"

Amendments 2 and 3 agreed.

Clause 3: Meaning of "healthcare" and "healthcare agreement"

Amendments 4 to 6

Moved by ***Baroness Manzoor***

4: Clause 3, page 2, line 24, leave out "a country or territory in the European Economic Area" and insert "an EEA state"

5: Clause 3, page 2, line 28, leave out "a European Economic Area country" and insert "an EEA state"

6: Clause 3, page 2, line 32, leave out "a country or territory with which the agreement has been made" and insert "an EEA state or Switzerland"

Amendments 4 to 6 agreed.

In the Title

Amendment 7

Moved by ***Baroness Manzoor***

7: In the Title, line 1, leave out "a European Economic Area country" and insert "an EEA state"

Amendment 7 agreed.

3.32 pm

Motion

Moved by ***Baroness Manzoor***

That the Bill do now pass.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, on a point of clarification, the Minister said—in an impeccable way—exactly what changes have been made by the Government. She also said that the amendments we have put forward have, understandably, to be approved by the other place. However, does not the change of the title to the Healthcare (European Economic Area and Switzerland Arrangements) Bill, which is very welcome, imply that the Government are accepting the amendments that this House has made? That is my understanding; is it also the Minister's?

Baroness Manzoor: My Lords, that is of course a matter for the Commons to decide. I beg to move.

Bill passed and returned to the Commons with amendments.

Arrangement of Business

Announcement

3.34 pm

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, before the House begins Third Reading of the Offensive Weapons Bill, it may be helpful for me say a few words about Third Reading amendments. In line with the procedure agreed by the House, the Public Bill Office on Friday advised the usual channels that Amendments 1 to 7 on the Marshalled List for Third Reading today fall outside the guidance in the *Companion* on Third Reading amendments. On the basis of the Public Bill Office's advice, the usual channels are recommending to the House that Amendments 1 to 7 in the name of the noble Lord, Lord Ponsonby, should not be moved. As ever, this is ultimately a matter for the House as a whole to decide.

Offensive Weapons Bill

Third Reading

3.35 pm

Clause 15: Requirements for application for order under section 14

Amendment 1 not moved.

Clause 16: Application without notice

Amendment 2 not moved.

Clause 17: Interim knife crime prevention order: application without notice

Amendment 3 not moved.

Clause 18: Interim knife crime prevention order: application not determined

Amendment 4 not moved.

Clause 20: Requirement to consult on application for order under section 19

Amendment 5 not moved.

Clause 22: Requirements included in knife crime prevention order etc

Amendment 6 not moved.

Clause 23: Duration of knife crime prevention order etc

Amendment 7 not moved.

Clause 38: Delivery of bladed products to residential premises etc

Amendment 8

Moved by ***Lord Kennedy of Southwark***

8: Clause 38, page 32, line 32, at end insert—

"(aa) the delivery is not made by a trusted courier of bladed products, and"

Member's explanatory statement

This amendment, and the amendment at page 32, line 37, would allow for the Government to create a "trusted courier" scheme, and to exempt sales using "trusted couriers" from restrictions in this section. This follows the Minister's undertaking on 4 March (HL Deb, column 448).

Lord Kennedy of Southwark (Lab Co-op): My Lords, Amendment 8 in my name would enable bladed products to still be delivered to home addresses by establishing a scheme whereby the product is delivered by a trusted courier. This is an issue that I have raised in all the Bill's stages in this noble House. Initially, I thought a trusted trader scheme would be the best option but I concluded that this trusted courier scheme is a better way forward.

The Bill would prohibit the delivery of bladed objects to residential properties, and the concern of small and medium-sized knife manufacturers and retailers is about the detrimental impact this ban will have on their businesses. As more and more sales move online, consumers expect to be able to receive deliveries directly to their home.

I have said at each stage that I support the aims of the Bill but I am concerned that it is a legislative sledgehammer that will affect small and medium-sized businesses based in the UK while having no impact on knife crime whatever. There is no shred of evidence that these high-quality knives being sold online are being bought for criminal intent. If there were, it would have been presented.

I think we all accept that if you bought a knife online with the intent to stab someone, you would create a very easy evidence trail for the police to follow. We all want to achieve the Bill's objective and reduce knife crime, but at the same time not destroy or damage UK-based businesses. All I seek is to achieve protection for British business in the form of an approved deliverer.

Representatives of the industry met me, the noble Baroness, Lady Williams of Trafford, and the noble Baroness, Lady Barran, a few weeks ago, when the industry put what I thought was a very convincing

case to the Minister, along with the honourable Members for Sheffield Central and Sheffield South East. I want to find a solution that does not harm business, and I think this is the way forward. I beg to move.

Lord Paddick (LD): My Lords, I support the amendment of the noble Lord, Lord Kennedy of Southwark, in principle, although I have concerns about it. Noble Lords will recall that the Bill as drafted would mean that someone could order a knife from an overseas website and have it delivered to their home address, but could not order the same knife from a UK supplier and have it delivered to their home address. The noble Lord is attempting to remedy that situation. The difficulty I have with it—perhaps he can assist the House in this degree—is that the Bill also covers delivery to a locker. Would his amendment enable a trusted courier to deliver a bladed product to a locker as well as to residential premises, which in my view would be undesirable?

The second issue is that the amendment does not apply to Clause 41, which relates to the delivery of a bladed product to someone under 18 from an overseas website. The legislation sets down rules whereby, if the courier knows that the consignment contains a bladed product, they have to verify the age of the person to whom the bladed product is being delivered. I wonder whether it would be sensible, were the Government to accept that a trusted courier system is necessary, to extend that to Clause 41. Having said that, were the noble Lord, Lord Kennedy, to divide the House, we would support his amendment.

Lord Lucas (Con): My Lords, my noble friend will know how unhappy I am with the state of the Bill as it is. We are greatly disadvantaging British sellers of knives and doing almost nothing to control foreign sellers of knives. If we are after stopping knives getting into the hands of young people, sending them down a domestic route, where we know the person who has sold them and the courier who has delivered them and everything has been done in the open and properly, must be better than encouraging anyone buying knives to buy them abroad—indeed, making it almost essential—because only that way can they have them delivered to their homes.

If we were achieving something by the Bill as it is—if it was actually going to make things safer—I and, I suspect, the noble Lord, Lord Kennedy of Southwark, would support the Government. But, as it is, we are just disadvantaging British business without making anything safer for anyone. The amendment of the noble Lord, Lord Kennedy, is a step in the right direction—I am sure the drafting will be improved—but the main thing is that I would really like to see the Government accept that they need to improve the Bill in this area and to undertake to do so in the course of ping-pong.

The Earl of Erroll (CB): My Lords, I agree with everything the noble Lord, Lord Lucas, has said. I also support this amendment, because it is a move in the right direction. To my mind, it does not go far enough because we are disadvantaging all UK distributors against all foreign ones. It just leaves a huge loophole—and personally I think the Government will be massacred in the press once what they are passing here comes to light—so I recommend they put at least this in.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I am grateful to the noble Lord, Lord Kennedy, for his amendments, because they enable us to return to whether or not the Bill should provide exemptions to the prohibition on arranging delivery of bladed products to residential premises or a locker. I am grateful to him and to the Sheffield knife manufacturers for the time they spent in discussion with me on this.

The noble Lord tabled an amendment on Report on whether trusted traders should be exempt from the prohibitions in the Bill on arranging delivery of bladed products to residential premises or a locker. In response, I said we would look to have further discussions with delivery companies on the issue. We have discussed this with a number of companies that provide delivery services. It is difficult for delivery companies to give a firm view on how they might operate in this sphere in future, and it will depend to a large extent on whether the criminal liability falls on the seller, as it does in the Bill in relation to the UK, or on the deliverer, as it does in relation to overseas sellers under Clauses 38 and 41.

Whether deliverers would be willing to take on the criminal liability—and with it the risk of an unlimited fine—for the offence of handing over items to a person under 18 is likely to depend on the specific circumstances in each case; for example, where a major retailer is involved, a delivery company may be prepared to take on the criminal liability because the commercial benefits of the contract outweigh the risks, but a small retailer may decide not to take on the liability. Placing the liability on deliverers could therefore work against small manufacturers and retailers, meaning that big firms can still have their products delivered to a person's home but small ones need to use a collection point. This would be a perverse outcome that would put small businesses at a commercial disadvantage to larger firms.

I turn now to the amendments. When we considered the trusted trader amendments previously, I expressed concerns that their effect would be to transfer the responsibility for complying with the legislation and for ensuring that all bladed products are handled properly from the seller to the Government. I have similar concerns about a scheme that would exempt sellers using a trusted courier from the prohibition on the delivery of bladed products to residential premises. A trusted courier scheme would require the Government to set out the details of the proposed scheme, which would then allow for the delivery of bladed products to residential premises.

3.45 pm

Setting up, administering and overseeing a trusted courier scheme would create a further burden on the Government or local authorities, with inevitable cost implications. In addition, simply being part of a scheme or possessing a seal of approval as a trusted courier does not guarantee compliance with the conditions of

[Baroness Williams of Trafford]
the scheme. No liability is placed on the courier in the current proposal, meaning there is no consequence for the courier company if it fails to comply; for example, by simply leaving knives at an individual's door. Such a scheme would impose regulatory burdens on participating businesses. In addition, the scheme would need to be administered by an independent regulatory body or by local authorities, albeit with the expectation that participating businesses would be required to meet the cost of running the scheme.

In addition to the costs of setting up and administering such a scheme, many delivery companies work with self-employed individuals on a casual and part-time basis. Therefore, many of the persons who deliver items on the company's behalf are not employees of the delivery company. This business model is likely to make it even more difficult to determine whether a delivery company can be trusted to provide reassurances that a bladed product will not be handed to a person under 18. It may therefore be more difficult to accredit a trusted courier than a trusted seller, for whom you will have information about the type of products they sell; their knowledge of their customer base; the systems they have in place to ensure that age is checked at the point of sale; and the arrangements they have for packaging and delivering items. With a trusted courier, you will simply have their assurances that they will not hand items over to a person under 18.

The Government remain of the view that the requirement to pick up the item at a collection point is necessary. We are concerned that exempting sellers who use certain delivery companies from this requirement will undermine the legislation's effectiveness.

In Committee, a number of examples were shown to be defined as bladed products and therefore banned from delivery to a home address, including food processors, mixers and lawnmowers. Whether these items fall within the definition of a bladed product will depend on the facts of each case, but the Government do not intend for them to do so. I am sympathetic if this is a major concern. We can deal with this issue by making it clear in the statutory guidance accompanying the Bill that such items are not intended to be covered by the term "bladed product" and can be delivered to residential premises. Trading standards and the Crown Prosecution Service would have regard to guidance when deciding whether or not to bring a prosecution. When we suggested this approach in our discussions with retailers who raised the issue of food processors, they were content with such an approach. We can also exclude these items through secondary legislation under Section 141A(3)(c) of the Criminal Justice Act 1988 where we are content that they can be sold more generally to a person under 18.

I hope that I have been able to persuade noble Lords. Given the phrase that the noble Earl used—that we would be "massacred" for this—I do not think the noble Lord is going to withdraw his amendment.

Lord Kennedy of Southwark: My Lords, I thank all noble Lords who spoke in the debate. I want to address a couple of the points that were raised. On delivery to lockers, I agree entirely with the noble Lord, Lord Paddick, that that would not be a good thing. I hope that Amendment 9, which calls for regulations, would deal with that point. The noble Lord made another good point about deliveries from abroad. We will potentially stop UK companies delivering products to home addresses, but a company based in Germany, France or anywhere else in the world can carry on doing it. That is just not fair and, again, is a disadvantage to business. For me, that highlights why this amendment should be agreed today.

If the amendment is passed by this House, it will be sent to the Commons and we will ask the Commons to look at the matter. I am sure that, as part of the ping-pong process, they will decide that my wording is not quite as good as it could be. But if the Government decide to accept this or something like it, I am sure the draftsperson will come back with a suggested amendment.

Again, I thank the noble Lords, Lord Paddick and Lord Lucas, and the noble Earl, Lord Erroll, for their support today. I thank the Minister for her contribution as well. But I am not prepared to withdraw the amendment and would like to test the opinion of the House.

3.50 pm

Division on Amendment 8

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Amendment 8 agreed.

Division No. 1

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Kinnock, L.
Kirkwood of Kirkhope, L.
Knight of Weymouth, L.
Kramer, B.
Lawrence of Clarendon, B.
Lea of Crondall, L.
Lee of Trafford, L.
Lennie, L.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Lisvane, L.
Livermore, L.
Low of Dalston, L.
Lucas, L.
Ludford, B.
Lytton, E.
MacKenzie of Culkein, L.
Mackenzie of Framwellgate, L.
Mair, L.
Mallalieu, B.
Mar, C.
Masham of Ilton, B.
Maxton, L.
McAvoy, L. [Teller]
McIntosh of Hudnall, B.
McKenzie of Luton, L.
McNally, L.
McNicol of West Kilbride, L. [Teller]
Meacher, B.
Monks, L.
Morgan of Huyton, B.
Morris of Aberavon, L.
Morris of Handsworth, L.
Murphy of Torfaen, L.
Newby, L.
Northover, B.
Nye, B.
O'Loan, B.
O'Neill of Bengarve, B.
O'Neill of Clackmannan, L.
Osamor, B.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Patel of Bradford, L.
Paul, L.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Prashar, B.
Prosser, B.
Purvis of Tweed, L.
Quin, B.
Ramsay of Cartvale, B.
Ramsbotham, L.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Reid of Cardowan, L.
Rennard, L.
Roberts of Llandudno, L.
Rooker, L.
Rowe-Beddoe, L.
Rowlands, L.
Scriven, L.
Sharkey, L.
Sherlock, B.
Shipley, L.
Shutt of Greetland, L.
Simon, V.
Singh of Wimbledon, L.
Smith of Basildon, B.
Smith of Gilmorehill, B.
Smith of Newnham, B.
Soley, L.
St Albans, Bp.
Stern, B.
Stevenson of Balmacara, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Symons of Vernham Dean, B.
Taylor of Bolton, B.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Thurlow, L.
Thurso, V.
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Tonge, B.
Tope, L.
Tunnicliffe, L.
Turnberg, L.
Tyler of Enfield, B.
Tyler, L.
Uddin, B.
Vallance of Tummel, L.
Vaux of Harrowden, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Warwick of Undercliffe, B.
Watts, L.
Waverley, V.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Williams of Elvel, L.
Willis of Knaresborough, L.
Wilson of Dinton, L.
Wilson of Tillyorn, L.
Winston, L.
Woolf, L.
Woolmer of Leeds, L.
Wrigglesworth, L.
Young of Norwood Green, L.
Young of Old Scone, B.

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Aberdare, L.
Ahmed, L.
Altmann, B.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Armstrong of Ilminster, L.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Baker of Dorking, L.
Balfe, L.
Barran, B.
Bates, L.
Berridge, B.
Bethell, L.
Black of Brentwood, L.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Bowness, L.
Brabazon of Tara, L.
Brady, B.
Bridgeman, V.
Brougham and Vaux, L.
Browne of Belmont, L.
Browning, B.
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Caine, L.
Caithness, E.
Carrington of Fulham, L.
Cathcart, E.
Cavendish of Furness, L.
Chadlington, L.
Chalker of Wallasey, B.
Chester, Bp.
Chisholm of Owlpen, B.
Colgrain, L.
Cope of Berkeley, L.
Cormack, L.
Courtown, E. [Teller]
Couttie, B.
Craig of Radley, L.
Craigavon, V.
Crathorne, L.
Curry of Kirkharle, L.
Dannatt, L.
De Mauley, L.
Dixon-Smith, L.
Dobbs, L.
Duncan of Springbank, L.
Dykes, L.
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Eccles, V.
Elton, L.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fairhead, B.
Falkland, V.
Fall, B.
Farmer, L.
Feldman of Elstree, L.
Fellowes of West Stafford, L.
Fellowes, L.
Fink, L.
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Fookes, B.
Framlingham, L.
Freeman, L.
Gadhia, L.
Gardiner of Kimble, L.
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Garel-Jones, L.
Geddes, L.
Geidt, L.
Gilbert of Panteg, L.
Glenarthur, L.
Glendonbrook, L.
Goldie, B.
Goodlad, L.
Grade of Yarmouth, L.
Greenway, L.
Griffiths of Fforestfach, L.
Hague of Richmond, L.
Hailsham, V.
Hamilton of Epsom, L.
Hanham, B.
Harding of Winscombe, B.
Harris of Peckham, L.
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Hay of Ballyore, L.
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Helic, B.
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Hodgson of Astley Abbotts, L.
Holmes of Richmond, L.
Home, E.
Hooper, B.
Hope of Craighead, L.
Horam, L.
Howard of Lympne, L.
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Howell of Guildford, L.
James of Blackheath, L.
Janvrin, L.
Jay of Ewelme, L.
Jenkin of Kennington, B.
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Judge, L.
Kakkar, L.
Keen of Elie, L.
Kerr of Kinlochard, L.
King of Bridgwater, L.
Kinnoull, E.
Kirkham, L.
Kirkhope of Harrogate, L.
Laming, L.
Lamont of Lerwick, L.
Lang of Monkton, L.
Lansley, L.
Lexden, L.
Lilley, L.
Lingfield, L.
Listowel, E.
Liverpool, E.
Luce, L.
Lupton, L.
MacGregor of Pulham Market, L.
Mackay of Clashfern, L.
Magan of Castletown, L.
Maginnis of Drumglass, L.
Manningham-Buller, B.
Manzoor, B.
Marland, L.
Marlesford, L.
Mawson, L.

McCrea of Magherafelt and Cookstown, L.
McGregor-Smith, B.
McInnes of Kilwinning, L.
McIntosh of Pickering, B.
Meyer, B.
Morris of Bolton, B.
Morrow, L.
Naseby, L.
Neville-Jones, B.
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Nicholson of Winterbourne, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Cathain, B.
O'Shaughnessy, L.
Palmer, L.
Patel, L.
Patten, L.
Pickles, L.
Pidding, B.
Popat, L.
Porter of Spalding, L.
Powell of Bayswater, L.
Randall of Uxbridge, L.
Rawlings, B.
Reay, L.
Redfern, B.
Renfrew of Kaimsthorn, L.
Ribeiro, L.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Rogan, L.
Ryder of Wensum, L.
Saatchi, L.
Sandwich, E.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selborne, E.
Selkirk of Douglas, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Shrewsbury, E.
Smith of Hindhead, L.
Stedman-Scott, B.
Stirrup, L.
Stroud, B.
Sugg, B.
Suri, L.
Swinfen, L.
Taylor of Holbeach, L. [Teller]
Taylor of Warwick, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Vere of Norbiton, B.
Verma, B.
Wasserman, L.
Watkins of Tavistock, B.
Wei, L.
Wheatcroft, B.
Whitby, L.
Wilcox, B.
Williams of Trafford, B.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

4.04 pm

Amendment 9

Moved by ***Lord Kennedy of Southwark***

9: Clause 38, page 32, line 37, at end insert—

"( ) The Secretary of State may by regulations determine the conditions of being designated a trusted courier of bladed products in England and Wales for the purposes of section 38(1)(aa).

( ) Scottish Ministers may by regulations determine the conditions of being designated a trusted courier of bladed products in Scotland for the purposes of section 38(1)(aa).

( ) The Department of Justice in Northern Ireland may by regulations determine the conditions of being designated a trusted courier of bladed products in Northern Ireland for the purposes of section 38(1)(aa)."

Member's explanatory statement

This amendment, and the amendment at page 32, line 32, would allow for the Government to create a "trusted courier" scheme, and to exempt sales using "trusted couriers" from restrictions in this section. This follows the Minister's undertaking on 4 March (HL Deb, column 448).

Amendment 9 agreed.

Clause 45: Prohibition on the possession of offensive weapons

Amendment 10

Moved by ***Baroness Williams of Trafford***

10: Clause 45, page 42, line 19, at end insert—

"(14A) After subsection (12) insert—

"(12A) An order under this section which has the effect that possession in private of a weapon of a particular description is, or is to become, an offence under subsection (1A) may make provision—

(a) enabling arrangements to be made for the surrender of weapons of that description;

(b) as to the procedure to be followed in relation to the surrender of such weapons;

(c) for the payment of compensation in respect of weapons surrendered in accordance with the arrangements;

(d) as to the requirements that must be met by a person making a claim for compensation;

(e) as to the procedure to be followed in respect of a claim and for the determination of a claim;

(f) enabling a person to exercise a discretion in determining whether to make a payment in response to a claim and the amount of such a payment.""

Member's explanatory statement

This amendment would mean that, where weapons are brought within the prohibition on possession in section 141(1A) of the Criminal Justice Act 1988 by order, the order can provide for compensation if required to do so by Article 1 of the First Protocol to the European Convention on Human Rights (but need not make this provision if not required to do so).

Baroness Williams of Trafford: My Lords, I will now speak to the amendments regarding kirpans, and in doing so express my gratitude to the noble Lords, Lord Kennedy and Lord Singh, and my noble friend Lady Verma. They have all been tireless in their promotion of this issue; I hope that the amendments will provide an outcome satisfactory to everyone. In particular, I am grateful to the noble Lord, Lord Singh, for his advice and to the organisation Sikhs in Politics, which has engaged positively with officials on the development of these amendments.

As noble Lords will recall, we held a round table on the issue of kirpans following the debate on these clauses in Grand Committee. This identified a gap in the current defences in that the cultural practice of gifting large ceremonial kirpans by Sikhs to eminent non-Sikhs was not covered by the "religious reasons" defence. These amendments will therefore create a defence for a person of Sikh faith to present another person with a curved sword in a religious ceremony or other ceremonial event, as covered by Section 141 of the Criminal Justice Act 1988.

These amendments will also create a defence for Sikhs of possessing such swords for the purposes of presenting them to others at a ceremony and for the recipients of such a gift to possess swords that have been presented to them. The amendments also ensure a defence is available for the ancillary acts, such as manufacture, sale, hire or importation, where those acts are for the purpose only of making the sword available for such presentation. Finally, the amendments enable the Department of Justice in Northern Ireland to commence the provision in relation to Northern Ireland, other than in relation to importation, which is a reserved matter.

As noble Lords will be aware, the amendments do not mention the word "kirpan". Kirpans vary considerably in their size and shape, with the only common factor being their association with the Sikh faith. It would

not be possible to include a defence for kirpans without defining them legally. However, we are clear that these defences are specifically aimed at kirpans and we will include a reference to kirpans in the final Explanatory Notes for the Bill. We will also make it clear in the statutory guidance that defences of "religious reasons" and gifting by ceremonial presentation include, in particular, the possession, supply and gifting of kirpans for those purposes. We will certainly continue to engage with Sikh organisations, including Sikhs in Politics, when we develop the statutory guidance. I hope that, given what I have said, noble Lords will be able to support these amendments. I forgot to mention the noble Lord, Lord Paddick, in my thanks, so I do that now.

I turn to the amendments on compensation arrangements. Amendment 10 will amend Section 141 of the Criminal Justice Act 1988, so that any future order made under this section which has the effect of banning possession in private of an offensive weapon may also make provision for the surrender and payment of compensation for such weapons. This amendment therefore provides statutory authority to introduce surrender and compensation arrangements for any future orders bringing additional offensive weapons into full prohibition. Without this amendment and the authority it provides, there could be doubt as to whether compensation could be paid for any future prohibited offensive weapons.

I should point out that this amendment differs slightly from the existing provisions found under Clause 48, which allow for compensation payments to be made for offensive weapons which the Bill prohibits private possession of. Clause 48 requires the Secretary of State, Scottish Ministers or the Department of Justice in Northern Ireland to provide for such payments by regulations. However, this amendment provides that the Secretary of State, Scottish Ministers or the Department of Justice in Northern Ireland may make provision for surrender arrangements and the subsequent payment of compensation.

This is an important difference as it allows the authority discretion in deciding whether or not to pay compensation for future items that become prohibited by way of an order. There may be exceptional circumstances in which it is considered that payment is not required under Article 1 of the Protocol to the European Convention on Human Rights. However, it is anticipated that in most circumstances, a payment would be appropriate, as is the case for weapons the possession of which is prohibited under this Bill. None the less, providing this discretion to pay or not to pay compensation for future items is important.

Amendments 14 to 19 will ensure that cyclone knives fall within the compensation and surrender arrangements as they stand in the Bill. Noble Lords will recall that cyclone knives were prohibited by virtue of the Bill through a government amendment in Committee in this House. This minor amendment will allow for compensation to be paid to owners of these knives, in the same way that the compensation arrangements apply to the other offensive weapons which the Bill provides private possession of.

Amendment 20 then amends the date by which a person needed to have owned or contracted to acquire a cyclone knife in order to claim compensation. The date, 20 June 2018, is already set out in the Bill, and continues to apply to these weapons, private possession of which was prohibited by the Bill on introduction. The date of 22 January 2019 will apply to cyclone knives. This will allow anyone who owned or contracted to acquire a cyclone knife, up until the date that the government amendment prohibiting them was introduced, to claim for compensation.

Amendments 21 and 22 are consequential. Amendments 26 and 27 relate to Northern Ireland. Clauses 47 and 48 will come into force upon Royal Assent. However, these amendments allow the Department of Justice in Northern Ireland to commence these provisions locally.

I remind noble Lords that the compensation regulations which we have published in draft are subject to the affirmative procedure following assent to the Bill. Accordingly, they will need to be debated and approved by both Houses before they can come into force. I beg to move.

Lord Paddick: My Lords, I am very grateful to the Minister for the amendments relating to kirpans—even though the legislation does not refer to kirpans as such—because of the importance to the Sikh community of presenting the ceremonial curved sword as a mark of esteem.

Representatives from the Sikh community have also pointed out the difficulties that some Sikhs have in carrying a kirpan on their person as part of their religious observance. Although it is accepted that it has not been a problem in terms of prosecution, the fact that possession of a bladed article or pointed instrument is an offence—without the need for any criminal intent—has created difficulties for Sikhs when visiting attractions such as Madame Tussauds and the London Eye. Sikhs have been barred from going into those attractions because of having a kirpan on them. The security guards are working on the basis that the law states that possession of a pointed instrument or a bladed article is an offence, and therefore a person is not allowed to bring it in. I do not know whether there is any scope here. The Minister has already mentioned the Explanatory Notes for the final legislation, including instructions about what is and is not a kirpan. Could anything be mentioned in those notes regarding the issue that some Sikhs have with regard to entry to those sorts of premises?

Lord Singh of Wimbledon (CB): My Lords, before I begin, I refer to the discussion in Grand Committee when I referred to the Network of Sikh Organisations, the NSO. I should have mentioned that I am a member of the NSO. I make it clear that in the discussions on this Bill, and indeed, in all my contributions in this House, I speak as a member of the wider Sikh community. On behalf of all Sikhs, I thank the noble Baroness, Lady Williams, and the Government for moving this amendment, and the noble Lords, Lord Kennedy and Lord Tunnicliffe, for initiating an earlier amendment, supported by the noble Lord, Lord Paddick, and the noble Baroness, Lady Hamwee, with wider cross-party support.

[Lord Singh of Wimbledon]

I have heard it asked whether there is such a thing as an inoffensive weapon. The Sikh kirpan comes close, in that its use is limited to defence and the protection of the vulnerable. Again, I thank all in this House and in the other place for recognising and supporting the religious and cultural significance of the kirpan.

4.15 pm

Lord Kennedy of Southwark: My Lords, I am very content with the amendments in respect of compensation and devolved matters. My remarks will be on the issue of the kirpan. First, however, I thank the noble Baroness, Lady Williams of Trafford, very much. We had a very useful round-table meeting. The noble Baroness and the Government have listened, and we are grateful to them for that. The noble Lord, Lord Singh, explained that this is a very important issue for the Sikh community, and it is good that the Government listened. The noble Lord, Lord Paddick, made a wider point about people not understanding what the kirpan is and the difficulties experienced by Sikhs in going about their daily business. I am not going to get into the issue about the fact that they have the kirpan on their person, but I hope that this will go some way to help people understand more about different faiths, including the Sikh faith, and why people carry the kirpan. I am very happy with the amendment and very pleased that the Government listened, for which I thank them very much.

Amendment 10 agreed.

Clause 46: Prohibition on the possession of offensive weapons: supplementary

Amendments 11 to 13

Moved by ***Baroness Williams of Trafford***

11: Clause 46, page 43, line 3, leave out "(7)" and insert "(7B)"

Member's explanatory statement

This amendment and the Minister's amendments at page 43, line 43 and page 43, line 44 would create defences to the offences in section 141(1) and (1A) of the Criminal Justice Act 1988 and section 50(2) and (3) of the Customs and Excise Management Act 1979 relating to the presentation of Sikh kirpans. This follows the Minister's undertaking on 4 March (HL Deb, column 470).

12: Clause 46, page 43, line 43, at end insert—

"(7A) After paragraph 5A insert—

"5B(1) Sub-paragraph (2) applies to—

(a) a person charged with an offence under section 141(1) or (1A) of the Criminal Justice Act 1988 in respect of any conduct of the person relating to a curved sword, and

(b) a person charged with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979 in respect of any conduct of the person relating to a curved sword.

(2) It is a defence for the person to show that the person's conduct was for the purpose only of making the sword available for presentation by a Sikh to another person at a religious ceremony or other ceremonial event.

(3) It is a defence for a person charged with an offence under section 141(1) of the Criminal Justice Act 1988 of giving a curved sword to another person to show that the person's conduct consisted of the presentation of the sword by a Sikh to another person at a religious ceremony or other ceremonial event.

(4) It is a defence for a person charged with an offence under section 141(1A) of the Criminal Justice Act 1988 of possession of a curved sword in private to show that—

(a) the person was a Sikh at the time the offence is alleged to have been committed and possessed the sword for the purpose only of presenting it to another person at a religious ceremony or other ceremonial event, or

(b) the sword was presented to the person by a Sikh at a religious ceremony or other ceremonial event.

(5) In this paragraph—

"curved sword" means a weapon to which section 141 of the Criminal Justice Act 1988 applies by virtue of paragraph 1(r);

"Sikh" means a follower of the Sikh religion."

(7B) In paragraph 6, for "and 5A" substitute ", 5A and 5B"."

Member's explanatory statement

See the explanation of the Minister's amendment at page 43, line 3.

13: Clause 46, page 43, line 44, leave out "(7)" and insert "(7B)"

Member's explanatory statement

See the explanation of the Minister's amendment at page 43, line 3.

Amendments 11 to 13 agreed.

Clause 47: Surrender of prohibited offensive weapons

Amendments 14 to 16

Moved by ***Baroness Williams of Trafford***

14: Clause 47, page 44, line 20, after "45" insert "(by itself or in combination with section 46)"

Member's explanatory statement

This amendment and the Minister's other amendments to this Clause and Clause 48 would ensure that the provisions for surrender and compensation in this Clause and Clause 48 cover weapons which are brought within section 141 of the Criminal Justice Act 1988 by virtue of Clause 46(2), (3) or (10).

15: Clause 47, page 44, line 25, after "45" insert "(by itself or in combination with section 46)"

Member's explanatory statement

See the explanation of the Minister's amendment at page 44, line 20.

16: Clause 47, page 44, line 31, after "45" insert "(by itself or in combination with section 46)"

Member's explanatory statement

See the explanation of the Minister's amendment at page 44, line 20.

Amendments 14 to 16 agreed.

Clause 48: Payments in respect of surrendered offensive weapons

Amendments 17 to 20

Moved by ***Baroness Williams of Trafford***

17: Clause 48, page 45, line 20, after "45" insert "(by itself or in combination with section 46)"

Member's explanatory statement

See the explanation of the Minister's amendment at page 44, line 20.

18: Clause 48, page 45, line 21, leave out "20th June 2018" and insert "the relevant date"

Member's explanatory statement

See the explanation of the Minister's amendment at page 44, line 20.

19: Clause 48, page 45, line 23, leave out "20th June 2018" and insert "the relevant date"

Member's explanatory statement

See the explanation of the Minister's amendment at page 44, line 20.

20: Clause 48, page 45, line 37, at end insert—

"(12) In this section "the relevant date"—

(a) in relation to a weapon to which section 141 of the Criminal Justice Act 1988 is to apply by virtue of section 46(3) or (10) of this Act, means 22nd January 2019;

(b) in any other case, means 20th June 2018."

Member's explanatory statement

See the explanation of the Minister's amendment at page 44, line 20.

Amendments 17 to 20 agreed.

Clause 68: Extent

Amendments 21 to 23

Moved by ***Baroness Williams of Trafford***

21: Clause 68, page 59, line 27, after "(7)" insert "and (14A)"

Member's explanatory statement

This amendment is consequential on the Minister's amendment at page 42, line 19.

22: Clause 68, page 59, line 28, after "(7)" insert "and (14A)"

Member's explanatory statement

This amendment is consequential on the Minister's amendment at page 42, line 19.

23: Clause 68, page 60, line 19, leave out "(7)" and insert "(7B)"

Member's explanatory statement

This amendment is consequential on the Minister's amendment at page 43, line 43.

Amendments 21 to 23 agreed.

Clause 69: Commencement

Amendments 24 to 27

Moved by ***Baroness Williams of Trafford***

24: Clause 69, page 61, line 42, leave out "to 46" and insert "and 45"

Member's explanatory statement

This amendment and the Minister's second amendment at page 61, line 42 would mean that the Department of Justice in Northern Ireland could bring Clause 46 into force only so far as it does not make provision about the unlawful importation of weapons.

25: Clause 69, page 61, line 42, at end insert—

"(ha) section 46 except so far as it makes provision in relation to a defence for a person charged with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979;"

Member's explanatory statement

See the explanation of the Minister's first amendment at page 61, line 42.

26: Clause 69, page 61, line 42, at end insert—

"(hb) sections 47 and 48 so far as they confer functions on the Department of Justice in Northern Ireland or the Chief Constable of the Police Service of Northern Ireland;"

Member's explanatory statement

This amendment and the Minister's amendment at page 62, line 6 would provide for the Department of Justice to bring Clauses 47 and 48 into force so far as they confer functions on the Department or the Chief Constable of the Police Service of Northern Ireland.

27: Clause 69, page 62, line 6, after "48" insert "except so far as they confer functions on the Department of Justice in Northern Ireland or the Chief Constable of the Police Service of Northern Ireland"

Member's explanatory statement

See the explanation of the Minister's third amendment at page 61, line 42.

Amendments 24 to 27 agreed.

4.17 pm

Motion

Moved by ***Baroness Williams of Trafford***

That the Bill do now pass.

Baroness Williams of Trafford: My Lords, on moving this Motion, I take the opportunity to say a few words of thanks to those who have contributed to the Bill's passage through your Lordships' House. I thank my noble friends Lady Barran and Lord Howe for undertaking some of the heavy lifting in Committee and on Report. Among all the Bills that I have dealt with this has not been the easiest, so I thank them very much. I also thank my noble friend Lady Manzoor for acting as the Government Whip on the Bill, and, on the opposition Benches, the noble Lords, Lord Kennedy, Lord Rosser, Lord Tunnicliffe and Lord Paddick, and the noble Baroness, Lady Hamwee—and my noble friend Lord Attlee for his well-drafted amendment on the storage of certain firearms.

I cannot, of course, omit the noble Lord, Lord Singh, for his constructive assistance in the drafting of the amendment on the kirpan. In fact, I thank all the Sikh organisations with which we have engaged during the Bill's passage. I thank all noble Lords across the House who have contributed in various ways to the Bill. None of us could do it without officials from the Home Office, who have supported me and my noble friends Lady Barran and Lord Howe throughout the its passage.

The Bill has taken some funny twists and turns but has not lost sight of our ultimate aim, which is to end the scourge of this terrible crime on our streets and in our communities. I am pleased to have been able to reach a position of broad consensus on all but two of the Bill's provisions, namely the introduction of KCPOs and the delivery of bladed articles. We are, however, continuing to reflect on these issues in advance of the Bill going to and returning from the House of Commons. I beg to move.

Lord Kennedy of Southwark: I thank the noble Baroness for the way she has conducted the Bill through the House. I also thank the noble Baroness, Lady Barran, and the noble Earl, Lord Howe. I appreciate the constructive way they have engaged with the House,

[Lord Kennedy of Southwark]
as they always do. I also place on record my thanks to my noble friends Lord Rosser and Lord Tunnicliffe for the help that they have given me, as well as to the noble Lord, Lord Paddick, and the noble Baroness, Lady Hamwee. I was grateful, too, for the contributions of many other noble Lords from around the House, particularly those of the noble Lords, Lord Lucas and Lord Singh, and the noble Earl, Lord Erroll.

We are certainly sending the Bill back in a better state than that in which it arrived. I am not sure that it will quite achieve all the things that it wants to do, but I certainly support its aims. We have done a good job. I also thank the Bill team at the Home Office, who have always been very courteous and happy to engage with me and other colleagues. I also put on record my thanks to Ben Wood, who works in the Opposition office here in the House of Lords and has kept me armed with briefing notes, amendments and everything else.

Lord Paddick: My Lords, I add my thanks to those expressed to the noble Baronesses, Lady Williams of Trafford and Lady Barran, and the noble Earl, Lord Howe, for the way they have conducted the Bill. As the noble Baroness mentioned, there has not really been a consensus on knife crime prevention orders and delivery of bladed articles. I think that my colleagues in the All-Party Parliamentary Group on Knife Crime will discuss knife crime prevention orders with their colleagues before the Commons has an opportunity to consider the amendments put forward by the Government that place knife crime prevention orders in the Bill. I hope that the Government will reflect on the delivery of bladed articles in the light of the amendment passed today. I am grateful to officials and the noble Lord, Lord Kennedy of Southwark, for the co-operation that we have had during the passage of the Bill.

Lord Lucas: My Lords, I too am grateful to my noble friends for the help that I have had in the course of the Bill and for the time that the Bill team have given me. I regret some of the decisions that we have taken. I think that we have hurt people needlessly and let ourselves in for compensation that we need not have paid, but there we are.

Bill passed and returned to the Commons with amendments.

Northern Ireland (Regional Rates and Energy) (No. 2) Bill
Committee

4.23 pm

Clauses 1 to 5 agreed.

Clause 6: Commencement

Amendment 1

Moved by ***Lord Empey***

1: Clause 6, page 5, line 24, at end insert "subject to section (Conditions of commencement)."

Lord Empey (UUP): My Lords, I apologise for being out of position, but things have moved so quickly. I have tabled two amendments which I would like to speak to together. Their purpose is to get some fairness into the renewable heat initiative in Northern Ireland. As many Members will know, it has been one of the worst examples and it is how not to do a renewable heating scheme. It has ostensibly been responsible for the collapse of the devolved institutions in Northern Ireland. I am sure that many noble Lords will have received a large volume of emails over the past few days and weeks.

I have two things to say to the Minister. First, it is inappropriate that regional rates and an energy Bill are combined in one piece of legislation: they are totally unrelated. Secondly, the plan was that two major Northern Ireland Bills would go through all their stages in this place in one evening, ensuring that no scrutiny of any description was conducted into the legislation. Apart from anything else, that is bad governance.

Members will be aware that legal proceedings continue and are perhaps due to come to partial fruition later this month. The proposals in front of us would probably result in further legal action, because the fact is that government Ministers in Northern Ireland made promises some years ago and, regardless of the intricacies of that or who was involved, people were led to believe one thing and have now been confronted with a new situation. That is bad from every point of view. These amendments try to ensure that there is proper scrutiny of the proposals.

Any noble Lord who has been looking at, and trying to respond to, emails from farmers' unions and others will have been completely amazed at the complexity of this legislation: the new tariffs for different sizes of boilers, whether 99 kilowatts or 199 kilowatts—I am sure we are all learning as we go along. While the bulk of the boilers are 99 kilowatts, those who have larger boilers or micro boilers feel that their circumstances have not been taken into account.

When it was proposed in the other place that the Northern Ireland Affairs Committee would conduct an investigation, I felt that this was the one and only piece of parliamentary scrutiny that this legislation would receive. That committee has a good reputation in the Houses of Parliament. A former distinguished chair, my noble friend Lord Cormack, is sitting here. Laurence Robertson MP, the previous chair, conducted his business exceptionally well over many years. The current chair, Dr Andrew Murrison, whom I had the opportunity to speak to last week, is also determined and he has already started work: he has sent out notices seeking assistance and gathering evidence from those involved. He said that he was intending to do this very quickly, and that is an excellent piece of news.

I am trying with these amendments to ensure proper parliamentary scrutiny, so the new tariffs would not be introduced until the Northern Ireland Affairs Committee report comes forward. At that point, the Secretary of State would be permitted to introduce a revised tariff, should she deem it to be necessary. That could be done by secondary legislation, approved by both Houses, without having to revert to primary legislation, which is so difficult.

What is the point of all this? First, the scheme is so complex that Parliament—at either end of the Corridor—has not had the opportunity to assess it. Secondly, is it wise to go forward with something that dramatically affects people's livelihoods just as it stands?

The Bill contains clear proposals for a buy-out scheme, and an amount of £4 million per annum has been set aside in the Budget to allow that to happen. The European Union has an involvement in this through state aid, but because a 12% return is anticipated from the very beginning this scheme has been outwith that particular proposal. The European Union has a target, and the whole purpose of this was to ensure that the UK's carbon footprint was reduced. This was part of Northern Ireland's contribution to that UK target, but it has gone sadly wrong.

4.30 pm

I have no doubt that all the emails that I have received and the communications that other noble Lords around the Committee have received will be the same. I do not believe that all these people are simply telling lies or have in some way profited inappropriately from the scheme. There is no question that some people have done well, and that is fine, but my anxiety is that some people have not done well and are being treated in the same manner. Amending the Bill to return it to the other place and ask it to think again is one of the things that it is open to us to do.

The Minister, in fairness to him, has been very attentive. A number of us have attended briefings with civil servants, and we are deeply grateful for that. If anything convinced us of how complicated this scheme is, it was the involvement of the civil servants. The Minister kindly spoke to me yesterday and again today, and I understand that he is trying to be helpful, but our principal anxiety must be to ensure that people do not fall through the cracks and find themselves in a position where they are financially stressed and embarrassed as a result of this change to the tariff.

In that regard, the Minister made a number of suggestions, which I have been looking at in the past 15 minutes, because we have not had much time and business has moved so quickly. I just want to try to test him, because it is very important that we get this right. The compensation arrangements in the original proposals were to set aside £4 million per annum to assist people who got into difficulties because the scheme's tariffs had changed since they were originally set. When people were told at the beginning that this would be for 20 years, they went to banks or finance companies and leveraged out loans and perhaps built new chicken houses. They have now found themselves with two sets of reductions: one in 2015, and the last one that the Assembly made before it closed in 2017. That has dramatically changed their financial profile and circumstances.

On top of that, this new proposal is radical in what it does to the payouts of the scheme. People will go from receiving £16,000, £17,000 or £18,000 a year down to receiving £3,000 or £2,000. In some cases, cash flow will be dramatically affected, because if boiler users have used a certain number of kilowatt hours in the current year, they will not even be eligible for any payments perhaps until the latter part of this year or early next year. For all these reasons, I wanted to ensure fairness for those people. If they find themselves in a financial straitjacket because of actions and intent that the Government set out and if they followed that in good faith, it is unfair that those people should be put in the position of being financially embarrassed and stressed.

Let us be very clear on what we are trying to achieve here. I understand that public expenditure has to be taken into account, but equally there is a moral issue, as the noble Lord, Lord Morrow, said at a briefing I attended. There is indeed a moral issue, because if people state categorically that they are guaranteeing this and grandfathering rights are being guaranteed, and then people make an investment in good faith, even if the Government were wrong and the scheme was wrong—which it clearly was—there is still an obligation to those people.

The question is: what can this Committee do to help mitigate the conditions in which those people find themselves? I think the Minister will have to convince the Committee that he will be able to achieve this by other means than these amendments. It is the end we are concerned about, not necessarily the means. We want to ensure that people are not left financially embarrassed or stressed.

We have to remember, of course, that the overarching objective all along was to reduce the United Kingdom's carbon footprint, yet we are actually ending up putting forward a proposal for compensation that will probably lead to people reverting to fossil fuels. So the whole thing is perverse. That is the situation.

I would like the Minister to explain to the Committee what he would propose we do, as the Government, to ensure that these people are not financially embarrassed and suffering a reduction in circumstances. Even if there are people who have done very well out of it, we are concerned with people who have not done well out of it, who have honestly and in good faith taken the scheme on, borrowed money and installed this equipment in good faith. What can he say to the Committee that would persuade us that there is another way, other than going down the route of these amendments?

The amendments are merely a means to an end, and I believe that, with the investigation that is currently under way by the Northern Ireland Affairs Select Committee, in which I have very great confidence, I think we can look forward and devise a means whereby those people can be compensated adequately and appropriately and that justice will be done to them and to the taxpayer. We have to remember that, had it gone on unchecked, the amount of money that would have had to have gone into the scheme, if everybody had carried it through to the end, was £1.3 billion. It is almost unbelievable, but that is where it would have ended up.

So we have a dilemma and, knowing the Minister as we do, I have no doubt that he will come forward with a solution in Committee and that we will be able to rejoice that we will have achieved something on behalf of the people we represent. With that, I beg to move.

Lord Cormack (Con): My Lords, I support what my noble friend Lord Empey said: this is a question of fairness, justice and equity. As my noble friend said in his powerful and persuasive speech, those of us who take an interest in the affairs of Northern Ireland have had many communications from people who, frankly, are at their wits' end as to how they can survive financially. I have had letters from poultry farmers, hoteliers and others who, in good faith, with a written ministerial assurance, made an investment. It is not for us to say whether that was wise or not, but we have to recognise that these people were acting on government advice. I do not want to quote a lot of letters but I shall quote just one sentence from a poultry farmer: "Is it fair for the Government to renege on tariff payments that had been guaranteed?"

The system is incredibly complex—my noble friend Lord Empey made that plain— and I do not pretend that I understand all of it but, as a former chairman of the Northern Ireland Affairs Committee in the other place, I am delighted that my successor but two has decided to take this on. I hope his committee will be able to conduct a thorough, expeditious inquiry. I know not what it will say, but I know that this particular scheme, however well intentioned, was certainly not well designed. However pure the motives, the results have been catastrophic; they would have been even more so had something not been done. As my noble friend said in his speech, we would have been talking of a sum in excess of £1 billion for a part of our country which I love dearly but is not the most populated part.

I share my noble friend Lord Empey's faith and confidence in our Minister. He is a man of totally good intent and I hope that he will be able to come up with a solution that will persuade my noble friend not to press his amendment. I hope there is another solution to that.

I come back to one simple point. We are dealing with citizens of the United Kingdom who have been—maybe inadvertently, although I am not entirely sure of that—misled, who have made financial decisions, who have in some cases, in good faith, borrowed and been lent very large sums of money, and who now find their very livelihoods on the brink of collapse.

We have lamented time and again in recent debates, particularly last Tuesday when we were critical of the fast-tracking of Northern Ireland legislation, the fact that for over two years neither the Assembly nor the Executive have met. In all parts of your Lordships' House, this is something that we deeply deplore. It means that, temporarily at least—I very much hope it is temporarily—a great weight of responsibility rests on our shoulders for the people of a much loved and, over the years, much troubled part of our United Kingdom. I hope we will be able to do them justice.

I hope above all that my noble friend the Minister, who is both determined and sensitive—we know that in this House—will be able to satisfy the points raised so admirably by my noble friend Lord Empey. I have great pleasure in supporting him.

Lord Rogan (UUP): My Lords, I find it interesting that I am addressing your Lordships this evening from these Benches.

Lord Cormack: The noble Lord is very welcome to stay.

Lord Rogan: I support the two amendments in my name and the name of my noble friend Lord Empey.

I have said this several times over the last two years and will continue to say it, but it is a matter of deep regret that we are debating this at all. Rather than in your Lordships' House, it should be taking place in the Northern Ireland Assembly, with local representatives defending the Bill's provisions rather than the Minister—much as we enjoy seeing a master at work.

Of course, the scandal surrounding the RHI scheme itself has much to do with why we are discussing the subject here rather than the MLAs debating it at Stormont. Noble Lords can argue about whether RHI was the principal reason Sinn Féin/IRA chose to collapse the Executive when Martin McGuinness resigned as Deputy First Minister. What is beyond dispute, however, is that the scheme has been a catastrophe. There must surely be consequences for those responsible for its many failings when Sir Patrick Coghlin and his excellent team produce their final report.

The RHI inquiry also exposed deep failings in the system of governance at Stormont, which must be addressed if the Assembly's eventual resurrection—should that happen—is to be sustainable and lasting. One must live in hope if nothing else.

4.45 pm

The antics of the DUP and Sinn Féin Ministers, including the systematic abuse of the petition of concern, did great damage to the credibility and functionality of the devolved institutions. Changes to the rules must be made. Despite the Prime Minister's dependence on the DUP in the other place to keep her in office, we need Her Majesty's Government to lead the way on these matters.

As the Minister made clear at Second Reading last week, it is important that this legislation passes. Without it, there will be no legal basis to maintain payments to participants in the RHI scheme. Equally, however, it is vital that the interests of the taxpayer are at the core of the decisions made by this House and the other place in attempting to reach a fair compromise for all. It is noteworthy that DUP representatives did not oppose the Bill when it was debated in the other place less than two weeks ago, despite the role played in the RHI scheme by DUP Ministers at Stormont, including the party leader, Arlene Foster.

I have sympathy with the overwhelming number of RHI applicants. They joined the scheme with perfectly honourable intentions and in good faith. They based their decisions on the formal advice provided at the time. They were entitled to expect the promised return on their investment and they have been badly let down. Together, the amendments represent a compromise that I hope your Lordships can unite around in the Division Lobby if the Minister does not feel able to embrace them at the Dispatch Box. RHI became a partisan issue at Stormont because the DUP and Sinn

Féin Ministers failed to take proper responsibility for their actions when they had the opportunity to do so. It is very likely that similar battle lines will be redrawn when the inquiry team's report is published. In the short term, it is essential that your Lordships act as one, accept these sensible additions to the Bill and invite the other place to think again. I commend the amendments to the Committee.

Baroness Harris of Richmond (LD): My Lords, I too thank the noble Lord, Lord Empey, for his powerfully persuasive speech, as the noble Lord, Lord Cormack, described it. This is a very complicated matter, as we all know. We are very happy to support his amendments.

We have been asked to pass the Bill virtually blind, as the noble Lord, Lord Empey, said. There has been no scrutiny whatever in the other place, and we know that this scheme was turned into a disaster by a mixture of incompetence and inappropriate political interference. Let us hope that this will be sorted out as soon as the Northern Ireland Affairs Committee gets down to business. Of course, I join in with all the praise for the Minister, whom we all greatly admire. We hope he will be able to consider this amendment and take it in, so that the other place has another chance to vote for it.

Lord Lexden (Con): My Lords, I strongly support this amendment, introduced so powerfully by my noble friend Lord Empey and supported so powerfully by my noble friend Lord Cormack and others. I expressed my general concern about the issue at Second Reading last week. By that time, I had received a few emails from deeply troubled farmers and small business men in Ulster. Since then, the trickle has become a flood of deeply worried people who accept that a reduction in grants is just and right, but seriously question the justice of the extent of the reductions to which they will be subject.

It is good news that the Northern Ireland Affairs Committee in the other place—I sometimes wish we had an equivalent body in this House—under its highly respected chairman, Dr Andrew Murrison, will be conducting a full investigation. This has given comfort to those from Ulster who have been in touch with us. It would be unfortunate, to say the least, if that inquiry, which is now under way with, I understand, every intention of its rapid completion, should be pre-empted by decisions taken in advance of it.

The noble Lord, Lord Empey, is a personal friend of mine. He is also deeply respected on all sides of our House as a wise, well-informed, moderate voice for the people of Ulster, and we should particularly bear in mind that he speaks too as a former Energy Minister in the Northern Ireland Executive.

Lord Hay of Ballyore (DUP): My Lords, I welcome the debate in Committee this afternoon. I wonder, as I listen to some—not all—of the speeches whether this is all about having a go at the Democratic Unionist Party, or perhaps because there is a local government election on the horizon. I say that very clearly. I wonder whether, in trying to resolve a serious situation, this is about politics more than anything else. At the outset, I thank the Minister for the many meetings we have had with him on this complex situation, as the noble Lord, Lord Empey, said.

The Minister will be aware of our deep concerns over the lack of proper scrutiny of these proposals; we have made him aware of that on several occasions. I said in the House last week that if people entered the RHI scheme in good faith and feel that they are now being treated unfairly, it is certainly not the fault of the people who entered the scheme. But, of course, we know that this situation has resulted from a decision by the European Commission on state aid rules; it is very clear on this. Maybe the Minister could clarify that the Commission has indicated that it is not in a position to approve a tariff that delivers a rate of return of higher than 12%. Can the Minister confirm that this is a way of putting this scheme on a strong legal footing? There are legal issues with this scheme. Certainly, the failure to go down the road of looking at a scheme with a rate higher than 12% would make the scheme illegal. That is an interesting point, which I would like the Minister to clarify as well.

I am certainly led to believe that the failure to agree this scheme would mean that payments would not be made to anybody, and the closure of the scheme. These issues deeply concern us, and certainly concern many of the people who bought into the scheme and who now feel very aggrieved—I can understand all that. However, the Minister tells us that if we do not go down this road of agreeing this scheme, there is no scheme, and if we agree the amendment in the name of the noble Lord, Lord Empey, it will make the scheme illegal. All these issues need to be clarified by the Minister.

I welcome the Northern Ireland Affairs Committee's inquiry into the scheme; it will be interesting to see where it sits on this issue. I welcome the Secretary of State for Northern Ireland, who has undertaken to consider carefully any recommendations regarding the scheme from the Northern Ireland Affairs Committee. However, once again, we are told that this scheme must be approved by 1 April, because if it is not, nobody will be paid and there will be no scheme. There is therefore a conundrum here for all of us as we try to find a way through this difficult issue. When you are told about that information, and all that comes together, it is a conundrum. It is either this scheme or no scheme, and it is important that the Minister clarifies all those positions and issues when he winds up.

We are all getting emails and letters from individuals about the scheme and how they entered it, and so on. Will the Minister also undertake that he will investigate the cases of individuals who came to him directly, or who come to us and we pass on to him? That might help us to resolve some of these problems, because people are sending everyone emails—I think we have all received a number of them—but it is difficult to guide them to where they should go for further investigation. If the Minister could say that he and his department will take that on, it might be a way to get people who have deep concerns about the scheme to where they need to go for full investigation.

[Lord Hay of Ballyore]

With the Northern Ireland Affairs Committee's investigation going on as well, my problem is that if we wait until the committee's report is published, it will be too late. The scheme must be operational by 1 April or no one will be paid and the scheme will be gone.

Lord McCrea of Magherafelt and Cookstown (DUP): Surely the Minister needs to clarify. Can he not find a legal way to keep the tariffs as they are until the Northern Ireland Affairs Select Committee has concluded its deliberations? It is difficult: this axe will fall because the date of 1 April has been set. Surely the Minister can find another way to fulfil his obligations to Europe but allow the present situation to continue until a proper investigation is concluded into this matter.

Lord Hay of Ballyore: I was coming to that point. I know that the Minister is around this brief—he is around every brief, but this one in particular—because we have had so many meetings with him. I think my noble friend Lord McCrea is saying: yes, he can still do what needs to be done, but is there any way legally that might help us to move all this on? The issue is ensuring that whatever is done from here on is legal. Let us try to take the politics out of this, because this is too serious a situation to involve politics. Let us take the politics out of it, deal with this serious situation and try to find a way forward.

Lord Mackay of Clashfern (Con): My Lords, this is undoubtedly an extremely complicated situation, but I think the principle is that when a member of the public makes an investment in a government scheme, that member of the public is entitled to trust the terms on which the scheme was launched. Therefore there can be no doubt that those who invested in the scheme, relying on the Government's statement of what was involved, are entitled to be protected by the Government from any failure on their part to meet the terms on which the scheme was set up. That rule applies to the United Kingdom Government, but also to the Governments of the devolved Administrations. That is the basic principle which cannot be set aside by any legislation that we may pass here, although the ultimate terms of the performance obligation are a matter that we cannot determine here, for various reasons that have been given. The principle seems to me absolutely clear and sound.

Lord Trimble (Con): My Lords, I think we have just heard a contribution that settles the issue to a large extent and indicates what should be done by the Government when the various reports become available. I say "the various reports" because there are two. There is the statutory inquiry conducted by Patrick Coghlin and the inquiry to be held by the Northern Ireland Affairs Select Committee. But there is no overlap here: the first looks to the past and how the scheme was framed and administered, whereas I hope the Northern Ireland Affairs Select Committee report will be more focused on the future and how one sorts out the problem beneficially for people. I am a bit worried to see the DUP nodding their heads at this stage; I will not say anything more in case I am accused of being political about the matter, which of course I am not.

The only other point I make is to thank the Government and the Chief Whip for giving us this evening to discuss this matter. It has been commented earlier, and on earlier legislation, that the way legislation is handled here during the regrettable absence of the Northern Ireland Assembly is not itself satisfactory. It was heart-warming to see the spontaneous revolt on the Floor of this House last week against the provisions to rush through this legislation in a way that would not have enabled us to discuss it in the way we have this evening. I am glad the Chief Whip listened and gave us the time, and I also thank the many noble Lords who have come in to listen to this discussion. That too is heart-warming for us.

5 pm

Lord Maginnis of Drumglass (Ind UU): My Lords, I would be more than happy to be a signatory to the amendments, and I am particularly pleased that two of my Belfast-based colleagues are responsible for tabling them. Someone like me—representing, as I did for many years in the other place, the south-west of the Province of Northern Ireland—knows what it is like for farmers to find themselves misled and encouraged to participate in a scheme such as this. I am seeing this happen to those who were my constituents. We get some change and, like many, I have some hope that the Minister will have a means towards resolution.

I go back a long way in farming in Northern Ireland. Moy Park, which grew from very small beginnings, is now an internationally known farming enterprise. As a teenager—when Dungannon Park, as it was originally known, was establishing its breeding stock—I had the annual job of going to Dungannon Park and testing every single breeding stock for BWD. Members will not know what BWD is, but I will not go into the finer details. I saw Moy Park grow from small beginnings to the firm it is now. The people who helped it grow were the ordinary farmers, the people who have been misled.

Noble Lords will remember that last week I read on to the record the letter sent to the banks by the then Minister of Enterprise in Northern Ireland, which grandfathered—to use her word—the scheme that encouraged ordinary farmers to take out loans to be repaid over a five-year period. Remember that farms in Northern Ireland are small enterprises compared with farms in GB. That will now become impossible because of the reduction—I may not have these figures right—from £13,000 per burner per year to a mere £2,000. This new biomass scheme encouraged farmers to look to the future, to the son who would inherit their small farming enterprise and carry it forward as part of the backbone of the Northern Ireland economy.

I hope that noble Lords will look very carefully, not at the emotional dilemma that I face—noble Lords will understand why—but at the moral dilemma that the Government should face when they allow things to move forward without maintaining a firm hand on the tiller. In Northern Ireland, we have endured years of non-government by the Assembly, yet we find the

money to keep that afloat when many of us believe that a more radical solution—a return to direct rule—is a way forward. When speaking here, we would feel that we had a direct influence on what the Government thought and did. Instead, I had what was intended to be a helpful briefing yesterday evening from the Northern Ireland Civil Service, the people who conspired—I should not use the word, but I will, for want of a better one—with the Minister in charge of this scheme to bring forward what has proved to be a flawed scheme. I do not believe that there can be any moral justification whatever in leaving Northern Ireland's farmers to carry the can for that error.

I hope that the Minister will address how the Civil Service can be allowed to concoct something that perhaps frees it from an inquest into its behaviour and, at the same time, leaves our farming industry in a dilemma which I fear it will be difficult for it—and impossible for some—to survive.

Lord McCrea of Magherafelt and Cookstown: I feel that some facts need to be stated. No one in the political establishment in Northern Ireland comes out with any glory whatever from the RHI scheme. I remind Members that the Northern Ireland Executive, who represented a large range of political parties, passed this scheme unanimously. The Northern Ireland Affairs Committee, which scrutinised this scheme from the Northern Ireland Assembly, passed it and so gave its backing to the scheme. The idea that somehow one person or one Minister decided on the scheme is not factually correct. It was the Northern Ireland Executive who passed the scheme, and they include the range of major political parties in Northern Ireland.

The heart of the scheme was a good one, because—as it says in the title—it was an incentive scheme. No one will be surprised to hear that those who entered into the scheme were being granted an incentive to do so, and found that incentive attractive. For many of them, things have turned out to be very different, but they entered into the scheme in good faith. I too have received a number of emails because, like the noble Lord, Lord Maginnis, I was a Member of another place, in my case representing for 25 years Mid Ulster and South Antrim, both of which have large farming communities. I am also a farmer's son and own land—I declare that interest; however, I point out that I have nothing to do with the scheme. We ought to await the report of the public inquiry into the overall scheme. Irrespective of who may be identified as having made mistakes in the development of the scheme, the vast majority of participants did not. It may be that a few abused the scheme, and no one in your Lordships' House can justify anyone abusing such a scheme, but I reiterate that the vast majority of those who entered into it were hard-working, honourable people, who now face uncertainty at a time of tremendous economic challenges.

I know there are those who seek to point fingers. However, as the noble Lord, Lord Trimble, indicated, we should move forward to see how we can assist at this time. It should be said of this scheme, because it seems to have been obliterated from the record, that the then Minister at the Department of Agriculture—now the leader of Sinn Féin in Northern Ireland—sent officials around Northern Ireland to have clinics and meet farmers to encourage them to get into the scheme. That ought to be put on the record. There are those who seem to forget that involvement in encouraging people to take up the scheme.

I am deeply saddened that, in the light of the proper inquiry launched by the Northern Ireland Affairs Committee, the Government have stated that they cannot delay making changes to the present tariff until the inquiry is completed.

We also need to find out, in detail, information concerning the tariffs in operation in the scheme in England and the proposed tariffs for a scheme in the Irish Republic. Remember, these are all under EU rules, and therefore we need to ensure that the participants in the scheme in Northern Ireland—who are not only farmers—are not disadvantaged compared to the rest of the United Kingdom, especially England, or the Irish Republic.

It is a sad reality that this has been tagged on to the end of a rates Bill. That causes anxiety, because it means there is no appropriate and proper scrutiny of this situation. No stone should be left unturned in finding the appropriate way forward so we can ensure that, under the present EU rules, Northern Ireland participants in the renewable heating scheme are not treated less favourably than anyone in the Irish Republic or in England.

In closing, I want to ask the Minister these simple questions. Is it definite that the Government have no legal way to continue the present tariff until the Public Affairs Select Committee concludes its work and issues its finding? That, in my opinion, would have been a decent and honourable thing to do.

If these proposals are not actioned, and no matter how the Members of this House might feel, is it a fact that on 1 April the participants in the scheme will cease to receive any payments under the RHI scheme? Can the Minister give a cast-iron guarantee that, should the Northern Ireland Affairs Select Committee identify an injustice under EU state aid rules between what operates in England and what is proposed in the Irish Republic, the Government will immediately rectify that situation and remove that injustice, with repayments being made accordingly?

Can the Minister give further details of the proposed buyout scheme for those who feel trapped and are unable to continue in the renewable heat incentive scheme because of the major drop in tariffs being paid to them? Will the amount offered under such a scheme be sufficient for farmers to get out of the scheme and not face financial hardship?

I feel that there are many questions still unanswered. I trust that the Minister will be able to clarify some of them, because they are very important. I agree with noble Lords that there are people who are genuinely hurting through no fault of their own. They should not be left to pay the penalty.

5.15 pm

Lord Kilclooney (CB): My Lords, I support the amendments and, as I said during Second Reading, I feel inclined to oppose the Government on this Bill.

[Lord Kilclooney]

The position we are in has arisen due to people having been somewhat misled, as the noble and learned Lord, Lord Mackay, said. They were given guarantees by government that are now not being honoured. People feel very aggrieved about that, and not just farmers. Someone said that it was an act of faith, and I notice that some gospel halls were also involved in this heating scheme. They feel aggrieved because there is no Assembly, as Sinn Féin, the DUP, the Ulster Unionists and other parties have not reached an agreement about an Assembly. This is a devolved matter, and we are debating it here in this Chamber because the other opportunities have come and gone. The Stormont Assembly failed.

The other place did not make a decision favourable to those involved in the scheme. Those who now feel aggrieved—there are thousands of them—and who will be hit financially very hard are holding up the House of Lords as the last place in which they might be rescued. Therefore, this is a very serious matter for this Chamber.

As the noble Lord, Lord McCrea, said, there is a deadline of 1 April. The European Commission ruled that the present scheme was contrary to the European Union's state aid rules, and therefore—I do not like saying this phrase in relation to Northern Ireland—we basically have a gun to our head. We have to reach a decision. It has been suggested that there will be an interesting report from the Northern Ireland Affairs Committee in the other place. I keep asking myself: is it far too late for that committee to discuss this matter? This issue has been going on for well over a year. At this late moment, the Northern Ireland Affairs Committee will eventually—I am told promptly—consider this subject.

There is great praise for the Minister, and deservedly so. He is embarrassed by the praise that he gets from Northern Ireland, but he takes a genuine interest in our problems across the entire community. My question to him is this: since we have a deadline of 1 April from the European Commission, should the Northern Ireland Affairs Committee come out with different proposals in a month or two, will it be possible to rescue this scheme and save the farmers and the other people who are suffering as a result of doing what the Government asked them to do?

Lord Browne of Belmont (DUP): My Lords, I said at Second Reading that this legislation is controversial and far-reaching. We all know it is regrettable that there is a lack of scrutiny. The legislation is extremely complicated and, indeed, was flawed from the outset. People genuinely entered into the scheme in good faith; they deserve to be treated fairly so that they do not suffer hardship.

However, we have to pay attention to the legalities of all this. The tariffs in the Northern Ireland (Regional Rates and Energy) Act 2018 are sunsetted. Therefore, if this Bill does not pass today, the department will have no legal authority to make payments in respect of boilers accredited under the scheme before 18 November 2015—some 1,800 boilers are, I believe, involved. So there are legal aspects to this that we must pay attention to. The other thing is that an independent review—the Ricardo report—said quite clearly that, under European Commission state aid rules, we had to stick to a rate of return of 12%. Can the Minister confirm that the base case tariffs or a compulsory buy-out have to be compliant with European state aid rules?

I can be brief—I think my other points have been made—but I hope that noble Lords will pay attention to the legalities involved in this scheme. We do not want anyone to suffer hardship, but we have to be very careful that these payments can be made. If we stop them there will be more suffering.

Lord Murphy of Torfaen (Lab): My Lords, I support the amendments in the names of my noble friends Lord Empey and Lord Rogan. I call them both my noble friends of over 20 years, despite the eccentric seating in place today.

This is a sorry business, all of it—a terrible mess. The whole situation in Northern Ireland for the last two years started with the collapse of this appallingly planned scheme. We cannot get away from that. Sir Patrick Coughlin is currently conducting an inquiry into the scheme, the courts are ready to pounce and the Northern Ireland Affairs Select Committee has been asked to look at it as well. The difficulties go back to the way the legislation first came to us. There should not have been a Bill that, on the one hand, decided the regional rate in Northern Ireland and, on the other, decided the details of the RHI.

Equally wrong was the length of time taken by the department in Northern Ireland to deal with its consultation process. As a result, apparently, all the details that we need to consider for the Bill did not arrive until January, even though it was known full well that the previous Bill put forward was sunsetted to end at the end of March. This meant there would be totally inadequate scrutiny of the Bill by Parliament. What is done is done, but it means that we are in a mess. The noble and learned Lord, Lord Mackay, referred quite rightly to the fact that some of the people who, in good faith and on the advice of the Government, went to their banks and decided to take out loans to deal with this issue are now in a terrible mess. What happens to them? The Government are in a dilemma—partly one of their own making, because of what I have just referred to with respect to process.

If we do not pass the Bill, there will be no regional rate in Northern Ireland and the scheme will collapse, so people who are currently benefiting from it, in whatever sense, will not have any money to deal with it. At the same time, in the other place, the Secretary of State welcomed the Select Committee on Northern Ireland looking at it. Perhaps she did not realise that, under the circumstances of the Bill, it would have just under two weeks to consider it, which of course is impossible.

The Government and the Minister in particular, who has been rightly praised by all sides of the House on this and other issues, have to come up with a solution that will satisfy my noble friends Lord Empey and Lord Rogan, and the rest of us, about what can be done. They to ensure that the rates are collected and that the scheme does not collapse but, at the same time, looks after the people who took part in this

scheme in good faith. There may well be ways the department could look sympathetically at cases in Northern Ireland. There may also be a way, although I cannot see what it would be at the moment, for the Northern Ireland Affairs Select Committee's recommendations to be taken into account after the legislation has been improved, unless further primary legislation could be brought before this House to amend the Bill we are considering—it may come to that.

A general point has to be made: so long as there is no devolution in Northern Ireland, with no Assembly or Executive, we cannot have Northern Ireland legislation coming to us in bits or as emergency legislation that denies proper scrutiny. The dilemma that all of us, and the Government in particular, are in today results from the fact that the business managers have not taken Northern Ireland legislation seriously. That has to change, until such time when the institutions are revived in Northern Ireland, which I hope will not be that long away.

These Benches will support a Division, if my noble friend Lord Empey calls one. I hope that can be avoided with what the Minister is about to tell us, because we want to ensure that the legislation goes ahead. However, we also want to ensure that the hundreds of people in Northern Ireland who are now in a sorry state because of this RHI can be dealt with in a proper, decent, humane manner.

The Parliamentary Under-Secretary of State, Northern Ireland Office and Scotland Office (Lord Duncan of Springbank) (Con): My Lords, I will begin in a slightly eccentric way. I have to make a correction of one of my earlier statements. In the debate last week, I stated that,

"the scheme in Great Britain is a 20-year scheme, whereas that anticipated in Northern Ireland is a 15-year scheme".—[*Official Report*, 12/3/19; col. 1009.]

Noble Lords will no doubt realise that I meant to say that the anticipated scheme in the Republic of Ireland, not Northern Ireland, is a 15-year scheme.

That was the easy bit. I will see what I can do to take us forward. Let me begin at the beginning. All the points made by noble Lords this evening on the amount of time and the manner in which scrutiny has been facilitated in this House have landed, and landed well. It is not acceptable that this House is treated like a rubber ball to be bounced gently into some sort of decision. I accept that. It should not happen. There needs to be proper scrutiny in this House and in the other place—now more than ever, in the absence of an Executive.

On combining the two elements of the Bill—namely, the regional rates and the heating incentive—there is no doubt that they do not fit comfortably together. There is also no doubt that, depending on your Lordships' will this evening, the situation regarding the heating incentive will have an impact on the regional rates. These rates remain an important element of the overriding Northern Ireland budget. That combination was a mistake and I do not think we should ever find ourselves in a situation with two elements which clearly do not fit comfortably together. I need to reflect on that. There should be opportunities for this House to look at them separately and, where appropriate, give endorsement to that which it seeks to endorse, and criticism and understanding to that which requires further work.

Lord Maginnis of Drumglass: I apologise for interrupting the Minister. In reference to the mistake he just alluded to, would I be right in saying that this was not a mistake but a tactic which emanates from the Northern Ireland Office and which, despite the good offices of the noble Lord and others, has landed us in this situation?

Lord Duncan of Springbank: The noble Lord makes an interesting point. Unfortunately, I will not comment on it at this particular moment. The reason the noble Lord, Lord Empey, and I seemed to be scrambling to get in here at the beginning of this debate was because we were sitting next door trying to work out how we could find a way through some of the challenges encountered this evening. I am blessed that he managed to find his way to his place and that I did too.

5.30 pm

If I may take the wider point into its widest possible connection, the heating incentive was, at its heart, a noble idea. Its purpose was to reduce the carbon footprint of Northern Ireland. That is an ambition of this Government and the outgoing Executive. At heart, it was a noble endeavour. But frankly, its construction was flawed top to bottom—flawed in almost every possible way—to the extent that we could almost describe its construction as a good old-fashioned scandal. Indeed, there is an inquiry into that scandal right now. It will report in due course, and it will examine all the basic elements of how on earth we got into a situation in which a scheme that was designed to reduce the carbon footprint of Northern Ireland could have created a situation in which the amount of money going to that scheme over a 20-year period would have been £1.3 billion to about 1,500 recipients. That amount of payment is absolutely extraordinary, and rests uncomfortably upon the errors conducted and permitted in Northern Ireland by various actors. The noble Lord, Lord McCrea, is right to point his finger and say that there is no single individual but rather a collection of individuals, who no doubt will have to explain why they found themselves where they did.

The important thing that constrains us today is that the European Union state aid rules are very clear. We are now in receipt of correspondence, shared with us by the Department for the Economy in Northern Ireland, which it has had with the Commission regarding the rate at which it should be set. The answer is 12%, not just for the scheme in Northern Ireland but for the scheme in Great Britain and elsewhere. That is the rate at which it was set.

However, we must remember that under the maladministration at the outset, the scheme in Northern Ireland was in excess of 50%, and therefore, quite quickly the costs spiralled to the point at which the amount spent on this would have all but crippled the economy of Northern Ireland had we not sought to constrain it in some way. Exacerbated by the absence

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of an Executive—as the noble Lord, Lord Murphy, rightly reminds us—this matter, which should really be addressed in Stormont, rests here with us. I believe we have all been in receipt of emails and letters from individuals in Northern Ireland who, in good faith, acting upon written guidance, have found themselves in the most invidious of situations. How a Government could have allowed that to happen is a scandal. It will be investigated as such, and the findings will determine what has happened.

The noble and learned Lord, Lord Mackay, always puts his finger on a very serious issue. He asked about those acting in good faith on written terms. But of course he will recall that when this matter was examined by the courts, the courts themselves examined the legitimate expectation of those in receipt, and looked at the public interest and the financial probity question. On that issue, they averred on the side of the public purse. This is still before the Court of Appeal, and no doubt other issues will unfold from this, but it is a reminder that the situation we find ourselves in is one in which we do need to be conscious of the wider finance.

The noble Lord, Lord McCrea, asked whether we could maintain the rate as it has been set. The answer to that, unfortunately, is no, because that rate is still in excess of the 12%, which is a limit set by the European Commission. That is what sets our legality. For those civil servants in Northern Ireland—and let us remind ourselves that there are no Ministers to take this forward—

Lord Lexden: When did the European Commission's limit of 12% become known?

Lord Duncan of Springbank: Interestingly enough, this was always known; it was just never fully understood or applied. What the Government here have sought to understand is exactly what information the Northern Ireland Executive has been in receipt of. We have been very clear about pinning that down, because the 12% was always there; it was simply not used correctly, which allowed it to spiral massively, up to and in excess of 50%. We have had sight of correspondence from the European Commissioner that tells us very clearly that, were we to maintain the rate as it stands, we would be in breach of state aid rules. Civil servants in Northern Ireland—noble and diligent as they are—cannot move forward on the basis of an illegal rate. That is why we find ourselves where we are today.

I will touch on a couple of points made by the noble Lord, Lord Empey. He notes that this proposal really covers the medium-sized boilers. He is correct that it does not affect the larger boilers or the micro boilers. These matters were to be considered after we had settled this question, which covers the bulk of boilers in Northern Ireland. That said, the issue is a very simple one, and the noble Lord, Lord Cormack, put it very well: it is fairness, justice and equity. That is the issue we need to address tonight.

There is no question that the individuals who have emailed us, setting out their case and their distress in black and white, must get an adequate response. I am hopeful that I can put forward a proposal to the noble Lord, Lord Empey, and the noble Lord, Lord Rogan, that will help us move this matter forward, but your Lordships must be more of a judge of that than I am. My proposal is that the Department for the Economy in Northern Ireland—not on our instruction but because it believes it to be the right course of action—sets up a unit within the department, under independent chairmanship, that will be responsible for examining the case of every individual who has received funds from the RHI initiative and believes that they have experienced hardship. I propose that each element of their case is considered in thorough detail and with their participation, in order to understand exactly what that hardship looks like.

As a consequence of that, and with the Northern Ireland Affairs Committee inquiry running alongside that, those two elements should together help inform the part of the Bill that covers the issue of the voluntary buy-out. Currently, the voluntary buy-out is more or less a statement that lacks mechanical details. If we construct the buy-out to adequately and appropriately meet the needs of the farmers who rest within it, it could be adjusted in accordance with these elements. At the same time—and necessarily—the Northern Ireland Affairs Committee will consider future issues, and this should inform the overall functioning of this—not just the buy-out but the wider questions that rest within it.

Now, I will not try to sell your Lordships a pig in a poke, so what I will need to do to make this function properly is lay a written report before your Lordships' House, so that your Lordships can see what this would look like in practice. There is no point in pretending that this can be achieved in a fortnight—there are too many cases that need a thorough and detailed examination. The point is, however, that we need to be in a situation where the compensation element is adequate and informed by these elements. If we can move forward on that basis, we can go some of the way towards meeting the issues raised by the noble Lord, Lord Empey.

Lord Cormack: My noble friend is obviously trying very hard to be helpful, for which we are grateful. Would it be possible, on Third Reading, to add a short schedule to the Bill that would refer to this proposal?

Lord Duncan of Springbank: I always like to be asked a question, and I turn my eye gently and think: I have no idea of the answer to that. I will, however, find out the answer and report back to the noble Lord in real time as soon as it is available.

The reason that I am putting this proposal before your Lordships' House tonight is because it would be unfair to pretend that we can treat all those individuals as an average; we need to see each in their own terms, understand how their world fits together and how this invidious scheme has been constructed to their detriment. It is unfair of this or any Government to expect those acting in good faith to be penalised for that. We must also be cognisant of the draw on the public purse—there is no point pretending that there is a bottomless pit of money for our approach to this matter. The noble Lord and I have, however, had discussions about what moneys might be required.

It says here, "No to bringing back on Third Reading". I am afraid, therefore, that the answer to the question from the noble Lord, Lord Cormack, is no. I can, however, put on record that we will need to understand the timing of this to be able to deliver it—without the timing there is a risk it will drift into the long grass. I give an assurance that we will be able to—

Baroness Harris of Richmond: While the Minister is looking at that for Third Reading, can he also indicate how much will probably need to be put aside for this independent review?

Lord Duncan of Springbank: The noble Baroness asks a question to which I once again do not have an adequate answer, but I think that it would be fair to say that appropriate funds must be set aside to address these issues. That might seem a vague assertion, but it need not be. I recognise that, where those hardships have been iterated and are evidence based, there should be support for the individuals concerned. I am afraid that I do not know what the overall sum would be; I know that the sum set aside under current arrangements is £4 million. Clearly, if there are to be adjustments to those arrangements, there will need to be adjustments to that figure, and I suspect that they would be in the upward and not the downward direction. As to the exact figure, I am afraid that I do not have that information. If I am to report back to the House in a Written Statement, I think that I will be able to put the figure to the House very clearly, because, by that stage, we would know exactly what this looked like.

I do not know whether that satisfies the noble Lord, who is sitting on the friendly Benches behind me, but I hope that it is. I hope that both he and the wider community recognise that we are seeking to ensure that we make progress.

A number of noble Lords have raised the issue about what happens with the grandfathering clause. The grandfathering clause of 1 April creates serious problems for us. Moving forward on that basis would mean that we were unable to ensure the functioning of the scheme full stop, let alone at any rate which noble Lords might wish to see or set. In addition, as we see the scheme moving forward, we need to make sure that it is fully compliant with the base of the law. We have also to recognise that expecting civil servants in Northern Ireland to act in a fashion which they know to be illegal is simply not possible nor a fair request of that service. It is for those reasons—and I am loath to say it—that we must move forward within the basic structure and parameters of the Bill but allow for the adjustments that I have outlined, which I believe will take us some way to address the genuine hardships which have been reflected to all here gathered.

Lord Maginnis of Drumglass: I apologise for interrupting the Minister again, but will not his solution lead to a divide-and-conquer situation? Do we have any idea of how many individuals will require to give evidence, what the length of time will be and whether that will again be manipulated to take us out of the time limits that have been placed on us?

Lord Duncan of Springbank: The noble Lord is correct to ask about the parameters. I cannot say with accuracy what the exact numbers are. I am aware of how many emails I have received—that number is 75—but I suspect that there are many more. I am not sure whether we are all copied into the same 75, so there may be considerably more even within this round, but there are a significant number. There will be those whose participation in the scheme is not subject to the various issues which we are taking forward today because they are functionally comfortable within the returns that they have been able to expect, but there will be those—the 75 may be a reflection of that figure, but it could be higher—who find themselves in the invidious and unpleasant position of being in financial constraint and hardship as a consequence of simply being faithful to the guidance given by Ministers and civil servants in Northern Ireland. It is to those we must turn our attention.

As many noble Lords will be aware, the scheme was such that there will no doubt be participants who have sought to benefit from a remarkably generous scheme. To those, the notion of hardship will not necessarily apply in the way that it does to those who have written to us setting out in some detail the pain and disaster they face as a consequence of this situation. I hope that there will be adequate time for this. We need to ensure that we move in a more appropriate fashion; we cannot allow this to be delayed.

5.45 pm

The Civil Service will act in good faith; I know that the noble Lord has had some issues with it in the past. This rests in the hands of the devolved departments in Northern Ireland which are responsible for it. We must ask them to take the lead in this matter, albeit, I hope, under the chairmanship of an independent individual. Rather than there being any sense of conspiracy within the department—as the noble Lord more than hinted at—this will, therefore, hopefully rest in the hands of someone who can gain trust from all. I am not sure if that is adequate for my noble friend Lord Empey.

Lord McCrea of Magherafelt and Cookstown: Can the Minister clarify the position on a question which I asked? Should the Northern Ireland Affairs Select Committee find that an injustice or inequality has been done, given the tariffs received by those in England or those in the Irish Republic under the state aid rules, will the department ensure that that will be rectified immediately and further repayment made accordingly?

Lord Duncan of Springbank: One of the challenges in trying to compare the schemes across these islands is that a like-for-like comparison of the various elements is hard. However, the rate of 12% is broadly the constraint within which all must operate, because that is the state aid rule. Were the NIAC to discover a particular inequity which breaches beyond that point, they would be compelled to act in that regard. However, the 12% being applicable to all should mean that there is fairness. The noble Lord should be aware that, because the earlier scheme in Northern Ireland set its

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returns at such an extraordinary rate—upwards of 50% —the challenge remains that any adjustment thereafter down to 12% on the basis of averages would take that 12% higher than it would otherwise be, had it been 12% at the outset. I do not wish to make any particular point about that issue, I merely note that the challenge is now to remain within the law as specified by the European state aid rules.

Lord Kilclooney: One of the problems with the Bill, which has already been underlined during the debate, and which the Minister has been honest enough to state himself, is that it is wrong to link rates—which is council tax in England—with this heating scheme. They are two totally separate subjects and should not be in one Bill. Should the Bill be rejected, would it then be possible to introduce urgent legislation for rates only?

Lord Duncan of Springbank: The noble Lord is right to raise that. I dearly hope that we do not reject the Bill now because, even if we were to act with a certain degree of urgency, it would still be a delay to what we need to deliver in terms of the rates themselves. If we are unable to address the rates question in real time, we are talking about a substantial loss to the revenue of Northern Ireland.

I hope that noble Lords will recognise that the endeavours this evening have been solely for the purpose of trying to address the genuine hardships experienced by those in the scheme. The purpose of the Bill is to make sure that nobody is considered to be part of an average and that each individual is seen as such. That data will then be used to inform the development of an appropriate element of the overall bill which will then be determined and placed before noble Lords in written form, so they can see it. There is no attempt on my part to mislead the Committee or to sell noble Lords something in a poke that you cannot put your hand into.

I hope that this is adequate for my noble friend Lord Empey. I know how much effort he, and all the Northern Ireland Peers, have rightly put into this matter. It concerns them on their doorstep, but it concerns all of us in these islands. Equity, fairness and justice must be the cornerstone of any Government. I hope that we have been able to reflect this evening on what this Government can do, within the constraints of state aid rules and the wider timing question. I hope that, on that basis, the noble Lord will be able to withdraw the amendment.

Lord Empey: My Lords, I am grateful to the Minister for his contribution. I also thank the noble Lord, Lord Murphy, from the Labour Party, and the Liberal Democrat Benches, for supporting these amendments alongside other colleagues on this side of the House. I just want to repeat my interpretation of what I think the Minister is saying, because if you withdraw amendments at a point such as this, it is your last throw of the dice and you lose control of the whole process.

First of all, the Minister is not in control of the Northern Ireland Department for the Economy; that is a fact. Therefore, in the Budget, £4 million was set aside in each of the next three financial years to deal with the buyback or buyout scheme. If that was simply looking at the individual burner in isolation, I could understand why such a sum of money might be payable. But, of course, many users used the profit on the boiler, perfectly legitimately, to lever out additional borrowing to do other things. The point that my noble and learned friend Lord Mackay of Clashfern has made all along is perfectly true: there is a moral issue. There is also, of course, a legal issue, but that will follow its proper course.

If I recall correctly, the facts, according to the Minister, are these. One point I understood him to make is that, as of 1 April, there is no ability for the state to pay subventions for these boilers—the point made, I believe, by the noble Lord, Lord Browne of Belmont. On the European issue, I would argue that the scheme has been ultra vires state aid for a long time, not just now. It has been wrong from the very beginning, when payments in excess of a 12% return were made. As my noble friend Lord Lexden said, the 12% figure was set in the original letter in 2012 by the European Commission, approving the scheme in the first place. From that point, the 12% was always there but, of course, it went astray.

Let us get back to the point of fairness, justice and equity, because that is the key to all of this. We want to ensure that people get fairness, justice and equity, bearing in mind that the taxpayer has a big stake in this as well. Originally, a compensation or buyout scheme was planned. This is my interpretation of what the Minister is saying; if he disagrees with anything, perhaps he will let me know. He is saying that the status of that group will be upgraded to the point where it will not be an internal issue within the department but will be chaired by an independent, outside person who is not a member of the Northern Ireland Civil Service. He is saying that he will put forward, in writing to this House a Statement setting out the terms of reference. The question I need to ask him is: how does he do this when he is not in charge of the department? At the end of the day, my anxiety is that if we let the thing go, it will slither away, and somebody somewhere will say, "Well, I'm not doing that. The Minister can give an undertaking to the House of Lords, but he doesn't rule me". There is a genuine opportunity here to ensure that what is taken into consideration is not only the cost of the boilers versus the revenue that they would now be getting, but the leverage they used to ensure that the borrowings they undertook for further activities on the strength of that. That is the key issue, which was missing—if I may say so—from the original suggestions.

Can the Minister confirm those two points? Can he also reiterate for our benefit the answer that he gave—either to the noble Lord, Lord Browne, or the noble Lord, Lord McCrea of Magherafelt and Cookstown—about the legality and so on? I do not worry about the state aid issue because, in my view, we have been wrong on that from the very beginning, and it has gone on for years without any legitimacy. But could he just clarify those points before I conclude?

Lord Duncan of Springbank: My Lords, I thank the noble Lord for affording me the opportunity to make some points of clarification. He is absolutely right to say that I am not in charge of that department. My comments are based on conversations earlier today with senior officials in the department. I cannot instruct them, but the discussions led to that proposal, which I believe would be a step forward for noble Lords this afternoon and this evening, on that basis—not my instruction but rather an acceptance on their part that this would be the right way to move this aspect forward. On the terms of reference, yes, these need to be very clearly understood. Financial hardship must be understood in all its manifest forms and I believe it would be incumbent on all those who are investigating and considering to ensure that all aspects of financial hardship, whatever their source or their cause, are examined in detail to ensure that there is a fair and equitable understanding of the situation. So I think the answer to that is yes.

As for what happens on 1 April if we have not made progress, it is very simple: we will not be able to move forward on this scheme, because as a number of noble Lords noted, we have grandfathered in the clause to end on 1 April. At that point, irrespective of our desire to be able to offer or afford support, without the legal underpinnings we will not be able to do so.

On state aid, there has clearly been a kerfuffle, for want of a better word, in Northern Ireland over what that rate should be, but the one thing that has been clear throughout is that the European Union Commission has had no dubiety about what it should be: it has been very clear that it should be 12%. That this has been, one might argue, misinterpreted by certain individuals in the Province is the reason we are having this wider discussion tonight and why there is a particular scandal being investigated across in Northern Ireland. None the less, we are still bound by that rule—namely, state aid at 12% return—and we cannot move away from that.

I hope those points of clarification help the noble Lord to move forward.

Lord Mackay of Clashfern: I should like to be absolutely certain that there is nothing in the Bill that damages any legal right that people had in Northern Ireland as a result of dependence on the action of the Northern Irish Government taken on behalf of that Government by authorised officials or Ministers. Because that is the fundamental matter: if that is not affected by the Bill, the way in which matters should be brought forward to encourage that is perfectly reasonable as a way forward. The fundamental point is that the legal rights of those who may have been damaged by their contract with the Northern Irish Government, through Minister or official, would not be touched.

Lord Duncan of Springbank: My noble and learned friend makes a useful point. I can happily confirm that this will not affect the legal rights or standing of any of those who have been affected by the scheme thus far.

Lord Empey: I thank the Minister for those points of clarification. He will be aware that everybody who spoke in this debate was basically on the same page: we want to help these boiler operators and owners. We want, as he put it, fairness, justice and equity. I have to say to him that if we accept these assurances—if I withdraw the amendment—and we were to find subsequently that these conditions were not being honoured, in spirit as well as in letter, there would be a great deal of anxiety and angst in this Chamber. The Minister needs to be very clear about that, because there are more people in this room tonight than I have seen here on a Northern Ireland issue for years. He knows, and his colleagues in the Northern Ireland Office and in the Department for the Economy who are watching this know. I had the honour to be Minister for the two departments that were merged into this department, so, to coin a phrase, I know who they are and I know where they live.

We are talking about the livelihoods of good, honest, decent people and it is the will of this House to see that justice, equity and fairness is delivered to those people. If there is any variation or moving away from that, there will be a lot of very angry parliamentarians. On that basis, I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Clause 6 agreed.

Amendment 2 not moved.

Clause 7 agreed.

Schedule agreed.

House resumed.

Viscount Younger of Leckie (Con): My Lords, it may assist the House if I say a word about the further stages today of the Northern Ireland (Regional Rates and Energy) (No. 2) Bill. We are about to move the Motion that the Report be now received. From that point, the Public Bill Office will immediately be accepting amendments ahead of Third Reading, and will do so for the next 30 minutes. There will then be a further 30 minutes before Third Reading begins. We are about to move on to two repeated Urgent Questions. I anticipate that the House will need to adjourn during pleasure after the second repeated Urgent Question. We will not resume before 7.01 pm; that is, 60 minutes from now. Timings will be displayed on the annunciators.

Bill reported without amendment.

Child Sexual Exploitation Victims

Statement

6.02 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 in the other place by my honourable friend the Minister for Crime and Safeguarding. The Statement is as follows:

[Baroness Williams of Trafford]

"As you have outlined, Mr Speaker, I am conscious this question relates to an ongoing legal case and as such, it would not be appropriate to comment on the specific case or cases. But I reassure you that the Government want all victims and survivors of sexual abuse and exploitation to feel that they can come forward to report abuse, and that they get the support they need when they do. We are committed to working across government to ensure victims can move on from the abuse they have suffered and that professionals, including the police, who come into contact with a victim recognise exploitation when they see it and respond appropriately.

The Government are committed to acting to protect the public and to helping employers make safe recruitment decisions. The disclosure and barring regime is an important part of supporting employers to make informed recruitment decisions in relation to roles working with children and vulnerable adults, and a limited range of other circumstances. The criminal record disclosure regime seeks to strike a balance between safeguarding children and the vulnerable and enabling individuals to put their offending behind them.

The House will be aware that the Supreme Court recently handed down a judgment in the case of P and others, which affects certain rules governing the disclosure regime. The Government are considering the implications of the judgment and will respond in due course. However, it is also important to note that the Supreme Court recognised that the regime balances public protection with the rights of individuals to a private life. It applies only to certain jobs that are protected, and it is for employers to decide someone's suitability for a role once they are armed with the facts".

6.04 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, I thank the Minister for repeating the Answer to the Urgent Question given in the other place earlier today. The victims of sexual abuse and exploitation have the pain of the trauma they have suffered with them every day of their lives. It cannot be right that the victims are forced to live with the consequence of the exploitation that they have suffered: that is a further injustice. Will the Minister set out the Government's position in respect of Sammy's law? That would appear to be our way forward.

Baroness Williams of Trafford: I can talk about Sammy Woodhouse. The noble Lord will know that she was discussed in the other place. Victoria Atkins met Sammy Woodhouse on 14 March 2018 to talk through her ideas and understand how government can best help her and other victims of exploitation. The Minister said that the Government would work with the police, the CPS and others to protect future victims of exploitation and ensure that we do not unnecessarily criminalise those who have been exploited. In respect of Sammy's law, the Government are considering the recent court judgment on previous convictions of victims but I cannot comment further due to ongoing legal proceedings.

Baroness Burt of Solihull (LD): My Lords, this case is about three women who were sexually exploited as girls, forced into prostitution and therefore have convictions for soliciting. For years, the injustice perpetrated on them has been compounded, as they have been obliged to declare these convictions that they received in their early lives in job applications and even in applying for their local PTA. They won the High Court case, yet I understand the Minister to be saying that the Government have announced their intention to challenge the decision.

The Minister talked about the criminal record disclosure system seeking to,

"strike a balance between safeguarding children and the vulnerable and enabling individuals to put that offending behind them".

I am struggling to see that balance. I know that the Government cannot comment on ongoing cases, but can the Minister tell us what the mechanism would be for the Government to think again and apply fairness and compassion in these cases?

Baroness Williams of Trafford: The noble Baroness is absolutely right that I cannot comment on an ongoing legal case. What I can understand—and what the Government have sought to do and succeeded in doing over the last few years—is to see people as both victims and perpetrators through some of the coercion and exploitation in which they have been involved. We will consider this as the case proceeds, but the Government have put a great deal of time and effort into working with people who have been exploited and who find themselves victims of child sexual exploitation, gangs, knife crime or drug involvement. There have been various interventions: the noble Baroness will have listened to debates on the Offensive Weapons Bill and will have heard me outline the youth endowment fund, which we are bringing forward. She will have listened to the various multiagency approaches to helping victims of child sexual exploitation get over the terrible pain that has been caused to them, to avoid getting trapped in what originally happened to them, and to go on to lead good lives.

Baroness Hollins (CB): My Lords, it is very concerning to hear that young people who have been groomed into criminal activity and then become victims of sexual abuse and discouraged from even disclosing their abuse because of the fear of their own criminalisation should then not have the opportunity to have those crimes forgotten. Can the Minister tell the House whether such young people are also then denied access to criminal injury compensation? Is this indeed the case?

Baroness Williams of Trafford: The noble Baroness will of course appreciate that every case is different. She will also realise that, as I just outlined to the noble Baroness, Lady Burt, the big spectrum of exploitation that children can suffer can also manifest itself in different ways. The Government are determined to deal with some of these problems at source, with early intervention and prevention, so that children do not find themselves sexually exploited and are able to go on to lead lives that are free from the sorts of harms that we have been talking about.

Small and Medium-sized Enterprises: Clydesdale Bank

Statement

6.10 pm

Lord Young of Cookham (Con): My Lords, with the leave of the House, I shall repeat in the form of a Statement the Answer to an Urgent Question asked in the other place earlier today. The Statement is as follows:

"Mr Speaker, the Government are committed to ensuring a strong, diverse and dynamic economy, where small businesses can access the credit they require in order to prosper and grow. As such, we expect the highest standards of behaviour across the financial sector, which is why we have introduced a number of necessary changes to restore public trust in financial services, such as the senior managers and certification regime. While it would be inappropriate for me to intervene in individual cases, particularly while they are subject to ongoing legal proceedings, we must always remember the human element to each case. That is why the Government have been consistently clear that, where there has been inappropriate treatment of SMEs by their bank, it is vital that these businesses can resolve their disputes and obtain fair redress.

At the Budget last autumn, the Government set out their support for the FCA's plans to expand eligibility to complain to the Financial Ombudsman Service to small businesses as well as microenterprises. This will ensure that, from 1 April this year, well over 99% of all UK businesses will have access to fast, free and fair dispute resolution. The Government have also been clear that banks need to work hard to restore businesses' trust in their institutions, and have welcomed the banking industry's commitment to establish two independent voluntary ombudsman schemes to resolve SME disputes.

I am extremely pleased that last week my honourable friend the Member for Thirsk and Malton agreed to sit on the steering group responsible for implementing these schemes, alongside Nikki Turner from the SME Alliance. That follows several months of intense engagement with the APPG here in Parliament. While eligibility for the scheme to address historic complaints will need to be determined on a case-by-case basis, I encourage all SMEs that believe they are eligible to apply once it is up and running in September.

I am pleased that the sale of loan portfolios to third parties is now covered by the standards of lending practice—overseen by the Lending Standards Board—to which Clydesdale is a signatory. This means that it is now committed to ensuring that third parties that buy loans have demonstrated that customers will be treated fairly, and to allowing customers to complain to the original lender if there is a dispute which cannot be resolved. I can also confirm that Andrew Bailey of the FCA has spoken to Clydesdale about the case in question.

The Government are not complacent about this serious matter. We will monitor the implementation of these new or expanded dispute resolution schemes, and we will continue to remind banks of the importance of restoring SMEs' trust in them".

6.13 pm

Lord Stevenson of Balmacara (Lab): My Lords, I am grateful to the Minister for repeating the Statement made in another place in response to an Urgent Question. The overall impression one gets from listening to him is a sense of slight panic in the Government's ranks and an attempt to try to catch up with a situation that seems to have got out of control. It has been understood for some time that the way that our banks deal with SMEs has been a cause of real concern, and there was also an issue about whether there was an appropriate way of getting redress on a fair and appropriate basis. Some of what he said is helpful—I acknowledge that. However, I still wonder why it took the Government quite a number of months—in fact, almost years—to change from limiting the redress from microenterprises to SMEs; after all, we believe that SMEs are the future of much of our economic growth in this country. There is still the question of whether historic cases are being dealt with on a voluntary basis. Is that really the case? On what basis will the Lending Standards Board, which he mentioned, be able to act? Will that also be on a voluntary basis? If the answer is yes, when can we expect to see the regulatory framework?

Lord Young of Cookham: I am grateful to the noble Lord for his response. It makes sense to wait for the expansion of the financial ombudsman's scheme, which I and he referred to, and which comes into effect next month. I also believe that the two voluntary schemes to which he referred are better than the alternative—a statutory independent tribunal, which the Treasury Select Committee considered. We gave that serious consideration, but agreed with Simon Walker's conclusion that that would not be the right approach. It would involve primary legislation, setting up a tribunal and probably costs for the SMEs that wished to access it. I think a dispute resolution system, as outlined, would be much quicker, much less expensive and not constrained by a narrow interpretation of the law. An ombudsman could see whether a contract was fair and reasonable, for example.

The noble Lord asked whether the standard lending practice was voluntary. Yes, it is a voluntary scheme. It sets the benchmark for good lending practice in the UK, outlining the way registered firms are expected to deal with their customers throughout the entire product life. We believe that this is the right approach to resolving complaints, but we have not ruled out other options if it does not deliver.

Baroness Kramer (LD): My Lords, do the Government recognise that people have been waiting for more than six years for justice? Those SMEs were maltreated by Clydesdale, RBS and Lloyds. They were viable companies paying their loans that were put into bankruptcy so that their assets could be stripped for profit and advantage, and the Government have at every step of the way dragged their feet, as has the regulator. Now, rather than the limited, partial voluntary schemes that the Minister proposes for the future, will the Government understand the reality of the experience of so many people, take a much firmer hand following the Australian example, do a complete retroactive review and ensure

[Baroness Kramer]
that everyone is compensated by the Government's initiative, not wait for people who have been badly damaged to come forward to battle yet again?

Lord Young of Cookham: If there was inaction for the past six years, that covers a period when we were both Ministers together in the coalition Government. The noble Baroness asked whether it was fair to ask people to wait. What we propose would bring a swifter solution to those who have already waited a long time—as I agree—than the alternative of a statutory scheme which, as I said, requires primary legislation, regulations controlling SME lending, which is not regulated at the moment, and then possibly expensive access to the tribunal through legal representation for SMEs.

The banks have a good record of observing the recommendations of the financial ombudsman scheme, so we should let them have the opportunity to show that they will also honour the recommendations of the two schemes being announced today, which will be up and running in the autumn—far sooner than a statutory scheme.

Lord Stevenson of Balmacara: As there is a gap, I return to ask another question. Am I right in my assumption that the Minister would accept that the issue that has given rise to this Question is not limited to one bank: there is a broader, possibly systemic issue affecting the way in which banks relate to SMEs? Taking up the point made by the noble Baroness, Lady Kramer, does he think it might be worth looking further at some of the measures used by the banks to attract new customers, particularly interest rate exchange mechanisms, which seem very complicated and difficult to understand? They involved swapping of rates, which was not perhaps fully disclosed to those borrowing the money, and the question of tailor-made loans, the details of which were also rather obscure.

One would be tempted to suggest that an element of criminality was sometimes drawn into those issues, for which a voluntary scheme will be hopelessly inappropriate. As the noble Baroness said, perhaps it is necessary to have a properly organised review carried out by, say, the FCA, to ensure that the practices driving those issues are driven out.

Lord Young of Cookham: I recognise that there are more cases than the one that has generated the interest. There has been a lot of press interest in some RBS schemes. Looking at the FCA estimates, we estimate that the expansion in eligibility for the FOS scheme will result in no more than an additional 1,300 cases from businesses on top of the existing 6,000 cases from microenterprises. To put that in context, the employment tribunal received over 109,000 cases in the financial year. We think the FCA's planned expansion of the FOS to include small businesses is the right and proportionate response. We look forward to the next steps and to these vital pieces.

The noble Lord then asked me a number of questions about the incentive loans or interest rates that banks sometimes offer and some of their other practices. I am not sure whether they fall precisely under the remit I have just announced but, if the noble Lord will permit, I will write to him when I have received further clarification.

Baroness Kramer: My Lords, since I can now follow up with another question, I remind the Minister that during the coalition years Vince Cable, in his role at BIS, commissioned the first investigation into the many complaints against RBS, its abuse and its behaviour. As a consequence the FCA, as it is now—the regulator—was asked to act. The regulator commissioned a consultant called Promontory to produce a report, which was utterly damning—but we did not know that, because it was not published—and the summary the FCA produced was 180 degrees different from the underlying report. It was only its leakage and its exposure that brought this to much wider attention. Essentially, Members on all sides of this House—and in the other House—have been dragging this Government to try to deal with this and to get the FCA and the other regulators to deal with their underlying responsibilities. Would it not be appropriate to make sure that, where an institution is to any degree regulated by either the FCA or the PRA, they take fundamental responsibility for its ethical behaviour and not limit themselves to the narrow regulatory perimeter behind which they hide?

Lord Young of Cookham: I do not disagree with the recommendation the noble Baroness made at the end: that they should have a broader remit in their responsibilities and not confine themselves to the narrow remit that may be set out. Again, perhaps I can write to her, as she has strayed just a little from the rather narrow case that brought me to the Dispatch Box. She raises an important point about the broader responsibilities of regulatory bodies, which I will write to her about.

6.22 pm

Sitting suspended.

Northern Ireland (Regional Rates and Energy) (No. 2) Bill

Third Reading

7.01 pm

Motion

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

That the Bill do now pass.

Lord Cormack (Con): My Lords, I want to speak very briefly to reiterate something that we said last week at Second Reading and touched on again earlier this evening in Committee. When there is no Northern Ireland Executive and no Assembly in session, it is quite wrong for Bills touching the lives of virtually every citizen in Northern Ireland to be disposed of so unnecessarily quickly in this House. I know my noble friend has some sympathy with this point of view—if I

may say so, he was magnificent in Committee. I would be grateful if he discussed it yet again with the powers that be through the usual channels. I am delighted to have seen the most senior representative of the usual channels, take a place—not his place—while I have been speaking.

There is one other point I would like to make. At Second Reading last week, my noble friend said that he would try to come back when we were dealing with the Bill today with any further information on the plea that many of us have made for the Assembly to be called into being and on the desirability—which I think we all share—of having some mediator figure to convene the various parties in Northern Ireland. It is now well over two years since we had an Executive or an Assembly. People in Northern Ireland have been short-changed by their politicians.

It is also deeply unfortunate that, when the real stumbling block over Brexit has been the border, we have had no opportunity to hear what the politicians elected to the Assembly in Northern Ireland think or for them to put anything into the debate. Although none of us knows whether this would have made any significant difference, given the fact that 56% of Northern Ireland voted to remain in the European Union and none of the elected representatives in the Westminster Parliament take that view, it would have been an opportunity that might just conceivably have produced some interesting ideas. So for every possible reason—and I am glad to see the noble Lord, Lord Murphy, nodding assent—I hope, as we all do, that we have an Assembly and Executive in being before long; but that we devote more time in this Chamber, where so much responsibility does and should lie, in the absence of a devolved Administration. I look forward to my noble friend's response in due course.

Lord Bruce of Bennachie (LD): My Lords, like other Members, I was somewhat compromised by the early business and not able to be here in time for the start of it. I do not wish to repeat the debate. I want to show appreciation for the amendment in the name of the noble Lord, Lord Empey; the fact I was not able to speak to it was for no reason other than that, although I supported it, I wanted to observe the courtesies of the House—which I noticed not every other noble Lord did.

In those circumstances, I want to say two or three things. First, this Bill presents this Chamber with a choice between a rock and a hard place. Most of us are, I think, very unhappy about the fact that rates and the renewable heat incentive scheme were lumped together in the Bill. While the Minister did not acknowledge that that was a tactic, he did say it was something he did not approve of and hoped would not happen again.

My second concern is that we were faced with the situation—it probably determined why the noble Lord, Lord Empey, withdrew his amendment—that if we passed the amendment, there was a danger people would receive no payment on 1 April, which is a consideration. At this stage, it is important to acknowledge that the Minister has clearly presented a constructive compromise—but, as the noble Lord, Lord Empey, pointed out, one he does not have the authority to guarantee. The House has accepted that in good faith but with real concerns as to where it might lead us. Had we supported the amendment from the noble Lord, Lord Empey, the consequences might have been difficult.

Like most other Members, I have received emails from a number of different businesses across Northern Ireland—not all of them farmers—expressing their angst and concern. I have engaged with them, responded to the emails and forwarded them all to the Minister. I do not need to repeat it, but we need to acknowledge that we are passing a Bill that effectively—how can I put this?—gives authority to the denial of ministerial responsibility for giving guarantees and assurances on which people relied and on which they have been betrayed. I am not comfortable with giving a Bill that does that a Third Reading, and I do not think your Lordships should be either.

The thought that has occurred to me throughout the whole process around the renewable heat incentive scheme is this: the 12% return was known from the beginning, as the Minister acknowledged. I find it difficult, if not impossible, to believe that on two separate occasions the Northern Ireland Executive introduced tariffs which could not conceivably have come close to representing a 12% return on the investment and which were, as anybody providing any objective analysis would very quickly have observed, in breach. That raises the most fundamental questions of propriety, honesty and integrity, of both politicians and, I am afraid, civil servants too. My instincts, however, are that civil servants did not understand what they should have, but I do not think that lets them off the hook.

People will look for a price to be paid, and the two prices to be paid are these. First, will the people who genuinely relied on this and suffered get compensation? Secondly, in the process of doing that, are we in danger of compensating people who took advantage of the system and who could get an extra twist out of it? That, I suggest to the Minister, is something that we need to avoid.

Having said all that, we have no choice but to pass this Bill tonight. However, we should record that it is being passed under duress, at speed, without adequate consultation and with consequences to follow both in the courts and in the political arena that will probably haunt Northern Ireland for many years to come.

The Parliamentary Under-Secretary of State, Northern Ireland Office and Scotland Office (Lord Duncan of Springbank) (Con): My Lords, perhaps I may touch upon the remarks of my noble friend Lord Cormack. My team will reach out to him very shortly on the question of the Assembly and what we might well be able to do to go forward. There is no doubt that there are lost voices in Northern Ireland. Perhaps now more than ever those voices would have been appreciated and might well have been instructive, and they must be heard. I will return to my noble friend in the next few days, I hope, but certainly very soon.

The noble Lord, Lord Bruce, and my noble friend Lord Cormack talked about the notion of being bounced into this situation. In the absence of a Northern Ireland Executive, we must ensure adequate scrutiny in this place and the other place of issues that have a

[Lord Duncan of Springbank]
significant impact on the lives and livelihoods of the people of Northern Ireland. Of that, there is no doubt. We must ensure that we, the Government, do better at allowing for that scrutiny and at allowing time for questions to be asked. I fully appreciate that. I accept every point that has been made. I will take them away and do all that I can to change the way in which we do business, which is inadequate for this moment and for the times that we are in.

As the noble Lord, Lord Bruce, pointed out, we are between a rock and a hard place—between a deadline and a necessity. We are between the hardships that we have witnessed through the emails and letters that we have received, and the reality of the challenge of an impending grandfather clause that would place everyone else who is in that situation in a far worse predicament. Therefore, I accept again that this is ill timed.

The noble Lord, Lord Bruce, is right to point out that I cannot give a guarantee on behalf of the Northern Ireland Executive—I am not equipped to do so, constitutionally speaking—but I could not in good faith return to this House if I were not able to live up to the statement that I have made today. I hope that noble Lords will accept that statement and the intent with which it has been given. I hope they will recognise that it has been given on my word of honour, and I will not come back here unless we can live up to the statements that I have made.

Today, as in every situation when we look at Northern Ireland, we have to tread as carefully as we can. On one hand, we are bound by state aid rules, which place upon us a responsibility. On the other, we are bound by the realities faced by many individuals who have written to us about the hardship they are experiencing. I hope that the noble Lord, Lord Empey, who is now in his correct place, will recognise that his efforts and labours on behalf of those individuals have been well landed and well understood. I also hope that, on the basis of the withdrawal of his amendment and my promissory note about what we can do, we will be able to move forward to achieve that fairness, equity and, ultimately, justice.

Bill passed.

House adjourned at 7.12 pm.

Grand Committee

Tuesday 19 March 2019

Arrangement of Business

Announcement

4 pm

The Deputy Chairman of Committees (Lord Haskel) (Lab): My Lords, if there is a further Division in the House, the Committee will adjourn for 10 minutes.

Materials and Articles in Contact with Food (Amendment) (EU Exit) Regulations 2019

Considered in Grand Committee

Moved by ***Baroness Manzoor***

That the Grand Committee do consider the Materials and Articles in Contact with Food (Amendment) (EU Exit) Regulations 2019.

Baroness Manzoor (Con): My Lords, I will speak to all four Motions in my name. Consumers in the UK benefit from a high standard of food and feed safety and quality. The Government are committed to ensuring that that high standard is maintained when the UK leaves the European Union. These instruments are crucial to meeting our objective to continue to protect public health from risks that may arise in connection with the consumption of food.

These instruments, which all concern food and feed safety, relate to those substances collectively known as regulated products as well as to animal feed hygiene and marketing and are made under the powers in the European Union (Withdrawal) Act 2018 to make necessary amendments to UK regulations. The Government's priority is to ensure that the high standard of food and feed safety and consumer protection we enjoy in this country is maintained when the UK leaves the European Union. These instruments will correct deficiencies in those regulations to ensure that the UK is prepared in the event that the UK leaves the EU without a deal on exit day. They are limited to necessary technical amendments to ensure that the legislation is operative on exit day. No policy changes are made through these instruments, and we do not intend to make any at this point.

The primary purpose of these instruments on regulated products used in food and animal feed is to ensure that UK domestic legislation that implements directly applicable EU regulations continues to function effectively after exit day. The proposed amendments are critical to ensure that there is minimal disruption to novel foods, feed additives and other regulated products collectively if we do not reach a deal with the EU. These instruments, which lay down fundamental principles underpinning the law on regulated products and basic food business requirements as well as describing certain functions carried out by EU institutions, will function effectively at exit day.

The Materials and Articles in Contact with Food (Amendment) (EU Exit) Regulations 2019 include all items intended to come into contact with food, directly and indirectly. Also known as food contact materials, they include processing line machinery, transport containers, kitchen equipment, packaging, containers, cutlery, dishes and utensils and can be made from a variety of materials including metal, paper, plastic, wood, ceramics and rubber. Any material that comes into contact with food must be safe and fit for purpose. The regulations lay down that materials and articles intended to come into contact with food should be manufactured in line with good manufacturing practice, so that under normal and foreseeable conditions of use they do not transfer their constituents to food in quantities that could endanger human health, bring about an unacceptable change or have an adverse impact on the composition, taste or texture of the food.

The Genetically Modified Food and Feed (Amendment etc.) (EU Exit) Regulations 2019 lay down that all GM food and feed must undergo pre-market authorisation before being placed on the market. I emphasise that this instrument is not about changing any policy on GM foods, allowing more or less on the market; it is simply about transferring the functions and powers currently held by European bodies back to the UK. GM protein feed is essential for our livestock industry and there are no viable alternatives at present. We will continue to take a robust approach to assessing GM products and only those that we deem safe will be made available for those who wish to use them.

The Novel Food (Amendment) (EU Exit) Regulations 2019 require that novel foods must be assessed for safety before they are introduced into the market to ensure that they do not present a risk to public health. This includes foods that are relatively new or those that do not have a significant history of consumption in the EU and are referred to as novel foods.

The Animal Feed (Amendment) (EU Exit) Regulations 2019 will ensure that the retained EU legislation relating to feed additives, feed hygiene, sampling and marketing is operable after exit day. The retained EU law will be the legislative cornerstone for feed safety in the UK after EU exit and will underpin all other feed safety legislation in the UK. What farmers feed their livestock will vary for a variety of reasons but, whether it is grass, cereals, compound feedstuffs or by-products from the brewing industries, ensuring that the feed we provide to our animals is wholesome and safe is a pre-requisite to food safety.

As I have said, there are no changes to policy in these instruments beyond making the minimal changes necessary to rectify deficiencies in the retained EU legislation. For food and feed businesses, there will be no change in how they are regulated or in how they are run. All existing regulated products permitted for use within the UK prior to exit day will continue to be permitted immediately after exit and all conditions and requirements attached to their use will be preserved. This will ensure continuity and clarity for UK food and feed businesses and those exporting their food and feed products to the UK. Thus, consumers in the UK will benefit from high standards of food and feed safety and quality. The Government are committed to ensuring that these standards are maintained.

[Baroness Manzoor]

These instruments introduce a proposed transfer of powers to UK entities to support a UK-centric regulatory regime for regulated products. Currently, the European Commission holds a range of powers and functions under EU law which enables new products to be placed on to the market, amends conditions of use and purity criteria and removes products from the permitted lists when required. These instruments transfer these powers from the Commission to Ministers in England, Scotland and Wales and to the devolved authority in Northern Ireland. They also transfer responsibility for risk assessment from the European Food Safety Authority to the food safety authorities FSA and FSS, which will continue to deliver independent, open, transparent, science and evidence-based advice.

The FSA has strengthened its capability and recruited 140 extra policy and science experts to support the risk assessment and risk management processes that apply to these products. I am saying this now because the noble Baroness, Lady Walmsley, asked me about this last week. The FSA has received an extra £14 million to deal with EU exit and a further £16 million will be provided this year. In turn, the FSA provided a grant fund of £2 million last year to local authorities to support food safety activity in relation to EU exit pressures and a further £2 million will be made available this year.

Let me be clear that these instruments will have no impact on the food industry and that there are no changes to the controls on the use of already authorised products. There are no changes to the technical data and studies that will need to be provided for new authorisation applications. We will continue to take a robust science-based approach to what we permit on to our market.

It is important to note that the devolved Administrations have provided consent for these instruments. Furthermore, we have engaged positively with the devolved Administrations throughout the development of the instrument, and this ongoing engagement has been welcomed.

These instruments constitute a necessary measure to ensure that our food legislation relating to novel foods, feed additives and other regulated products collectively continues to work effectively after exit day. With the assurances I have given, I hope noble Lords are able to support these important regulations. I beg to move.

Baroness Walmsley (LD): My Lords, I thank the Minister for her introduction and assurances about resources for the FSA. I had not intended to ask her about that again, but I am grateful anyway. It is vital for the future health of our country to ensure that the correct legal infrastructure for food safety is in place if we exit the European Union. Therefore, it is important that these statutory instruments are passed. Yet it is also our duty to give these pieces of legislation adequate scrutiny to ensure that the high food standards and safety regulations our EU membership has provided for so many years are maintained.

On the matter of scrutiny, we depend on the views of those affected by this legislation—the people in the industry. However, the same consultation has been used for a number of these regulations, and I question whether it is allowing sufficient public consultation without confusing several issues in the same document. Does the Minister accept that using the same consultation for SIs with completely different purposes means that this legislation has not received adequate public scrutiny, and has restricted the capacity of experts to respond adequately?

There are also concerns, as with many other SIs, about the powers being transferred to Ministers. If we leave the EU with a deal, there will be a transition period during which our new relationship with the EU will be negotiated. However, during that time, the Government intend also to try to secure trade deals with other countries. I and many of the respondents are concerned that our high standards should not be used as a lever to achieve trade deals, resulting in lower standards for consumers. The Government have promised that this will not happen, but they also promised that we would leave on 29 March and it does not look as though we will. With the best will in the world, there will be pressure on Ministers to secure a trade deal they can brag about, and many are concerned that they will offer whatever comes to hand to achieve it. The trouble is that these SIs give them the power to do that. What reassurance can the Minister give that this will not happen?

We are being reminded that we will start out in line with EU regulations when we leave. That is true; however, these EU regulations are not static and will change over time. Can the Minister say what work is being done to prepare the UK to introduce speedily matching changes as they happen? If they do not do that, our exporting food producers will be in trouble. Also, how do the Government plan to communicate with those who work with animal feed or human food to ensure that they are kept up to date with future changes in the EU that we will also adopt in the UK, especially if we should diverge at some future date? Have the Government tested systems for taking on duties that were previously done by EU organisations, such applications for authorisation to put new animal feed additives on to the market?

Then there is the issue of risk. We hear that risk management functions will be split across the devolved Administrations, particularly between the FSA and the FSS. It is therefore possible that different approaches to risk management on food safety could be taken in, say, England and Scotland. This would be confusing enough at home, but could also undermine confidence in our food export market.

4.15 pm

This issue comes into sharp focus when we look at genetically modified food and feed. Currently, the European Commission, assisted by the appropriate committee, is responsible for authorisations and their withdrawal. The instrument we are debating today gives that power to the devolved Administrations. Can the Minister say what would happen if they came to different conclusions about GM foods? It concerns me that the consultation on this instrument did not ask explicitly about genetically modified food and feed and, as a result, none of the respondents spoke about it at all. How can the consultation therefore be said to represent the views of industry and experts on this issue?

The comment I made earlier about using our food standards as a bargaining chip applies even more to GM foods and feed. The Government must understand that this is a very controversial issue among members of the public, who have a right to know that appropriate controls will continue and who would want to know them to be homogeneous across the country. How will this be achieved?

Finally, in the Materials and Articles in Contact with Food (Amendment) (EU Exit) Regulations, I am surprised that the Government have not taken the opportunity to regulate to ensure a reduction in the use of single-use, non-recyclable or non-compostable plastic containers and film for food packaging. Do the Government plan to use their new freedoms to do so?

Lord Cameron of Dillington (CB): My Lords, I have a question about the GM aspect of these statutory instruments. I am not against them in any way, nor am I against genetically modified crops or food. It always amazes me that the public are apparently—people have done questionnaires on it—overwhelmingly in favour of genetically modified antibiotic chains for improved antibiotics, but they are not in favour of genetically modified crops which might save the environment because of the reduced use of chemicals.

In the light of the tendency of the UK public to be very suspicious of GM crops and food, it is vital that we take every precaution possible to ensure that there are no scare stories. I know these SIs are about genetically modified food, but you cannot have genetically modified food without growing the food in the first place. There are two concerns about GM food. One is the effect of such food on human health, which is what these statutory instruments are really all about, and the other is the effect of GM products on the environment. I may be behind the curve, and there are probably other statutory instruments coming or that have been and gone which put in place the correct processes for testing the environmental consequences of GM products. This statutory instrument is all about the Food Standards Agency, and I feel there ought to be an environmental element when we are talking about GM foods. Will the Minister let me know exactly what is happening on the environmental side? I should have declared an interest at the beginning as I chair the Centre for Ecology and Hydrology, which looks at the environmental consequences of what we do on our land.

Baroness Jones of Whitchurch (Lab): My Lords, I, too, should make a declaration. I refer to my entry in the register of interests as chair of Rothamsted enterprises, which is an agricultural research institute.

I thank the Minister for her introduction today, and I echo a number of the concerns and comments made by other noble Lords. We accept that these regulations are necessary to ensure that we maintain high-level consumer protection with regard to food and feed safety and to the legal framework that goes with that. As the Minister said, in the main these SIs make minor and technical amendments that will ensure continuity in the day-to-day legal requirements and obligations for businesses and public health bodies to act in the interests of the public. However, we have some concerns around the UK's preparedness for the additional responsibilities in terms of resources and staffing levels, and the impact on business and industry and their preparedness to take on this extra work.

On the issue of food standards, it is clear that public safety, of course, has to be paramount and that any future changes to regulatory controls after the UK leaves the EU should provide the same, or an improved, level of consumer protection. As the Minister said, these regulations designate responsibilities currently undertaken by the EFSA to the appropriate domestic equivalents, including the Food Standards Agency in England, Wales and Northern Ireland and Food Standards Scotland in Scotland. In this context, we are concerned that, only last month, Secretary of State Matt Hancock criticised the Food Standards Agency for being "over-restrictive" and said that it needed to have a sense of perspective. This is the agency to which considerable new powers will transfer in these SIs. It would be helpful if the Minister could clarify the Secretary of State's comments and confirm whether the Government have full confidence in this organisation going forward, given that so much is resting on its shoulders.

There is an issue about resources, because between 2010-11 and 2016-17 the Food Standards Agency saw its budget cut by 26%—nearly £30 million—and lost more than 21% of its staff. The Minister, anticipating the question that she did not get from the noble Baroness, Lady Walmsley, talked about extra cash and extra staff. However, I do not think that the sums quite add up in the way that she would have us believe. The sums that she was talking about do not just cover the FSA's responsibilities conferred by these SIs; it has a much wider responsibility for imports and exports and all the work that needs to be done at the borders. So only a proportion of that £40 million and £16 million will go into doing the food standards protection that is set out here. Can the Minister break down those sums a bit more and be more precise about what is being allocated to these particular functions?

There is also an issue with local authority responsibilities. Between 2012-13 and 2015-16 we saw a 22% reduction in the number of local authority food law enforcement officers. According to a 2015 survey by the Chartered Institute of Environmental Health, 47% of respondents said that resources,

"were only just adequate to provide a basic statutory service, left no contingency, and that any further cuts would compromise service delivery".

What support is being offered to these bodies to help them adapt to and cope with their new responsibilities? Can the Minister reassure us that they do indeed have the necessary funding and staff to take on these additional responsibilities?

The noble Baroness said that extra staff were being recruited, and mentioned 140 scientists. I have been in many different discussions on SIs over the past few weeks, and in all of them it was claimed that extra responsibilities were being given to scientists and extra staff were being taken on to do this scientific analysis. It makes you wonder if at some point we are going to run out of scientists, particularly if we restrict the number of EU workers—who might be scientists—who

[Baroness Jones of Whitchurch]
would otherwise come here and help with that work. At some point I can see that there will be a crisis and we will run out of people who are prepared to do the work that we require them to do.

There is also the issue of how quickly people can be trained. If we are recruiting new staff, these are quite hefty responsibilities. People cannot drop in and start on day one with a full range of skills. Again, a lead-in process will be required. Can the noble Baroness say how quickly she thinks the 140 scientists will be up to speed and fully operational?

In the public consultations, local authorities raised concerns about the need for them to update legal references in official documents and online. They said that it would take significant time and effort. They also raised concerns about the need for additional activities for local authorities and port health authorities that may arise from these and other functions. They suggested that the payments for this extra business should be on a full cost recovery basis or funded by the Government as a completely separate entity to avoid additional financial burdens on local authorities. Can the Minister confirm how the Government will fund the extra work for local authorities? Is it intended that they will meet the full additional financial burden that will rest on their shoulders, particularly in the event of a no-deal Brexit—where, as I am sure we all appreciate, there is lots of scurrying around and extra money being spent on preparedness for that eventuality?

In terms of resources, an enormous amount of expertise obviously rests at the European level. What ability will we have to carry on sharing the intelligence of European bodies to make sure that we can still tap into their scientific knowledge and skills, either formally or informally, so that we do not have to start everything from scratch again? Will there be ongoing arrangements with the EU for monitoring, collecting and sharing data, and reporting mechanisms? That would obviously be in our interests. Which bodies will be able to scrutinise the performance and delivery of our UK arrangements? This work would otherwise have been done by the European Commission. What assessment has been made of their capacity to take on this work? If we are not careful, as we have said in other scenarios, the UK will end up marking its own homework without an independent source of scrutiny to oversee it.

I turn now to novel foods. As the noble Baroness said and the EM sets out, under EU regulations, any food not consumed "significantly" prior to 1997 is considered a novel food. The novel foods regulations before us ensure that we will retain the requirement for a pre-market safety assessment before being placed on the market. This is done, quite rightly, in the interests of safeguarding public health. The pre-market safety assessment examines a range of issues to establish whether consumers would be at risk if they consumed the novel food, how high the level of risk is likely to be and how, if a risk is identified, that risk would be managed. Can the Minister elaborate on how this will be managed domestically after exit day? Who will carry out the pre-market safety assessments? Again, will there be independent scrutiny of such assessments? Moreover, will the risk analysis err on the side of caution given that, when it comes to food, there could be serious public health implications if we do not get it right?

I shall move on. The next SI covers animal feed and, as the noble Baroness said, establishes a procedure for authorising the placing on the market and use of feed additives; it also sets out rules for the supervision and labelling of feed additives and pre-mixtures. Both noble Lords who spoke raised particular safety concerns here again. We all remember what happened when BSE broke out. We had not got feed additives right, so obviously there is a cause for huge public concern about this. The noble Baroness, Lady Walmsley, rightly mentioned testing new additives fully before they are placed on the market. Again, can the Minister explain how it is perceived we will go ahead as regards testing and what the mechanism will be? Who will be responsible for overseeing it and ensuring that all those feed additives are tested thoroughly and appropriately?

I turn now to the materials and articles in contact with food SI. It sets out to ensure that wrappings do not transfer their contents to food in such quantities as would endanger human health. That includes the constituent parts of recycled plastics. There is mounting scientific evidence that plastics are harming our health as well as the environment. Most of our food containers, from bottles to the linings in aluminium cans, plastic wraps and salad boxes, are made using polycarbonate plastics, some of which have bioactive chemicals, like bisphenol A, known as BPA. These manmade chemicals leach from our containers or wrappings into the food and drinks they are holding, especially when they are heated. The regulations retain the restrictions on the use of BPA in varnishes and coatings intended to come into contact with food. However, some campaign groups, as the noble Baroness may know, have called for a full ban on the use of BPA in food packaging. What assessment have the UK Government given to banning BPA entirely and do they have any plans to consult on this? The authorised list of substances permitted for use in food contact plastics is generally updated several times a year. Who will now undertake this and do they have sufficient resources—we are back to resources, of course—to be able to do so?

4.30 pm

On the issue of businesses and industry, it is important that we have a smooth transition of these arrangements for businesses in the sector and consumers after exit day. While the EMs state that there will be no change to the day-to-day legal requirements and obligations for businesses, there will be administrative and technical follow-up that needs to take place. Indeed, there is a cost to business that the EM identifies. In the public consultation response, there were concerns about the additional burden on industry and enforcement authorities which would be needed to communicate changes. Can the Minister say what assessment has been made of the costs of that additional burden and is she able to reassure the House that measures are in place to ensure that these SIs will be communicated with sufficient lead time for those on the front line to make the necessary preparations to minimise the impact of any changes? Are they aware of the costs that they can incur in doing this, and have they said that they are

content to bear the burden of those costs? That is all I wanted to raise this afternoon, but I look forward to the Minister's response.

Baroness Manzoor: My Lords, I thank both noble Baronesses for their valuable contributions to this debate. I do not think I have ever had that many questions, so I will endeavour to answer both noble Baronesses and the noble Lord, Lord Cameron of Dillington, who asked an important question regarding GM foods.

Despite the many questions, I want to state again that these instruments make no changes to policy or how food businesses are regulated and run. The noble Baroness, Lady Jones, raised important issues and I have empathy in relation to BPA, but the policy is what it is now and we are not changing any policies through these instruments. These SIs are limited to necessary technical amendments to ensure that the regulatory controls for food and feed continue to function effectively after exit day if the UK leaves the EU without a deal. The aim is that public health is protected, and we all know of the discussions taking place in the other place, and where we are at—indeed, things may change again next week.

Let me do my best to answer some of the questions, bearing in mind that, as I have said, these are technical amendments and no changes to what we see today are envisaged.

The noble Baroness, Lady Walmsley, raised the issue of the consultation's adequacy. Of course, these four SIs make only minor amendments or technical fixes necessary to ensure that we have a functioning statute book. In this case, a separate consultation would have served little purpose as there is no change in policy intent. These SIs are not about changing the robust controls we have in place, for instance for GM food and feed. They maintain authorisations existing at the point of exit. That is why a separate consultation was not needed. I hope to reassure the noble Baroness by saying that I do not believe that this caused businesses any confusion.

The noble Baroness also asked me whether the new authorisation system will be for regulated products after we exit the EU. The UK application process for food and feed authorisations will be similar to that operated by the EU. Food and feed businesses will be familiar with the arrangements for EU application dossiers, and the same data will be required by the UK in its assessments, so businesses will not get two variations. Applications will be assessed using the risk analysis process developed by the FSA.

The noble Baroness asked whether the Government will consider single-use plastics. Indeed, the noble Baroness, Lady Jones, also raised that issue. The UK will maintain the requirements for plastic food contact materials either as they currently stand or as they will be when and if we exit the EU. Single-use plastics will be under Defra's remit. Of course, the FSA works very closely with Defra.

The noble Baronesses, Lady Walmsley and Lady Jones, raised the issue of the scope for UK internal regulatory divergence. I reassure them that the FSA is working with the Department of Health and the devolved Administrations to put in place a UK framework for food and feed regulation to guard against divergence. There will be one framework, but this is a devolved matter, and if there were any changes over time, they would discussed within that framework.

The noble Lord, Lord Cameron of Dillington, asked about the environmental impact of GM food. I assure him that there is no UK cultivation of GM food at present. Environmental monitoring plans form part of the authorisation decision for GM food and feed. Of course, as we move forward, any discussions or scientific evidence will be a matter for Defra and the FSA to work on together. However, these SIs do not relate to wider environmental issues.

The noble Baroness, Lady Jones, asked whether the FSA has sufficient resources. Indeed, I put that question to officials myself. I asked whether we have enough money and whether we will be able to operate and deliver this. I assure noble Lords that at the recent open meeting of the FSA board, it confirmed that it has prepared a fully effective regulatory system to protect consumers on exit. The FSA is satisfied that its preparations are sufficient; that information does not come from just me.

The noble Baroness also asked local authority funding. I hear what she says. I do not have the number of people working in local authorities but, as I mentioned in my opening comments, the FSA provided local authorities with a grant fund of £2 million last year to support food safety activity relating to EU exit, and a further £2 million will be made available this year.

The noble Baroness, Lady Jones, asked about enforcement and local authorities ensuring feed safety after exit. I reassure her that it is not anticipated that there will be any increase in the total amount of feed entering the UK. The current system of checks on imported high-risk foods from third countries by local authorities will continue, and the additional checks required will be for feed entering the UK from the EU. Feed business operators in the EU are controlled by the same rules as those currently in place in the UK and, as such, the risk from these products is considered to be low. Therefore, additional checks required at the point of entry will be minimal. Of course, local authorities can apply for additional funding if they feel that they need it.

On the SIs about food safety and health, last week and today the noble Baroness, Lady Jones, raised RASFF membership. I stress again that continued access to the rapid alert system for food and feed has been identified as a key priority by the Government. It clearly benefits the UK and EU partners mutually and the Government are pressing for full access to this system. In addition, the FSA has built additional capability and capacity, including monitoring of key data sources, as a new strategic surveillance programme to inform us of potential emerging food safety risks. This is in addition to the RASFF data that we would receive as a third country from the EU. The FSA is engaging with competent food authorities across Europe and worldwide, including engagement programmes with the International Food Safety Authorities Network, INFOSAN, which is managed jointly by the Food and Agricultural Organisation—the FAO—and the World

[Baroness Manzoor]

Health Organisation—the WHO—of the United Nations. We are not only engaging with RASFF but are taking a worldwide approach. Continuing access to data is a priority.

The noble Baroness, Lady Jones, asked when the scientists and new recruits will be in place. I can only restate what I said—I am not in a position to go further—that there will be 140 extra staff, of which I understand approximately 90% are already in place, which is good.

The noble Baroness, Lady Jones, asked how novel foods will be assessed. Until 2015, risk assessments for novel foods were carried out at a national level. In the UK, the independent scientific Advisory Committee on Novel Foods and Processes undertook that role. However, when the EU legislation was revised, EFSA was tasked with this risk assessment function. As I said in response to an earlier question, the FSA and FSS will undertake this role and the new advisory committee that will be set up will resume its role.

I was asked what assessments have been made of BPA. At the moment, whatever we leave with on exit day will be put in regulations. Any future changes will have to come to Parliament to be considered and for appropriate legislation to be put in place. It would be inappropriate for me to project my own views at this stage.

I think I have covered the main issues that were raised. I hope that I have reassured noble Lords. I am looking round for nods. I think that I have answered the questions put to me. These SIs will correct deficiencies in retained EU regulations by removing references to EU institutions and instead reflecting UK institutions. This will ensure that current arrangements continue to be operable in the event that the UK leaves the EU without a deal. The instruments will protect public health from risks that may otherwise arise and provide continuity and clarity for UK businesses. I hope that I have done enough to reassure noble Lords.

Motion agreed.

Genetically Modified Food and Feed (Amendment etc.) (EU Exit) Regulations 2019

Considered in Grand Committee

4.45 pm

Moved by ***Baroness Manzoor***

That the Grand Committee do consider the Genetically Modified Food and Feed (Amendment etc.) (EU Exit) Regulations 2019.

Motion agreed.

Animal Feed (Amendment) (EU Exit) Regulations 2019

Considered in Grand Committee

4.45 pm

Moved by ***Baroness Manzoor***

That the Grand Committee do consider the Animal Feed (Amendment) (EU Exit) Regulations 2019.

Motion agreed.

Novel Food (Amendment) (EU Exit) Regulations 2019

Considered in Grand Committee

4.46 pm

Moved by ***Baroness Manzoor***

That the Grand Committee do consider the Novel Food (Amendment) (EU Exit) Regulations 2019.

Motion agreed.

Committee adjourned at 4.46 pm.