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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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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

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House of Lords

Wednesday 1 May 2019

3 pm

Prayers—read by the Lord Bishop of Birmingham.

Lord Mayor's Show: Taiwan

Question

3.06 pm

Asked by ***Baroness Barker***

To ask Her Majesty's Government what assessment they have made of the decision of the Lord Mayor's Show 2019 to decline an application to participate by the representative office of the government of Taiwan.

Baroness Barker (LD): My Lords, in begging leave to ask the Question standing in my name on the Order Paper, I declare an interest as a member of the British-Taiwanese All-Party Parliamentary Group.

The Minister of State, Foreign and Commonwealth Office (Lord Ahmad of Wimbledon) (Con): My Lords, the lord mayor's office is independent of central government so this is a decision for it. However, we continue to support Taiwan's inclusion in matters which do not confer statehood upon Taiwan and to which it brings cultural, economic and educational value. The Lord Mayor's Show falls within this category.

Baroness Barker: I thank the Minister for his Answer. This instance of China's relentless campaign to deny Taiwan international recognition is petty; others are not. The exclusion of Taiwan from the World Health Assembly, in the age of SARS, could have potentially devastating global consequences. What are the Government going to do to help the people of Taiwan stand up to this unfair treatment which continues to emanate from China?

Lord Ahmad of Wimbledon: My Lords, that is not the Government's view. When we were asked, we gave our opinion that Taiwan should be included in the Lord Mayor's Show as it falls within the category that I have just articulated. We continue to support Taiwan's membership of key organisations within the UN family, such as the World Health Organization and the World Trade Organization.

Lord Collins of Highbury (Lab): It is striking that this is not about recognising Taiwan as the Republic of China—the relationship between the People's Republic and Taiwan is a matter for those two places—but about our relationship with an important trading and economic partner. Taiwan is also a very important partner in terms of the rule of law, liberal politics and human rights. Can the Minister tell the House what he will do to ensure that our relationship with Taiwan will not be affected by the actions of another Government?

Lord Ahmad of Wimbledon: My Lords, I agree that our relationship with Taiwan is best built on sound values. Therefore, shy of recognising Taiwan—which we do not—Taiwan's future, as the noble Lord said, is a matter for China and Taiwan, on both sides of the Taiwan Strait, and it is for them to come to a way forward. As I said in answer to the previous question, we are supportive of not only Taiwan's presence in the Lord Mayor's Show but its inclusion in various organisations on the world stage, and we will continue to articulate that. On a more general point, we will stand against human rights abuses wherever we find them.

Lord Anderson of Swansea (Lab): My Lords, are there other examples where the City has rejected the advice of the Foreign Office on such matters?

Lord Ahmad of Wimbledon: I think in this case—or indeed in any other case where we are dealing with the private sector—our job is to provide advice. It is for a private sector company or an independent organisation to take a decision. That is one of the key freedoms we enjoy as a democracy, and I would stand up for it. It is for organisations to make independent decisions. As far as the Foreign and Commonwealth Office is concerned, it will give the best advice available.

Lord Rogan (UUP): My Lords, I declare an interest as vice-chair of the British-Taiwanese All-Party Parliamentary Group. On 31 March, two J-11 fighter jets of the Chinese People's Liberation Army intentionally crossed the median line of the Taiwan Strait, intruding upon a maritime boundary which both sides have abided by for many years, and as a result damaged the cross-strait status quo. It is evident that regional peace and stability are at stake. Does the Minister agree that decisions such as that of the lord mayor's office are less than helpful to the Taiwanese position?

Lord Ahmad of Wimbledon: As I have already made clear, it is important that the Taiwanese and Chinese Governments continue to negotiate and to discuss matters of a bilateral nature. On the more general point the noble Lord makes about the Lord Mayor's Show, I have already emphasised that the Foreign and Commonwealth Office was very clear that in previous years Taiwan has attended the Lord Mayor's Show and it was its view that that should continue to be the case.

Lord Steel of Aikwood (Non-Afl): Does the Minister agree that this is simply the latest example of some rather senseless bullying by the People's Republic of China of airlines, universities and others? What is the FCO going to do to try to maintain our proper relationship with the flourishing democracy which is Taiwan?

Lord Ahmad of Wimbledon: As I have said already, in our diplomatic relations we have been clear that Taiwan is not an independent country. That is not a new position. It has been sustained over a number of years. The position of the United Kingdom, not just that of the Foreign and Commonwealth Office, is that Taiwan is an important partner; for example, we continue to have a strong trading relationship, as the noble Lord, Lord Collins said. On the more general point about our relationship with China, China is an important strategic partner, but we do not shy away from raising important issues, including human rights. A recent

[Lord Ahmad of Wimbledon]
example is what I said during the Human Rights Council: that where we see freedom of religion or human rights being abused, we will stand up for those who are being persecuted. We do just that with China and other member states.

Viscount Waverley (CB): My Lords, is there any suggestion that China penalises any active trading partner of Taiwan for having a relationship with both states?

Lord Ahmad of Wimbledon: We already have a stated position on Taiwan, and we continue to enjoy strong trading relations. That means that at times there are disagreements. As I have already said, we have disagreements on important human rights issues. Those disagreements are there. We air them at times privately, but there are occasions when we do so publicly. However, we continue to enjoy a strong strategic partnership with China.

Lord Judd (Lab): My Lords, the Minister has made an interesting point about the difference in the Government's position on representatives of Governments and on representatives of civil society, industry and so on in a country. Could the Government not at least encourage those responsible for the Lord Mayor's Show to have conversations with Taiwan, making it absolutely clear that the representation of Taiwan will be welcome in the Lord Mayor's Show if it is from civil society and the private sector?

Lord Ahmad of Wimbledon: As I have already said, and I am sure times have not changed since the noble Lord was a Foreign Office Minister, we pride ourselves on diplomacy and charm in encouraging people towards what we believe are the right decisions. However, the governance of the Lord Mayor's Show is independent. We have given clear and unequivocal advice, and it is appropriate that organisations take decisions according to how they perceive moving forward. Our position on the Lord Mayor's Show and other bodies is clear: Taiwan is an important partner and we will continue to encourage its partnership when it comes to issues of culture, trade and education.

Baroness Kramer (LD): My Lords, I had the privilege of leading a trade mission to Taiwan and it was evident that the route into the Chinese market for much of our financial services industry was with a Taiwanese partner or intermediary. Can the Minister make the City much more aware of the importance of that relationship and of the fact that, in anticipation of Brexit, taking this sort of supplicant position to a power such as China is not an appropriate way to build our future economy?

Lord Ahmad of Wimbledon: As someone who spent 20 years in the City of London, I never felt that it took supplicant positions. The City made some clear decisions based on its interests and it continues to do so. The role of government is to provide sound advice. I believe that we did so on this occasion and we will continue to do so in the future.

NHS Funding: Mental Health Services

Question

3.14 pm

Tabled by ***Lord Bradley***

To ask Her Majesty's Government what proportion of the additional money allocated to the National Health Service budget over each of the next five years will be ring-fenced for the development of mental health services.

Baroness Thornton (Lab): With his consent, I beg leave to ask the Question standing on the Order Paper in the name of my noble friend Lord Bradley. Noble Lords will know why he cannot be with us today, and the House will wish to know how much he and his family appreciate the sympathy that has been expressed.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Blackwood of North Oxford) (Con): My Lords, NHS England and NHS Improvement have set out their commitment to increase mental health spending by at least £2.3 billion in real terms between 2018-19 and 2023-24. In five years, this will represent over 10% of NHS England's additional settlement. More details of how the long-term plan will be resourced will appear in the implementation framework, which is due to be published soon.

Baroness Thornton: I thank the noble Baroness for that Answer. Given that mental health illnesses account for 28% of the burden of illness in the NHS but receive only 13% of its funding, I find her Answer very confusing. Can she be more precise? This is not just about the number of staff required but about how much will be required to achieve parity of esteem and over what period.

Baroness Blackwood of North Oxford: I thank the noble Baroness, Lady Thornton, for her question on behalf of the noble Lord, Lord Bradley. I am sure that the whole House will want to join me in sending him and his family our support at this difficult time.

The noble Baroness has asked a very important question. The mental health budget will increase by £2.3 billion by 2023-24, growing faster than the wider budget. We are using transparency to drive improvements. The mental health dashboard shows that last year, for the first time, all CCGs met the mental health investment standard, which is an encouraging sign. This builds on the work done in the five-year forward view, which delivered real improvements for patients. It delivered £247 million for liaison psychiatry, £290 million for perinatal services and £400 million for crisis resolution and home treatment teams. However, we will not rest there. The long-term plan will deliver much more for patients, including 345,000 more children and young patients to receive specialist support services. This is the ambition that we have and the ambition that we will deliver.

The Earl of Listowel (CB): My Lords, I welcome the additional money and note my interest as a trustee of a mental health service for adolescents. Can the Minister assure me that highly experienced clinicians will be retained to provide vital supervision for the

new people coming in at the front line—for instance, in schools? Is she concerned that there is a 1% decline in the trend for the number of child and adolescent psychiatrists, for example? Is it not crucial that we have highly experienced clinicians to supervise the new people whom the Government have in development?

Baroness Blackwood of North Oxford: The noble Earl is absolutely right that it is essential not only that we recruit new psychiatrists and mental health specialists to support the ambitions of the long-term plan—we have set out an ambitious plan to do so, intending to recruit 8,000 new specialists—but that we retain those within the system, who are doing an outstanding job in difficult circumstances. NHS Improvement is working with mental health trusts across the country to give them the tools that they need to do so, and I am encouraged by the progress that they have made so far.

Baroness Tyler of Enfield (LD): My Lords, to help ensure that the money allocated for mental health services is indeed spent on improved mental health care and not diverted to other areas of NHS activity, will the Minister say what plans the Government have to introduce a strengthened mental health investment standard for children alongside the existing mental health standard, which focuses primarily on adults, and with meaningful sanctions imposed on CCGs that fail to meet the standard without a valid reason?

Baroness Blackwood of North Oxford: As usual, the noble Baroness's expertise shines through in her question. She is right that we must ensure that the money allocated to children and young people's mental health gets to exactly where it is intended. The dashboard is extremely valuable in tracking through the effectiveness of the funding priorities in this manner. We will be holding to account CCGs and mental health trusts in ensuring that the money allocated to trusts is spent on exactly what it is intended to be spent on.

Baroness Redfern (Con): My Lords, can the Minister tell us what part of the ring-fenced mental health budget will be allocated to recruiting appropriately trained probation staff for the 39% of offenders who have mental health issues and ensuring they receive access to effective support?

Baroness Blackwood of North Oxford: I shall have to write to my noble friend in order to answer her question with the best accuracy possible. However, my understanding is that the ring-fenced funding will be spent on health professionals rather than probation professionals. One of the most effective measures introduced under the five-year forward view, which has delivered very effective outcomes, has been liaison services. I shall investigate the point that she has raised and come back to deliver the response that she deserves.

Baroness Pitkeathley (Lab): My Lords, does the Minister agree that continuity is what is important here? That means continuity of care and of services across the NHS, social care and family support. In the absence of any coherent plan for social care, which is needed by mental health patients almost as much as medical care, have we any hope of achieving this continuity? And if the Minister could say anything about the Green Paper, I am sure the House would be delighted.

Baroness Blackwood of North Oxford: The noble Baroness is right to identify the need for continuity of care and the fact that community care is essential to ensuring good mental health outcomes. That is exactly why the focus in the long-term plan is on ensuring prevention and early intervention and on targeting the support of liaison services—for example, support for mental health training in the context of schools as well as for liaison services in policing and other areas. She is right that we must endeavour to deliver on the social care Green Paper. It is imminent, and I look forward to the debates in this House when it is produced.

Elections: Online Interference

Question

3.21 pm

Asked by ***Baroness O'Neill of Bengarve***

To ask Her Majesty's Government what measures they intend to take to prevent or mitigate online interference with any future elections or referenda.

Lord Young of Cookham (Con): My Lords, the Government are committed to ensuring the security and integrity of our democratic processes and defending them from all forms of interference. To date, we have not seen evidence of successful interference in UK democratic processes. UK voting mechanisms do not lend themselves to direct electronic manipulation as voting and the counting of ballots are highly manual processes conducted under the watchful eye of observers.

Baroness O'Neill of Bengarve (CB): My Lords, I wish I could share the noble Lord's optimism. The ways that exist for interfering in elections are not confined to direct interference at the polls. We are talking about interference in campaigning, and there is ample evidence of that. There is no evidence of how successful interference has been in particular cases; the nature of the problem means that such evidence cannot exist. This is an urgent matter. I believe that the country would be ill served by further democratic processes, whether elections or referenda, where people could not tell whether they had been fairly conducted.

Lord Young of Cookham: I say to the noble Baroness, Lady O'Neill, that we take these issues seriously. We are now actively considering the recent report and recommendations of the Electoral Commission, the recent report of the Information Commissioner on digital campaigning and the role of Cambridge Analytica, and the recent report of DCMS on fake news. The Secretary of State will give evidence to the Select Committee next week. We hope shortly to have the Intelligence and Security Committee's report on Russian interference in the referendum and the 2017 election. We will then take steps to ensure that we have a robust framework for our election process, which is resistant to corruption and enhances public confidence in our democratic institutions.

Baroness Hayter of Kentish Town (Lab): Perhaps the Minister would like to congratulate the *Observer* and Carole Cadwalladr on her Scoop of the Year award from the London Press Club for exposing the Cambridge Analytica scandal. It is worth seeing her TED talk on this, if noble Lords have not. It was investigative journalism, not our regulator, that identified these problems. Given that we are likely to have the European elections soon and that, because of their international implications, there is even more temptation for interference from outside, will the Minister agree to meet people in this House with particular expertise in campaigning and digital matters to look at the evidence he referred to and see whether we can get some assurance on this issue?

Lord Young of Cookham: I am grateful to the noble Baroness. I recently attended one such all-party meeting to discuss these issues and I have no hesitation in accepting her suggestion that there should be another. I have said before from this Dispatch Box that we have an analogue legislative framework seeking to operate in a digital age. We are determined to update that framework to make it fit for purpose and I welcome the suggestion of all-party talks.

Lord Garel-Jones (Con): Can my noble friend advise the House on whether there has been any progress on the consultation aimed at extending to online electoral propaganda the same imprint that now applies to printed materials?

Lord Young of Cookham: My noble friend will know that last July we consulted on extending the requirement for an imprint, which already exists for printed material, to digital campaigning material. The Government have now concluded their considerations and an announcement will be made very soon.

Lord Foulkes of Cumnock (Lab Co-op): We should acknowledge that the Minister is taking this matter very seriously, as we heard from his Answer. That is very encouraging. As well as the various bodies that he referred to, could he ensure that the Electoral Commission and the appropriate departments of government meet and discuss the arrangements for elections and referenda with the Venice Commission of the Council of Europe, which has revised its guidelines for both referenda and elections?

Lord Young of Cookham: I am grateful to the noble Lord for that suggestion. As he will know, the Electoral Commission is independent of government, but I see no reason why it should not respond positively to the suggestion he made.

Lord Wallace of Saltaire (LD): My Lords, the Electoral Commission is independent of government but depends on government for its resources. Given the extent to which confidence in our electoral system and campaigning has been hit by various allegations, stories and uncertainties over where financial contributions have come from, is the Minister confident that the Electoral Commission has the resources to restore the necessary confidence in our electoral campaigns and elections at present?

Lord Young of Cookham: For once, most uncharacteristically, the noble Lord is incorrect. The Electoral Commission is not dependent on the Government for its resources; it is dependent on the Speaker's Committee on the Electoral Commission in another place. I am grateful for his gracious nod in response. The budget is set by the Speaker's Committee, but I can say that in the last year for which we have figures the Electoral Commission underspent by £1.1 million.

Lord Hayward (Con): My Lords, does my noble friend agree that any form of interference in elections is important and should be dealt with? Therefore, I encourage the Government to adopt Labour Party policy on voter ID and require people to produce some form of ID at all elections, as the Labour Party does when selecting candidates.

Lord Young of Cookham: Of course, I have no idea how the Labour Party selects its candidates—

Lord Foulkes of Cumnock: Neither have we.

Lord Young of Cookham: However, I say to my noble friend that voter ID is part of our policy to restore confidence in the integrity of the democratic process. He will know that last year we had pilots for the local elections and the Electoral Commission's evaluations showed that they were a success. The overwhelming majority of people cast their vote without a problem. Tomorrow there will be another round of voter ID pilots in local government. We have consulted a wide range of civil society groups to ensure that voter ID will work for everyone.

Lord Cormack (Con): If voter ID is so important, why do the Government take such an obdurate line on identity cards?

Lord Young of Cookham: I can do no better than to refer my noble friend to the very capable Answer given from this Dispatch Box only yesterday by my noble friend Lady Williams.

Food Banks

Question

3.29 pm

Asked by ***Lord Bassam of Brighton***

To ask Her Majesty's Government what assessment they have made of the reported increase in food bank usage in 2018/19 and the 73 per cent increase since 2013/14.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) (Con): My Lords, we are reforming the welfare system to better support the most vulnerable while encouraging more people into work, which is the most effective route out of poverty. We provide a strong safety net for those who need it and continue to spend over £95 billion a year on working-age benefits. We are introducing big changes and a further £4.5 billion boost following the Autumn Budget, which will shortly filter down to those in need.

Lord Bassam of Brighton (Lab): I remind the noble Baroness that 70% of people in poverty are actually in work. The Secretary of State, Amber Rudd, acknowledged in February that the difficulty in accessing universal credit was forcing families to use food banks. The CEO of the Trussell Trust, Emma Revie, said recently that it is,

"unacceptable that anyone should have to use a food bank",

and added:

"No charity can replace the dignity of having financial security".

Does the Minister agree with that statement? What steps will the Government now take to speed up universal credit payments and end the shameful need for half a million children to depend on emergency food parcels?

Baroness Buscombe: My Lords, while we have always said that there are many reasons why people use food banks and that their growth cannot be linked to a single cause, we have long acknowledged that there were issues with the early rollout of UC. We have responded quickly to the feedback we have received and made numerous improvements to universal credit. We have removed waiting days and created advances of up to 100% of first payments, which people can receive within hours of attending a jobcentre. We have given extra support for disabled people and a two-week housing benefit run-on for new UC claimants. We are working hard to ensure that we are tackling the root causes of poverty, but also making sure to the best of our ability that we can improve our research into why people are using food banks.

Baroness Boycott (CB): My Lords, food poverty is particularly hard on children. In last week's Children's Future Food Inquiry we found many things. Rickets is now at its highest rate in 50 years and is stunting height—children are 1 centimetre shorter at the age of 10 if they have grown up on bad diets. Can the Minister give me any idea what the Government are doing to ensure everyone in this country, regardless of income or geography, can access decent, affordable and healthy food?

Baroness Buscombe: I agree with the noble Baroness: everyone should have access to decent, healthy food. Tackling disadvantage will always be a priority for this Government. We welcome the new report from the Children's Future Food Inquiry. Employment is at a record high and wages are outstripping inflation, but we know that there is more to do to ensure that everyone has access to nutritious, healthy food. We have already taken steps to tackle food inequality by providing free school meals and our Healthy Start vouchers. We are also investing up to £26 million in school breakfast clubs and £9 million to provide meals and activities for thousands of disadvantaged children during the summer holidays.

Baroness Janke (LD): My Lords, is the Minister aware of recent reports of schools and teachers buying food, clothes and basic essentials to enable children to come to school, and that children feel ashamed because they cannot afford them? Many people, including charities, attribute this to the benefits cap. What plans do the Government have to address this and to ensure that children's education is not put at risk through poverty?

Baroness Buscombe: I think it is fair to say that I answered that question to some degree in a previous answer. We are working hard with schools and injecting significant funds to ensure that children are properly fed, if not at home then by breakfast clubs, and through the school holidays. There is much more that we have been doing to ensure that families are not worse off; indeed, we have the most generous benefits for families of all the G7 countries. We recognise that there is more we can do but I have to keep saying: remember, we have made significant changes and increases in people's income through increasing work allowances and so on. However, some of this will not yet have come through to be felt on the ground. We are still rolling out some of the big changes to universal credit.

Baroness Neville-Rolfe (Con): Has my noble friend visited the Trussell Trust? Its HQ is in my home town of Salisbury, which is now recovering from its difficulties. The Trust first alerted me to the phasing problem that families have with the introduction of universal credit. Are the measures she described actually beginning to solve the problem it identified? I found it extremely interesting and poignant.

Baroness Buscombe: I can reassure my noble friend that one of the reasons we have been making so many iterative changes to universal credit is that we have been concerned about the delay in people receiving income quickly and fairly. I re-emphasise that we are still waiting for some of the benefits of that to filter through to the work on the ground and benefit people who need the support. Our department is working very closely with the Trussell Trust—some of my officials are having a meeting with it today—because we believe it is very important that we work together.

Baroness Lister of Burtersett (Lab): My Lords, according to the Trussell Trust, the main reason for people needing emergency food help is that benefits are consistently not covering the cost of living. A key reason for this is the four-year freeze. The Chief Secretary to the Treasury says, "Don't worry, the Government are moving on from the freeze as it ends next year". However, hungry claimants, in or out of work, cannot move on from the permanent effect of a significant real cut in their benefit. Will the Government therefore now reverse and make good the freeze, as a matter of urgency?

Baroness Buscombe: My Lords, the Welfare Reform and Work Act 2016 provided for a four-year freeze, and this was supported by Members in both Houses. This freeze will lapse after 2019-20. The freeze was implemented at a time of great public debate about the fairness of benefits outstripping earnings growth. However, we are doing much more than that. Switching people on to universal credit is taking time because it is a huge change, but it is empowering people to take responsibility for their own lives. It is changing from the dreadful legacy system, which left people in the

[Baroness Buscombe]
shadowlands of dependency without any responsibility or a prospective future that could actually make a difference to their lives.

Brexit: No-deal Ferry Contracts

Private Notice Question

3.37 pm

Asked by ***Lord Rosser***

To ask Her Majesty's Government what plans they have to mitigate the expense to the taxpayer of ferry contracts entered into in preparation for a no-deal Brexit on 29 March, which have now been cancelled at a cost estimated to be in excess of £50 million.

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

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, in light of the Article 50 extension, the ferry contracts with Brittany Ferries and DFDS have now been terminated. The National Audit Office estimated the total termination cost to be £56 million. I am pleased to tell the House that the figure for termination is £43.8 million. Furthermore, the total amount for termination fees and running costs is a little over £50 million. These contracts were an important insurance policy to ensure the continued movement of medicines and other essential goods.

Lord Rosser: I thank the Minister for that response, which indicated the cost to the taxpayer of the contracts with Brittany Ferries and DFDS. Can the Minister confirm what actual benefit the taxpayer got in return for what I think she said was £43.8 million? What services were provided to the taxpayer? On top of that, the Government have already had to pay £33 million to Eurotunnel in return for no services whatever but to settle a legal case challenging the procurement process for the ferry contracts, and the DfT may now be facing legal action from P&O Ferries on the grounds that Eurotunnel has been unduly favoured. The Government's answer is no doubt that they had no alternative but to make contingency arrangements because of their own failure over two years to conclude an acceptable Brexit deal, but they cannot argue that in relation to the £33 million to Eurotunnel or any payments to P&O Ferries. The Government always talk about getting value for money. In this case, we have had a lot of money but no value to the taxpayer. Is the Minister now going to apologise for the unnecessary expense that has been incurred and for the failures of the Government, and of the Secretary of State in particular?

Baroness Vere of Norbiton: I would like to focus on the first of those questions: what exactly was the benefit to the taxpayer? The benefit was that the taxpayer had an insurance policy. Like many organisations, the Government are able to take out insurance policies, and these contracts were precisely that. The benefit to the taxpayer is that the Government were able to ensure the continued movement of absolutely critical goods—what we call "class 1 goods"—into this country in the event of no deal. I am fairly sure that the noble Lord would have been the first to criticise the Government had these goods not got through.

Lord Forsyth of Drumlean (Con): Following my noble friend's analogy, can she explain why we have given up the insurance policy before we have the certainty of knowing that we will not have no deal? Can she also tell us what the total cost to the taxpayer has been of our failure to leave on 29 March?

Baroness Vere of Norbiton: The noble Lord is right that this particular insurance policy falls away because these were six-month contracts, and now that we have the extension to 31 October the contracts are obviously not needed. These contracts are very visible, but they are actually an extremely small proportion of our no-deal planning. A total of £4 billion has been put in place as an insurance package to make sure that, in the event of no deal, which remains the legal default, we will be able to protect our citizens.

Baroness Randerson (LD): My Lords, every time I think that the Secretary of State has extracted the last vestige of farce from these ferry contracts, he seems to plumb new depths. I want to take up the point about P&O. Can the Minister explain to us whether the Government are facing court action from P&O and what stage any action is at in that case? The Government claim to have paid £800,000 for the legal advice on which these contracts were based. That is an awfully large sum to pay for duff advice—if indeed the advice that was given was followed. Can we have the Minister's assurance that the Government will review how and from whom they seek advice on such matters?

Baroness Vere of Norbiton: There were a couple of points there from the noble Baroness, for which I am grateful. Knowing what I know now from my short time in the department and from my time as a Defra Whip, I believe that, had I been the Secretary of State, I would have made the same decisions. These are very important contracts. The other thing to be aware of is that the contracts had to be as flexible as possible. Many will say, "Oh, they do not seem particularly flexible", but this is all dependent on the maritime market, which is not the same as other markets. The maritime market operates in periods of weeks and months rather than hours and days. We believe that the legal advice is appropriate. I can confirm that a case is being brought by P&O, but obviously I cannot comment on an ongoing legal case.

Lord Hunt of Kings Heath (Lab): My Lords, can I ask the noble Baroness two things? First, where did the money come from? Has it come from government contingency funds or out of the direct expenditure plans of her department? Secondly, if this insurance deal is not to be repeated, as seems to be implied, do I take it that the Government have firmly—and will in the future—set themselves against a no-deal Brexit?

Baroness Vere of Norbiton: I believe that the money will have come from the no-deal Brexit funds made available from the Treasury. If that is not the case, I will of course write to the noble Lord. I did not say that these contracts would not be repeated. The situation

is that no deal is still the legal default, so what is going to happen next is pretty much what happened last time—

Noble Lords: Oh!

Baroness Vere of Norbiton: I really wish I had not paused for breath at that particular moment. Discussions will happen with the Department of Health and Social Care, Defra and BEIS, and we will all look at the amount of class 1 goods that need to come into the country. DfT will then be tasked to ensure that that can go ahead.

Lord Bridges of Headley (Con): Following on from that answer, will my noble friend commit to publishing a comprehensive update on the Government's preparedness for no deal?

Baroness Vere of Norbiton: It would be inappropriate for me to commit to that at this time, but I am sure that the Government are listening.

Baroness Smith of Newnham (LD): My Lords, the Minister suggested that the legal advice gave flexibility. If that is the case, why was there not the flexibility to roll over these contracts in case there is a no-deal scenario on 31 October? Surely that is what flexibility should have offered.

Baroness Vere of Norbiton: I was trying to get across to noble Lords the complexity of the maritime market. Flexibility is possible, but it is not unlimited. For example, DFDS had to charter new vessels from very far away to fulfil these contracts. Other vessels had to be reconfigured. Those vessels will now need to go back to what they were beforehand to take on passengers. The noble Baroness looks incredulous, but the contract offered extremely good value to the taxpayer.

Lord Campbell-Savours (Lab): Are the Government planning an out-of-court settlement with the ferry companies or do they intend to contest the case?

Baroness Vere of Norbiton: I am pleased to be able to tell the noble Lord that we have reached a settlement with the ferry companies, as I pointed out earlier, and that the termination fees are £43.8 million. It is clear that we have co-operated with the ferry companies, and we are grateful to them for the amount of mitigation that they have been able to do to reduce the amount of money that we have had to pay. We have had negotiations with them. We tried to sell as many tickets as possible to reduce the cost to the taxpayer and the ferry companies have cancelled sailings. We are grateful for their co-operation and believe that this is a fair settlement of the contract.

Lord Cormack (Con): My Lords, if it is necessary, which I hope it is not, to take out further insurance policies of this nature, can we be absolutely sure that the ferry companies that we contract with will actually have some ferries?

Baroness Vere of Norbiton: I thank my noble friend for that question. Yes, we can be absolutely sure. Perhaps I may address the point about Seaborne, as it seems to be the elephant in the room. Not a single taxpayer pound was paid to Seaborne. The management of Seaborne perhaps made some very serious errors, but the biggest thing that happened was that its credible partner and backer, Arklow Shipping, pulled out of the deal.

Baroness Ludford (LD): My Lords, is it not the fact that this was not insurance for the taxpayer but a political gesture by the Conservative Party and Prime Minister—which was demonstrated by the fact that the Prime Minister has told MPs this afternoon that when she made her "no deal is better than a bad deal" statement in the Lancaster House speech in 2017, it was "in the abstract"? She has now disowned it, which shows that it was never a real issue but was just political grandstanding.

Baroness Vere of Norbiton: No deal remains the legal default. I remind the noble Baroness that had no deal happened—obviously, we hope that it does not in future, either—there would have been a significant constriction of flows of trade across the short straits between Dover and France to perhaps 12% to 13% of what is currently is. That is why we had to take out these contracts. The contracts were to other ports; they made sure that important class 1 goods—medicines and things that noble Lords would find to be extremely important and beneficial to our citizens—would get through.

Census (Return Particulars and Removal of Penalties) Bill [HL]

First Reading

3.48 pm

A Bill to amend the Census Act 1920 and the Census Act (Northern Ireland) 1969 in relation to the provision of particulars about sexual orientation and gender identity.

The Bill was introduced by Lord Young of Cookham, read a first time and ordered to be printed.

Courts and Tribunals (Online Procedure) Bill [HL]

First Reading

3.48 pm

A Bill to provide for online procedures in civil and family courts in England and Wales in the First-tier Tribunal and Upper Tribunal and in employment tribunals and the Employment Appeal Tribunal.

The Bill was introduced by Lord Keen of Elie, read a first time and ordered to be printed.

Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation

Motion to Regret

3.49 pm

Moved by ***Lord Whitty***

That this House regrets that the Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation, while differing significantly from the precursor European Union-Swiss Agreements, does not make adequate provision for trade in services.

Relevant document: 33rd Report from the European Union Committee

Lord Whitty (Lab): My Lords, I tabled this Motion to Regret, effectively on behalf of the EU Select Committee, as the only way available to us to register with the House as a whole our concerns over these so-called rollover treaties—rolling over from EU treaties to UK treaties. There are also implications in the way we are dealing with these for the role of Parliament and of this House in dealing with trade treaties in the future.

First, I emphasise that, contrary to frequently heard claims that these rollover treaties are simply a matter of "delete 'EU' and substitute 'UK' and all will be fine and relations will continue more or less as before", in fact this Swiss treaty in particular is decidedly not an equivalent substitute, either in form or in substance, to the arrangements with Switzerland that the UK enjoys as a member of the EU. This is despite the fact that both the UK Government and the Swiss Government genuinely wished for as little change as possible.

Secondly, unlike most of the other treaties with smaller states that our committee has so far reported on, Switzerland is a major trading partner for us in the UK. Indeed, in terms of goods and services, Switzerland is our 10th-largest trading partner. Of course, seven of the first nine are members of the EU; hence, after the US and China, Switzerland is actually the third-largest non-EU global market for the UK. That makes the treaty important in itself, as well as for what it implies for the process.

Thirdly, the House needs to understand the difficulties of having allocated the scrutiny of these rollover treaties to the EU Select Committee and its sub-committees, which have very limited powers. In effect, they are dealing with a fait accompli: a treaty already concluded and signed by the Government.

Lastly, I want to cover the long-run situation, which may be the most important. There is no way in which this Parliament and this House should accept that this extremely limited role for dealing with future trade treaties should apply after this rollover process. I thank the Government for the various publications they have provided as background to this and for continuing to do so for all the treaties we consider. I also thank the Minister for her letter on 20 March, which set out some of the understanding behind this treaty. The House needs to understand, however, that the EU Select Committee's work in scrutinising this treaty and all the other treaties is a completely new and major task for the committee, and particularly for its staff.

The committee recently published its 10th such report, and those 10 reports cover more than 40 separate treaties. We have gained experience in analysing these agreements, but they have actually raised new issues for this House and for Parliament as a whole. Initially, the draft treaties coming through to us were either to deal with relatively small volumes of trade with small trading partners, or else agreements with larger trading partners but for only one particular sector. The sequence of treaties coming through was a little odd and seemingly random. At one point it appeared that either the Department for Trade or the FCO had a policy of prioritising all such treaties that dealt with the wine trade: perhaps Members of the House would appreciate that sense of priority, but it did seem slightly odd.

Dealing with bitty treaties such as this means that some important, multifaceted agreements that the EU previously had with Japan, South Korea, Canada, and Mercosur in South America have yet to be concluded by the Government, let alone seen by Parliament. Of course, originally all this process was supposed to have finished by 29 March.

Scrutiny of treaties has by necessity been improvised and is limited in two senses: by the limits of Part 2 of the Constitutional Reform and Governance Act 2010 in general, and in particular in relation to this House. That Act constrains the role of this House effectively to comment and advise, the House of Commons having the sole right to reject or send back any treaty. Even then, as I say, the parliamentary scrutiny is limited to the very end of a negotiating process. None the less, I emphasise the importance of this exercise and I hope that as we go forward, and certainly as the larger treaties move centre stage, the House engages with the committee's report. In addition, it also leads on to the way in which post Brexit we will be dealing with trade around the world.

It is perhaps an unsought benefit for the Government that the extension of the date of the end of the Article 50 process has given us a bit more time to consider these treaties. However, we will need to be quite focused during that time if we are to finish even by the latest putative date of Halloween.

On the Swiss treaty itself, much of its complexity reflects the fact that pre-existing relationships between the EU and Switzerland have been complex and subject, frankly, to some disputes and historic vicissitudes. As a result, there has been no single comprehensive free trade agreement between the EU and Switzerland; instead, there are over 100 bilateral treaties. This treaty itself claims to roll over eight of those existing treaties, which are the most important trade-related treaties. In format, therefore, this treaty is nothing like the pre-existing EU arrangements but the substance is more important, and I will focus on that.

First, and most blatantly, there is the lack of coverage of trade in services and the interrelationship between the trade in services and the movement of people. There are also a number of EU-Swiss provisions which have been disapplied in this rollover agreement or are dependent on further agreements, either between the

UK and the EU or Switzerland and the EU, and in some cases feature agreements with third countries. The extent to which any future changes will be subject to an appropriate level of parliamentary scrutiny is also an important issue.

On services, therefore, this agreement almost exclusively covers trade and the procurement process. However, over half the UK's trade with Switzerland consists of services. Indeed, whereas on goods the UK is in slight deficit with Switzerland, in services the UK has a substantial surplus of £8 billion, including £5.5 billion on business services and £1.5 billion on financial services. My sub-committee, which dealt with this, had highlighted the importance of services trade to the UK economy in one of its early reports on the Brexit process. It is therefore regrettable that the agreement before us fails to account for future UK-Swiss trade in services. The parliamentary report accompanying the agreement and the subsequent letter from the Minister state that there is no comprehensive agreement on trade in services between the EU and Switzerland to replicate. I accept that, but the same can be said of goods, as I have been explaining, in that there are several agreements between Switzerland and the EU on goods, yet the Government have contrived here to present us with a single trade agreement.

This is in sharp contrast to the patchwork approach to services. In addition to this supposedly comprehensive agreement on goods, the Government have so far laid four separate agreements relating to particular aspects of EU-Swiss trade in services, all of which were presented to Parliament in January and February and dealt with by the EU sub-committees last year.

There is the agreement on air services, on international carriage of passengers and goods—although the pre-existing agreement also covered rail, which this one does not—on direct insurance other than life insurance, and on citizens' rights. This fragmented approach to services makes it very difficult to assess the totality of future UK trade in services and to understand what are the gaps and what the impact will be. I will touch briefly on the substance of the other agreement I just referred to. I note in particular the agreement on citizens' rights, as it includes citizens' ability to deliver services—much of services trade depends on the free movement of persons. It includes, for example, the temporary preservation of the current 90-day service provision, but only for five years. Do the Government wish to extend that in subsequent agreements? The agreement was separately scrutinised by the EU Justice Sub-Committee but, because freedom of movement and such issues as mutual recognition of qualifications have such an important implication for trade in services, they also need to be considered in this context.

4 pm

The agreement with Switzerland on air services was dealt with early on: we sought to retain the existing arrangements and nodded it through. Since then—this is perhaps incidental to the main point of the debate—we were expecting a large number of treaties on air services with various countries around the world to be subject to scrutiny, but those putative treaties have since been reduced to memoranda of understanding, thereby entirely avoiding parliamentary scrutiny. I am not entirely sure of the rationale for that, and perhaps the Minister can explain, because it is on the face of it a way to evade parliamentary scrutiny. I reiterate that this fragmentary process is regrettable, as the absence of proper provision for services does not give us a clear way forward in the development of UK-Swiss trade and is in no way a simple process.

I turn to what is covered by the agreement, the trade in goods. A number of elements of the precursor agreement have been disapplied. Other elements cannot come into force until we have other agreements. One of the somewhat technical but important trade aspects of this is that the issue of cumulation arises. As I have often said to this House, any trade agreement short of a full customs union and single market is inevitably not exactly frictionless. In particular, there are always rules of origin involved. In the world in which we now live, where many products are multi-sourced in their components, rules of origin involve parts of goods being made in several different countries. The issue for a bilateral treaty is when they are regarded as the equivalent of being produced in one of the parties to that agreement.

In this case, there are a number of complicated provisions, some of which depend on a future agreement between Switzerland and the EU and the UK and the EU, some of which potentially involve a large number of other countries. For example, the existing treaty refers to all the EU arrangements with PEM countries—the pan-European Mediterranean area—which are treated by the EU as the equivalent of EU production. But that will depend on each one of those countries—20-odd—reaching a future arrangement with Switzerland and with the EU if they are to be treated the same in future.

The mutual recognition agreement allows goods with attestations of conformity in terms of regulation from one market to be sold in the other without any need for further certification. Twenty or so sectors are covered by the EU-Swiss agreement but only three are covered by this one. Admittedly, they are the largest and most important sectors and, by and large, the sectors covered by international standards because the manufacturers work globally. Nevertheless, the agreement is silent on 17 other sectors. Are the Government trying to agree a more basic MRA for those sectors, some of which are important to particular firms in the UK? It would be helpful if the Minister could indicate whether subsequent revisions are intended to cover them.

Then there is agriculture. The agricultural deal with Switzerland is significant. The Government have been unable to agree a transition for precursor agreements relating to the labelling of organic products, sanitary and phytosanitary measures for plant health, animal feed, seeds and so forth. We have passed SIs to enable the Swiss to export their organic products here, but there is no mutuality at the Swiss end as yet. Of course, our organic sector exports some goods to Switzerland. Trade in other agricultural products could continue although certain facilitations will drop away. However, Switzerland will be able to accept imports of animals and animal products from the UK only once the UK has been listed by the European Commission as having appropriate regulation in this area. It would

[Lord Whitty]
be useful for the agricultural sector to know whether there is a timescale for that and whether we expect the Commission to follow it graciously.

The customs security agreement is incorporated but then disapplied, again because it requires the UK to have an agreement with the EU on safety and security before it can be applied to us and Switzerland. A rather troubling consequence of that is that each party will no longer recognise the authorised economic operator scheme of the other—a particularly important issue for road haulage.

There is also the procedural question of how the future arrangements will work in terms of revision. As noble Lords will have gathered, I hope for significant revisions to cover these gaps in future. This raises the issue, which the House has raised generally, of the scrutiny of joint committee decisions, which are set out under these and other treaties. It must be stressed that it is not clear whether changes agreed by joint committees will be subjected to the same level of scrutiny, inadequate though it is, that we apply to the treaties. It is clear that any amendments that are subjected to the CRaG procedure will be covered by some degree of scrutiny; the issue is whether all future agreements fall under the context of the CRaG arrangements. It is not clear which class of agreement will invoke CRaG.

This gets us on to the question of the future scrutiny of trade agreements. It has to be said that the present arrangements are not very satisfactory, as I have spelled out. The reality is that we have received from government departments only a fait accompli at the end of the line and in a rather random order. I am particularly concerned about future trade treaties since, in reality, this represents a significant reduction in the parliamentary scrutiny we have enjoyed for nearly 40 years, to a large extent through our membership of the European Union and the role of the European Parliament, and particularly through the more detailed provisions since the Lisbon treaty. If Brexit happens, whoever is in government will need to recognise that provisions which limit the role of Parliament in signing off a fait accompli at the end of a lengthy negotiation do not amount to parliamentary scrutiny in any meaningful sense. The complexity of this Swiss treaty underlines the range of topics and interests that potentially will be affected by the process of treaty-making itself.

At some point we will receive from the Government supposedly rollover treaties with Japan, Korea, Canada and so forth, and we need to get this right by the time we do so. We also need to set the right precedent for dealing with treaties in the future as we move into the new alleged global Britain in a post-Brexit world. My view is that we need a trade committee in this Parliament covering all future free trade agreements or possibly a more general treaties committee. I personally favour the former, as I do a joint trade committee of both Houses which will allow it to have appropriate authority. At the moment, frankly, we have minimal authority even on these effectively rollover arrangements. We are dealing only with a fait accompli. The European Parliament dealt with the negotiating mandate, with the process of negotiations, the final draft and the signing off of the treaty. Very similar arrangements in a slightly different context apply in the United States and, to some degree, in other countries such as Canada and Australia. It would be wrong if this Parliament and this House did not have the same deal and the same appropriate level of scrutiny.

Some of that is for a later stage, but most of it arises through looking in detail at this Swiss treaty. I welcome comments from the Minister and from other noble Lords, some of whom may have participated in the scrutiny of these treaties. I beg to move.

Lord Robathan (Con): My Lords, it is a pleasure to follow the noble Lord, Lord Whitty, not least because he chairs the sub-committee of which I and several other noble Lords present are members. He chairs it rather well, which sometimes can be irritating because one would like at least to be able to poke a bit of fun at him. However, I do not entirely agree with him on this issue, although he has raised some good points.

I shall be brief and raise but three points. The first is that what comes through from this agreement is the good will on both sides which led, whatever the defects which have been pointed out, to a relatively easy agreement. I hope that that will be the same when it comes to agreements with the EU as a whole, because I have to say that it has not shown quite as much good will as one might have hoped.

Lord Deben (Con): Oh!

Lord Robathan: I hear the noble Lord, Lord Deben, expressing a bit of irritation from a sedentary position, but I recall that Monsieur Barnier said that he wanted to "educate" the British people, which I think is called "teaching them a lesson". However, people in this House have different views, which is still allowed as far as I am aware.

My second point is that I hope that, when the Minister comes to reply, she will answer some of the points set out by the noble Lord, Lord Whitty, and in particular that she will give a fuller explanation of why services are not included. It may be that they are covered in some other way. I do not know, but we would wish to hear that explanation and indeed, the explanation that the noble Lord, Lord Whitty, has asked for.

My third and final point is more one about general procedure. It is fair to say that we in Parliament, be it in the Commons or in the Lords, have not undertaken great scrutiny of the trade agreements made between the EU and other partners. That is a fact. They may have been scrutinised by the European Parliament, but they have not been scrutinised particularly well here. I sat in the Commons for 23 years and I do not remember a lot of such scrutiny, although perhaps I was sleeping at the time—you never know. When it comes to parliamentary scrutiny, which as the noble Lord has said is absolutely vital, there is a balance to be struck. Treaties are not actually made by parliaments; they are made between Governments. We are discussing treaties here and, while it is easy for us to sit back and scrutinise, it would be difficult for us to make treaties with Switzerland or wherever it might be because, of course, a parliament, be it the other place or here, does not have the facilities to do so.

While I do not particularly regret the agreement, I support the noble Lord generally because he chairs the committee rather well.

4.15 pm

The Earl of Kinnoull (CB): My Lords, I congratulate the noble Lord, Lord Whitty, on tabling this Motion and providing a mechanism for the House to discuss these very important issues. I sit on the EU Select Committee and its EU Justice Sub-Committee. The reason for my mentioning the latter committee will become clearer later in my short remarks.

The noble Lord, Lord Whitty, made a good case about the size of the trading relationship between Switzerland and the UK, and a good summary of that is laid out in the Select Committee's report of 12 March—HL Paper 315. In that summary, there is evidence of an important thing to remember in trade, and that is that services and goods are now interlinked. When you sell a good, you often have a service alongside it. Evidence of that is immediately visible because so much of the goods traded in Switzerland is precious metals, and of course a lot of that is really evidence of the physical delivery of an underlying metal trading mechanism that is going on. Therefore, any damage one does to the ability to trade services will inevitably impact on the ability to trade goods. It is incredibly important to make sure that those two things are in alignment. It is mutually beneficial to have clear arrangements for the trading of both goods and services.

I shall make only two points. My first point concerns complexity. The Swiss ambassador told us in mid-November that he had had a hand in handling more than 100 bilateral agreements that Switzerland has with the European Union, and he explained to us the sheer complexity of that beast. There is one piece of good news about that beast—I am looking at the Minister—and that is that, although the tentacles on the top of the beast are complicated, underneath the surface of the beast is a joint committee which has access to various processes and remedies which are common among the 100 or so agreements. So there is complexity on the top and simplicity on the bottom, but it is very important to marry up the goods and the services.

The complexity that we are already developing has been listed. We have the scheduled air services agreement, the carriage of passengers and goods agreement, the non-life direct insurance agreement, the trade agreement and the citizens' rights agreement, which I shall come to in a second because the EU Justice Sub-Committee examined it. The complexities were acknowledged to us in a generous and helpful letter from the Minister to the Select Committee on 20 March. Perhaps I may take a brief loop here and say how helpful the officials in the department have been to our colleagues in the European Union Committee and how much we value the quality of that relationship. We are drinking from a firehose in learning how to scrutinise these things, and the officials are being most helpful.

Turning to the citizens' rights agreement, as the noble Lord, Lord Whitty, has pointed out, the trade agreement contains nothing on services—there are no services provisions at all—and so far we have had two of the five agreements which contain a bit on services. We have my own home territory—non-life insurance—and I can confirm that that agreement, although I was not a scrutineer of it but it did come through the main Select Committee, is word for word the same as the successful agreement that exists between Switzerland and the EU. It is an important piece of the interconnectivity and mutualisation of insurance across Europe that has gone on for many years.

The fifth of the agreements to appear was the citizens' rights agreement, which includes a big hunk of the freedom of movement agreement within it. Unlike the other four agreements, it is not a rollover, as the noble Lord, Lord Whitty, pointed out; in fact, it is a sort of orderly winding down of the various rights. There is a protection of the rights of the 14,000 Swiss citizens living in this country and the 14,000 British citizens living in Switzerland, and the protection of the rights of about 2,500 border officials. One of its key benefits, as was mentioned by the noble Lord, Lord Whitty, is the 90-day services provision rules, which allow me to go to Switzerland lawfully and talk about insurance with a view to selling a service and to do so for 90 days in a year. It is enormously helpful, both for Swiss people to come here and for us to go there. Suddenly to find that, in this thing that is working so well, there is a sunset clause five years out—a cliff edge—is very disappointing. It would be interesting to hear the logic for having inserted that because, if it was not needed by the EU, I do not see why we need to have one now.

We discussed with officials how Parliament might scrutinise what will be a very important decision of the joint committee to extend that five-year period. It will be an extremely important decision both for Switzerland and for the United Kingdom. They said—I shall quote from our report:

> "In response, officials advised that no decisions had yet been taken on scrutiny arrangements for such a decision, given that it would not take place until five years after the specified date".

It would be very helpful if the Minister could commit to the House that at least there will be a scrutiny mechanism, albeit that I realise that she cannot say at the moment what it would be.

Finally, I feel I must come back to the point on complexity. My mind goes back to the very interesting hour and a half we had with the Swiss ambassador who talked about complexity. It would be enormously helpful if the Minister could commit to provide consolidated guidance on the eventual list of agreements between the UK and Switzerland and to place that on the GOV.UK website. Then British businesses—and, indeed, Swiss businesses—that want to know what the deal really is will not have to look at a lot of different bits of guidance but can look in one consolidated place. That single thing would help trade between our two old and very friendly countries a lot.

Lord Purvis of Tweed (LD): My Lords, we are indebted to the noble Lord, Lord Whitty, and to the other committees that have done such forensic scrutiny on this agreement for highlighting so many constructive areas for questioning by the noble Earl and the noble Lord, Lord Whitty. I have two or three questions to add and I shall emphasise a couple of points.

[LORD PURVIS OF TWEED]

What we are debating today is a clear example of how it was never going to be simply a "cut and paste" or "merely technical" exercise to roll over existing agreements. Their breadth and complexity are now clear to see, especially in the context that our trading relationship and wider relationship over people, goods and services is included in 140 agreements between the EU and Switzerland, while this agreement covers only eight of them.

It is also worth noting that we have an opportunity to debate this significant measure because of the Motion tabled by the noble Lord. Before the Recess, I tabled similar amendments in relation to the three previous agreements. It surely cannot be the way forward for the only way for us to have parliamentary debate on these agreements and treaties in this House to be for Members from opposition parties to move regret Motions and amendments. There has to be a more constructive way for the Government to bring forward proposals for Parliament to have an opportunity to debate them. We made this case during the Trade Bill, and we are waiting to see whether it comes back to this House after consideration of Lords' amendments by the other place. Some of those amendments were to try to ensure a greater degree of parliamentary scrutiny throughout the process, from the start of negotiations right through to the end and the approval of the negotiations. We took in good faith the intention expressed in the Government's Statement about an enhanced parliamentary role in scrutiny, but that will be tested when the Government have an opportunity to consider the amendments that this House made to the Trade Bill. We are waiting to see what they will do.

As the committee indicted, this agreement raises constitutional implications about scrutiny, not only of the merits of the agreement itself but of the mechanism for amending it, about how the joint committee will operate and the noble Lord's significant point about MoUs. There is quite a lot of leeway for the Government to have trade agreements through memoranda of understanding if domestic legislation does not need to be amended, but it could be very broad leeway when it comes to trading policy, and if it were a means of bypassing Parliament, that would be very regrettable. The single aviation market and the open skies agreement between the EU and the US are very good examples of where proper scrutiny rather than simply an executive-to-executive arrangement is required.

However, we are where we are. This agreement was perhaps started in a very false political context and through a rather unseemly political process to try to get agreements in place before what would have been Brexit day. I hope that this slight window of opportunity allows us to take some deep breaths. What had seemed to be rollover agreements could well now be seen in their proper context of an ongoing permanent trading relationship with those countries, should we leave the European Union. However, as with the earlier rather tortuous Private Notice Question about ferry contracts, it begs the question of what will happen in six months' time if we are in the same situation as we were before 29 March. The clock is ticking towards another situation—there are about six months to go—and there seems little clarity about our preparedness for it.

I turn to the agreement itself. The noble Lord, Lord Whitty, and the noble Lord Earl talked about the scale of our trading relationship with Switzerland, which is very large. I noted a comment online from a professor at Geneva University which summed up that this is not simply about the UK's trading relationship with Switzerland; it is also about the UK, Swiss and EU relationship. Going forward we simply cannot separate out those three, as I think is recognised by both Houses. The professor said of the Swiss relationship with the European Union:

> "It's like the moon around the Earth: The force of attraction of the European Union is such that you can't have all the autonomy that you want".

Therefore, even in the context of Brexit, we will still have a bilateral relationship which, in many respects, will be dominated by the relationship with the European Union. Brexit will not mean that we are immune from the laws of trading gravity.

The Government's report on the agreement clearly shows that some of the most crucial elements of the trading relationship, such as customs facilitation and security, or animal and plant health requirements, will still depend on the positon that the EU takes and then the position that we take in our relationship with the EU. Many noble Lords have been aware of this. Some countries were simply not in a position to sign a rollover agreement before Brexit because, justifiably, they were waiting to see what the future relationship would be. Therefore, it is little surprise that, of the 140 agreements with the EU, only eight have been able to be rolled over in this agreement. Even within some of those eight, as the noble Lord, Lord Whitty, said, some key components have had to be disapplied as we wait to see what our future relationship and agreement with the EU is. By definition, in a no-deal scenario much of our relationship would be at risk in six months' time.

With regard to the agreement itself, I have a number of questions arising from the very thorough contribution of the noble Lord, Lord Whitty. As he indicated, only three of the 20 sectors of the EU-Swiss mutual recognition agreement are covered by this treaty. Of those, as the agreement states, we are waiting on the recognition of equivalence of rules between Switzerland and the EU. When do the Government estimate that we will reach a position of clarity on that? Elsewhere, it is indicated that the Government are looking for "simplified arrangements". What is being considered as far as mutual recognition agreements and simplified arrangements are concerned, and when are they likely to be brought forward?

On agricultural products and those significant areas that have been disapplied, including sanitary and phytosanitary measures for plant health, animal feed, seeds and the trade in animal products, the Government indicated in their report that there were,

> "requirements for equivalence or harmonisation with EU law and systems".

What is the Government's intention with regard to those in a no-deal scenario, when there would be no move towards agreement on equivalence or harmonisation? What is the Government's intention with regard to how those harmonisation elements would be brought about?

4.30 pm

On the applicability of the certified-for-organic products, it is interesting that we have been able to secure continued recognition of organic products only from Switzerland; there is as yet no equivalence or reciprocity for that. When do the Government expect this to happen, or is that, again, to be dependent on the long-term relationship with the EU?

Perhaps the most concerning element in the Government's report is on customs security. The agreement made with Switzerland on customs security is not only about trade facilitation. The ease of trading with or transiting through Switzerland, certainly by road transport, has depended on there being no necessity for paperwork, advance notification or other processes. These will have to be put back. There will be a direct burden on British businesses because the authorised economic operator status of British businesses will not be recognised by Switzerland. What is the estimate of the impact of this? How many British businesses already have authorised economic operator status and what is the likely impact on these businesses?

My final point on the committee's excellent report concerns consultation. During the Trade Bill, we debated consultation, particularly with the devolved Administrations, considerably. We regret to see a lack of information on the consultation carried out on this issue. I hope the Government can indicate what consultation was carried out and what responses were given by the devolved Administrations—if indeed they were asked.

Given that so many aspects of this agreement will depend on future relationships, both between Switzerland the EU and between the UK and the EU, I hope the Government can take an opportunity to pause. This is no longer of urgent necessity with regard to a looming Brexit deadline; that has now passed and there should be an opportunity, with a little sense, to look at a more comprehensive long-term agreement. The Swiss have stated categorically that key parts of this agreement will depend on decisions made at an EU level. While UK-Swiss trade is very important to the Swiss, EU-Swiss trade is of a massively higher order. Their consideration of a pending framework agreement with the EU is critical to them.

Ivan Rogers, our former ambassador to the EU, is quoted as saying that he spoke at length to Swiss officials about their experience of negotiating with the EU. They told him that their message was:

"Everything, in every sector of your economy",

will need to be discussed,

"with the European Union, for evermore".

We are going to be in that position, and we need the parliamentary mechanisms of scrutiny to ensure we get the best deal that we possibly can.

Lord Kerr of Kinlochard (CB): My Lords, I congratulate the noble Lord, Lord Whitty, on his authoritative introduction to his Motion. I am not competent to comment on the detail, but I agree very much with the general points on which he ended, about how we should be scrutinising trade agreements. I should like to strongly support that.

When Speaker Pelosi was in London and issued her warning about the effect on the American body politic if we were to mess up the Irish frontier, and the effect on the possibility of getting Congress to agree to any trade agreement with the UK, she was not threatening us. She was telling us a plain fact: that is the case. The power of the US Congress in matters of trade does not mean that it negotiates the agreement, but it strengthens the hand of US negotiators no end. They are able to say, "You have a point and I understand your point, but I have to tell you that I could never get that through on the Hill". Probably, they are sometimes telling the truth, and sometimes they are not. It would strengthen the Government's hand in trade negotiations if there was a kind of powerful joint committee of the two Houses, as the noble Lord, Lord Whitty, recommends. I must say that I very much agree with him.

I shall make two other points. One follows on precisely from where the noble Lord, Lord Purvis of Tweed, ended and is a point of detail. The second is a sad, bittersweet point.

The last document in the edition of the treaty that we have been shown is the *Joint Declaration Concerning a Trilateral Approach to Rules of Origin*. In this joint declaration, the British and the Swiss agree that the preferred outcome on cumulation would be a trilateral approach with the European Union. That is clearly the case; I understand that. The excellent report from the EU Select Committee says that, after three years, the cumulation arrangements set out in the treaty will be up for review. To quote the report:

"DIT officials did not foresee difficulties in securing basic cooperation arrangements with the EU in a 'no deal' scenario".

The committee then comments,

"this does not seem unrealistic, as the rules on cumulation also benefit European suppliers".

Everything there is true, except the word "unrealistic". The European Union has told us what would happen in the event of no deal. In that event, there will be no deals on anything until we have addressed the questions of finance, citizens' rights and the Irish frontier. It has been quite open on that. If we were to be landed with a Prime Minister who was happy with no deal, or perhaps even a Prime Minister who thought that we should not pay what we owe, there is no possibility of European business and industry overruling their Governments and ensuring that their interest in trilateral cumulation wins. Politics will win.

Think of the history of the City of London's rather clever ideas on mutual recognition and dynamic equivalence in financial services. These were very impressive, with complex architecture being worked out in and with the Bank of England. These ideas are dead. The political declaration attached to the withdrawal treaty makes it clear that they are all dead; there will not be mutual recognition or dynamic equivalence. That is in a situation in which the European Union expects a deal. In the event of no deal, I am afraid it is unrealistic to think that trilateral cumulation on rules of origin would happen. Therefore, although this is an extremely helpful report, and I agree with nearly everything in it, I disagree with two letters: the "un" in "unrealistic".

My third point is the bittersweet point. On this date 15 years ago, 10 countries joined the European Union: Poland, Hungary, the Czech Republic, Slovenia, Slovakia,

[Lord Kerr of Kinlochard]
the three Baltic states, Cyprus and Malta. Many joined feeling very grateful to the United Kingdom, going back to the inspiration of Mrs Thatcher's Bruges speech—the bit that none of us remembers, about how the great cities of central and eastern Europe should also be brought into the comity and community of the European Union. That was inspirational to many behind the Iron Curtain at the time. John Major's Edinburgh European Council text, which produced the Copenhagen criteria, which produced the drive, strongly supported and led by the United Kingdom with the Danes and the Dutch to bring in the countries of eastern Europe as soon as possible, is remembered in eastern Europe. Tony Blair's generosity, with the pre-accession aid being unrebated by our choice, is remembered in eastern Europe. We might have forgotten all that; they do not forget it and they wish we still felt now as we did then. So do I.

Baroness Donaghy (Lab): My Lords, I agree with my noble friend Lord Whitty. This is not so much an umbrella agreement as a safety vehicle—an ambulance, if you like—designed to ensure that at least eight existing trade-related treaties between the UK through the EU and Switzerland can continue. Any matter that does not require EU consent, approval or agreement in future is simply rolled over. Where EU authority would still apply, those matters are disapplied from this agreement, with a promise of future discussions.

As many noble Lords will know, my trade is as a negotiator. I would have loved to have been a fly on the wall with these particular sets of negotiations. I do not know whether there is an off-the-shelf negotiating skills kit in existence, but the basics should include: agree where you can agree; identify where third-party agreement is required and the timetable for achieving it; set out a plan for future consultations on the remaining issues, no matter how vague; and then sell the deal to one's constituents.

Plans for future consultations will be a priority, in the form of enhanced mutual recognition agreements, as set out in this deal, memorandums of understanding or exploratory discussions, with the aim of modernising and developing existing provisions. That is the sweetener. This trade agreement breaks no new ground, so I would like to ask the Minister whether this is a holding operation just to keep the show on the road, or whether there are elements that take it above an administrative exercise.

I appreciate that, until we achieve a deal or no deal—if we can call that an achievement—there will be areas that require EU involvement, so I accept that little progress can be made at the moment. Equally—I agree with the noble Lord, Lord Robathan, who is not in his place—this exercise shows considerable good will between the parties, which it is important to build on, especially with the intention to modernise or develop provisions. However, it does not give much confidence when the parliamentary report states that, in respect of the EU, cumulative provisions will be revised three years from the point of the UK's exit from the EU—and subsequently DIT officials say that this was a mistake. The review period apparently will start when the trade agreement takes effect.

My noble friend Lord Whitty has already said how important trade is with Switzerland, so I will not deal with that, but although important areas of trade are covered, large proportions depend on any future arrangements with the EU. There is a memorandum of understanding to continue discussions on the disapplied customs security agreement, chapters on the agricultural agreement and an enhanced mutual recognition agreement between the EU and Switzerland covering the recognition of manufacturing goods. As the noble Lord, Lord Purvis, said, only three of the 20 have so far been agreed. Of the other 17, the major one outstanding would be on machinery. So it would be useful if the Minister could update us on any progress in the negotiations in those 17 outstanding areas.

4.45 pm

I understand that the joint committees provided for in the precursor EU agreements have been re-established to ensure good governance, which we all agree is important. Can the Minister inform the House whether any amendments to those joint committee decisions would be subject to parliamentary scrutiny? This point has already been raised, but it is extremely important to know where the Plimsoll line is between those that are clearly subject to the Constitutional Reform and Governance Act 2010, and those where there might be a grey area but where Parliament is hungry for further involvement and consideration.

The noble Lord, Lord Robathan, made the point earlier that up to now Parliament has not taken an awful lot of interest in some of the negotiations and treaties that the EU has made. But there was provision for that consideration and scrutiny to take place. If what he said is true, I do not know whose fault it was that this was not done properly. There is scrutiny in the infrastructure; it is allowed for and encouraged. If it was not taken up, that is our fault and not that of the EU.

My final point is that we would like some clarification on the implications of not having a comprehensive service deal. We know that it is in bits and pieces, but what are the implications of that? What are the implications of any failure to achieve mutual recognition of professional qualifications, particularly in those areas—legal, accounting, management consulting, finance, computer and telecommunications services—in which, as I have said before, we have a substantial trade surplus that we would want to hang on to.

Referring very briefly to the Constitution Committee's recent report on parliamentary scrutiny of treaties, it points the way forward. The proposal to establish a treaty committee is welcome. It may be that a Joint Committee is appropriate, but the priorities of the two Houses often differ, and I would support the idea of a House of Lords committee on this. The Government's commitment to provide more information to Parliament at the beginning of the process for making free trade agreements is very welcome, as is the commitment to provide Select Committees with sensitive information about free trade agreements on a confidential basis. I assume that there will be an opportunity to debate the Constitution Committee's report in due course, but in the meantime I hope that the Minister can help us on the questions I have asked about whether this is a

holding operation, whether progress is being made on the 17 outstanding sectors, how thoroughly amendments made to Joint Committee decisions will be able to be scrutinised by Parliament and what the implications are of no services agreement and no mutual recognition of qualifications.

Lord Hannay of Chiswick (CB): My Lords, unlike many previous speakers in this debate, I am not a member of the sub-committee chaired by the noble Lord, Lord Whitty, although I do strongly agree with and support his Motion to Regret. I should declare an interest. My noble friend Lord Kerr of Kinlochard referred to the good will we generated when the east Europeans, Cyprus and Malta came into the Community. We also generated quite a lot of good will in 1972, when I was a member of the team that negotiated the first free trade area agreement between Switzerland and the European Union. We were on our way in then, not trying to get out of the door, so no doubt there was even more good will around.

Like almost every speaker in this debate so far, I think that it has demonstrated how totally inadequate the procedures we are applying to this agreement are for parliamentary scrutiny of trade policy in the future. It will be of great benefit to us all, including the Minister, I hope, to have noted how toothless and useless this process is—other than to employ us all on an early summer afternoon in debating the matter—because there is absolutely no leverage here whatever. We can pass a Motion to Regret or we can reject the whole agreement, the first of which would be sensible and the second of which would be silly. However, what we cannot do is to influence the debate in any way.

Here I take up a point made by the noble Lord, Lord Robathan, who is not in his place, when he said that Parliament cannot be a negotiator of a trade agreement. Of course he is right, but that is not what is at issue. What is at issue, as it was when the Trade Bill was discussed at huge length in this House, is whether some process could be put in place by which Parliament could have a say in the basis for the negotiation before it began, could be briefed constantly during that negotiation and could have a reasonable opportunity to influence the outcome. The Minister will know of the amendment passed by this House, which went to the other place six or eight weeks ago. It has been some time now and I would be grateful if, when she winds up at the end of this debate, she can tell us how the Government's thinking is coming along on that matter because it will be rather important to know that. We may of course never see that legislation again, in which case it might be a waste of time, but that crucial point has been brought out by this debate.

The other point which has come out clearly is the lack of coverage of services, which really is crucial. The figure quoted most often is that 80% of our economy now consists of services; a very large amount of that consists of internationally traded services. In the absence of any coverage of them here or, far more importantly, in the political declaration agreed between the Government and the European Union—not yet and perhaps never to be approved by Parliament—the provisions for services are either absent or totally vestigial. That is an astonishing situation. It is often said, quite wrongly, that the European Union has not got very far on freeing up trade in services. That is complete rubbish; it has got a rather long way in so doing and has a long way further to go. We have been beneficiaries of the first part of that and we need to be part of the second because it is crucial to our future prosperity.

The noble Earl, Lord Kinnoull, spoke about the insurance industry. That is just one example but there are any number of others. Whether we talk about road transport, air transport, professional services, the legal profession, banking or the creative industries, there are huge areas of our economy which are simply not covered. I wonder why that is the case. Why is nothing said about this? Enough has probably been said about this agreement to enable all of us to realise that it is not a thing of great beauty. I suppose the best thing I could hope for is that it never enters into force.

Lord Wigley (PC): My Lords, as a member of the sub-committee chaired so well by the noble Lord, Lord Whitty, I am glad of the opportunity to pay tribute to him for his work as chair and to the work of the staff of the committee. A tremendous amount of work goes on and we, as a Chamber, are indebted to all the chairs who undertake such long and often painstaking work, over long hours, to ensure that the proper scrutiny goes on and that the work of the committees is effective.

In many ways, what we have before us today is a test vehicle, because many other treaties will follow and some of the points that have been made already, which I shall not repeat in detail, need to be dealt with now to ensure that we move things forward effectively. This matter is of interest to us all, whichever side we take on Brexit; we have to get the system to work whatever the settlement may be. I am very committed to the European Union, but I have to accept that it is important that we get things to work properly, whether fairly soon, after 31 October or whenever.

One question that clearly arises is our capacity to handle all these changes and all the discussions and investigations that have to go on—the capacity within Parliament on an elected level in the House of Commons and in our Chamber here, but also within the Civil Service. Do the Government have the capacity to handle things to the timescale within which they will have to be undertaken? Getting it wrong has a material effect on people involved in manufacturing, in trade and in services, so we have to get it right. It is better to get it right a little later than to be rushing in and getting it wrong soon.

The noble Lord, Lord Purvis, referred to getting the devolved Administrations involved. That does not mean just sending an email down the road to them and saying, "This is happening. Send your reply within three weeks and we await to hear that"; it means engaging with them and making sure that there is proper buy-in at that level. We need a harmonious approach so that some of the problems that may be seen from the devolved Administrations' perspective are dealt with at the right time and do not trip us up later.

I stress again the question of differentiation between goods and services. I always thought that this was an artificial differentiation. It is even more so now, because

[Lord Wigley]
we cannot just draw a line between them. We need a system that works not just for now but as things move forward. As what we have regarded as services in the past become an integral part of the goods that we may be dealing with, we have to ensure that our treaties are robust enough for those circumstances.

Will the Minister give some commitment as to whether the Government can deal with the trade implications of a no-deal scenario on 31 October? God help us that it does not come to that but if it does, can we realistically deal with it in a way that is fair and reasonable for all those diverse interests in our economy who depend on the answer?

Baroness Armstrong of Hill Top (Lab): My Lords, I too am a member of the European Union Select Committee—not of the same sub-committee as my noble friend Lord Whitty but of the External Affairs Sub-Committee. That committee has been considering several of the trade agreements. None of those that we have looked at deals with anything more than 0.1% of our trade. When I am feeling really cynical, I think that the amount of money we have spent getting to this stage of bringing the treaties to the House will probably be more than any of them bring in trade. Then I wonder at all this talk about saving so much money by coming out of the EU. Everything I hear contradicts that in all sorts of ways.

We are agreeing these treaties as emergency procedures to make sure that, if there was no deal, there would be some ability to continue to trade, but we have not had a real debate about what sort of relationship the Government foresee between this country and the rest of the world through trade. We have to think only of the Corn Laws and the huge divisions there were then: I often think we are in the same sort of period now, even though the world and trade have changed a great deal since the Corn Laws. We know that some members of the Government are speaking very loudly about totally free trade, where we can trade on our own terms with elsewhere in the world. I think that that is a fantasy; none the less, that is said by some Ministers, whereas others keep reassuring us that we will have regulatory standards that will protect the environment, food standards and so on.

5 pm

The reality is that we need a proper, honest debate about what the options are and where they take us. I too am disappointed that the noble Lord, Lord Robathan, is not in his place. I remember very well trying, in the other place, to get people to go on to the European Scrutiny Committee. They were never very keen in the Commons; however, it was on those committees that they had sight of the treaties on trade that were being signed, and where they had the opportunity to intervene. When our sub-committee met on a private basis, someone who had had responsibility for negotiating American trade treaties with the rest of the world made it absolutely clear to us—a point made by the noble Lord opposite—that Congress was critical; that they had to keep the Houses on the Hill involved, report back to them very regularly and be questioned by them, and that they would insist on minimum or maximum standards or particular things being negotiated in every trade treaty.

There is an idea that parliaments have nothing to do with this. Having looked at other places in the world, I think our Parliament does less on this than most. We are going to have to sort that. The Government need to talk with the public in real terms about what sort of relationship they are looking for with the rest of the world and how that will be expressed through our trade policy, and then with Parliament—probably at the same time—about how Parliament will have an input into the shape and so on of whatever trade treaties we may agree in the future.

Baroness Kramer (LD): My Lords, I cannot pretend expertise on trade Bills. We have heard brilliant speeches here today, but I want to raise four issues with the Minister.

The first is services. As the noble Lord, Lord Whitty, explained, financial services is the second largest arena in the services sector. Excluding the treaty on long-term insurance, many other sectors are governed by a number of equivalency agreements between the European Union and Switzerland, many of them designed with the City and the UK market in mind. I am completely unaware of what has happened to those and what the consequences of that could be. I would normally have seen any SIs concerning the financial services sector and I do not recall having seen SIs in this area, so I am quite worried, particularly as all this work was done with the expectation that we would have left the European Union by now and that those would have kicked in.

The second issue I want to pick up on is one that a number of noble Lords have spoken about: accumulation. If I were sitting in the Swiss position and allowing only a three-year period for accumulation triangulation to continue before it came up for review, I would be expressing the expectation that it would take three years for most companies to reorganise their supply chains in order to make accumulation in the triangular mode unnecessary. That would seem to greatly disadvantage the UK in the long run. Does the Minister have a reading on why that particular deadline was put in place?

The third area is mutual recognition agreements. I recognise that only about 10% of trade in goods between the UK and Switzerland is governed currently by mutual recognition agreements, but the continuity agreement basically covers only three-quarters of that. So about £500 million of exports from the UK to Switzerland each year are not covered by the rollover of mutual recognition agreements. Can the Minister tell us what the consequences of that are and whether she thinks that the additional cost of becoming certified in two jurisdictions is de minimis, or whether she sees that trade disappearing or transferring over to the EU? There is nothing here to give us any sense of the impact of that.

The last area that I wanted to pick up on was the authorised economic operator, but from a slightly different angle from that of my colleague. As I look at the document that was helpfully produced in February by the Department for International Trade, it says, interestingly, although most of the trade between the

UK and Switzerland is indeed governed by firms which have taken out authorised economic operator status or have been awarded it, that,

"Switzerland applies broadly the same checks to AEO and non-AEO traders".

I raise this because that coincides with most of the information that I have had from companies, that getting authorised economic operator status is exceedingly expensive, both to get in the first place and then to maintain, and it makes not the slightest difference when you get to a border—you are held up for just as long. Since this is the structure on which so many Brexiteers are building their expectation of how we would deal with the Irish border, will the department look at its own experience and understand that this mechanism does not work well at present and that no one seems to have come forward with any way for it to work efficiently or effectively in the future? It is evident from the department's own document that this is not an answer to the Irish border problem.

I will make one last comment and then sit down. My attention was originally drawn to this trade deal by the press releases at the time, and I was pleased that they were so positive, as was the press coverage: no disruption in economic and trade relationships between the UK and Switzerland. Yet when I dug into this—which others have done far better and more forensically than me—it was full of holes. I ask for there to be much greater consciousness of giving a full picture when reports are made both to the public and generally to this House. We all understand that these are difficult, but the pretence that they are easy, complete and deliver no change is a poor message to give the companies that will bear the burden of the loss of opportunity and access that is consequent on the shift from the current circumstance to this continuity arrangement.

Lord Stevenson of Balmacara (Lab): My Lords, this has been a very good debate, and, not the first time, your Lordships' House owes a considerable debt of gratitude to the EU Committee, and in particular to this sub-committee, for the hard work it has done in trying to bring together the arguments, the pluses and the minuses and the difficulties that we face in relation to this agreement. In addition, through this Motion today, my noble friend the chairman has been able to bring forward a much broader context within which we have to think harder about the processes and procedures we will need to have in place if we are not to repeat the mistakes that he has drawn to our attention today.

The regret in the Motion before us today is about the fact that the trade agreement that has been given to Parliament to consider does not have sufficient on services—all the arguments have been made clearly about that. However, in addition to the points about the specificity of services, is there not a slightly bigger worry behind all this? It must have been obvious to those negotiating on our behalf that, even though the figure of 80% of our economy may be different in practice, the relationship we have with Switzerland is based on a substantial volume of services activity.

If we have been unable to agree anything on services in this relationship, what does this say about our future ability to negotiate in a much broader context with all the countries of the EU, if we have to? What about the US and other countries for which our services, although valuable to us, may not stand in the same arrangement? Our failure to do it with a supportive friend—a country that has always been engaged with the UK—raises wider questions and leaves uncomfortable echoes for future arrangements.

When we look at the detail that the committee has pointed out, we see the omissions, changes, adjustments and disapplications. Although what we have today is a substantial document—my goodness it is; if those who have read it right through to the end are not concerned about how it distinguishes between the customs duties that will be applicable for gherkins, fresh or chilled, while aubergines go free, they are not doing their work, and I am glad someone else did it for me because I would have given up at that point, although it is quite late on—surely the issue here is that we are not getting what we think is the complete package. It is just a trade agreement, not the trade agreement that should be there. Therefore, my second worry is that we have been given something which is more to satisfy the vanity of those responsible for the department in relation to the promises given about the ability to do trade deals than it is about the specificity of our exporters and importers in relation to the country of Switzerland. That leaves me a little concerned.

The wider context of this is the question of scrutiny. Others have raised all the points and I do not need to go back through them again. We are still stuck trying to use 19th century resources and processes, relying on the royal prerogative, to try to take forward our treaties, when we need to replace them with a system that engages with the obvious interests in this House and the other place, the wider world and the devolved Administrations, to make sure that we can do something positive with our trade. That concept was debated at length on the Trade Bill, and I shall not go back over the issues. As has been pointed out, that Bill awaits Commons consideration of Lords amendments, but the irony is that if the Commons were willing to accept, at least in part, what has been put forward today—and we are certainly happy to talk about that—we would have a system that would set mandates, require Parliament to be kept abreast of developments and changes in the negotiations and recommend whether Parliament itself should ratify the end conclusion.

The Minister may reflect on the following question when she responds. If our EU Committee—or whatever committee structure is set up in future—had been given the chance to look at the mandate for this trade agreement and given periodic reviews of the discussions and debate and had the power to recommend whether it should be ratified, would we really be in such a mess on this issue as we are?

The Minister of State, Department for International Trade (Baroness Fairhead) (Con): My Lords, I thank the noble Lord, Lord Whitty, for drawing the House's attention to the UK-Switzerland continuity trade agreement. I add my thanks to him and the committee for their work. Just to read a synopsis of the report shows how much work has gone into this one agreement, so we owe a genuine debt of gratitude.

[Baroness Fairhead]

I also thank all your Lordships for contributing to this debate, which has been insightful and challenging. I welcome this debate and informed discussion about some of the details raised. As I understand it, the Motion did not engage the process under the CRaG Act, but I am keen to address the questions that have been put.

As for the committee's detailed examination, I am thankful to the noble Earl, Lord Kinnoull, for saying how helpful DIT and other officials have been. I will definitely take that back because that is how this has to work. The report created complements the explanatory materials we have, and will continue to, put alongside the agreements.

5.15 pm

Before I address specific questions on this agreement, a number of noble Lords asked where we are in the trade agreement continuity programme. I can confirm that the UK has continued to sign further trade continuity agreements since the last debate on the Chilean, eastern and southern African and Faroe Islands agreements. Since then, alongside the Swiss agreement, we have signed agreements with Iceland and Norway, Israel, the Palestinian Authority, the Pacific states and members of the CARIFORUM community. An additional trilateral agreement between the UK, Switzerland and Liechtenstein has also been laid before Parliament. Together, those agreements represent 51% of the UK's trade with countries and territories party to the EU trade agreements for which we seek continuity. Further details as the agreements develop will be available on GOV.UK. To address a number of questions, we continue to work with partner countries to secure further continuity agreements; the Government will keep the House informed as soon as those further agreements are developed.

Turning to the Swiss agreement, your Lordships have highlighted that Switzerland is one of the UK's most important trading partners. In 2017, trade between our countries totalled more than £32 billion. We have seen great growth. Between 2007 and 2017 our exports to Switzerland grew by more than 107% and total UK imports from Switzerland grew by 73%. Switzerland has strong economic and historical ties to the UK and, as a number of noble Lords mentioned, it has been open about its desire to maintain a close relationship with the UK as we leave the EU. I want to recognise that on the Floor of the House.

This agreement will serve as the basis for economic and trade relations between our countries. It will largely allow businesses to continue preferential trading. For example, through this agreement: the British vehicle sector can avoid up to £8 million a year in tariff charges; aluminium, precious stones and metal exporters could similarly avoid up to £4 million a year in tariff charges; and, importantly, our consumers will continue to benefit from more choice in and lower prices on goods imported from Switzerland, including vital pharmaceutical products.

As the House will know from previous extensive debates on trade, the clear priority is to deliver continuity through the trade continuity programme. This trade agreement replicates to the greatest extent possible the cumulative effect of those bilateral agreements that relate mainly to trade. However, as the noble Lord, Lord Whitty, and other noble Lords noted, the EU's current trading relationship with Switzerland is complex; it has been built over decades. There is no single comprehensive trade agreement between the EU and Switzerland, so those that relate primarily to trade—the eight agreements to which the noble Lord, Lord Whitty, referred—have been pulled together into one umbrella agreement.

Under the agreement, we have created that umbrella agreement and secured the full replication of all preferential tariff rates, including an approach to rules of origin—I will touch on them in a moment—that still allows the accumulation of EU content, the full continuation of reciprocal government procurement market access and the continued protection of geographical indications. For the most part, changes to the agreement have been made only to bring the agreements together under one overarching agreement and to ensure that they function in that bilateral context. However, there are further changes that the committee and the noble Lord, Lord Whitty, have highlighted, and I would like to address those in substance.

Some areas of the existing EU/Switzerland agreements are based on the harmonisation or recognition of equivalence of the rules between Switzerland and the EU. As the UK's future relationship with the EU is not yet agreed, it is hard at this stage to determine the implications in these specific areas for our relationship with both Switzerland and Liechtenstein. We have therefore had to suspend the application of those elements, and those include the customs security agreement as well as certain provisions of the agricultural agreement and the mutual recognition agreement. However, it is worth noting that we have secured full continuity for three of those 20 chapters: good laboratory practice, good manufacturing practice and motor vehicles. Those three account for around 75% of the goods currently traded under the MRA, amounting roughly to £1.6 billion of UK exports.

The noble Baroness, Lady Donaghy, asked where we were on the remaining 17 areas. We have agreed with Switzerland to revisit the suspended areas, with the possibility of reinstatement or replacement if we reach an agreement with the EU and therefore have a clearer idea of the future relationship. That is per the MoU we have published. In a no-deal scenario—I know that a number of noble Lords are concerned about this—we have sought to provide as much continuity as possible. There are, however, places where that is not possible; in such cases, it is likely, to pick up on the point of the noble Baroness, Lady Kramer, that businesses may face some additional administrative requirements, with potentially increased costs. Again, we have sought to minimise the effect: we have, for example, looked to include Switzerland in the Government's planned unilateral measures. They are not reciprocal, but could reduce the impact for businesses.

Additionally, we are still working with Switzerland to create further solutions that aim to minimise the practical problems for business. For example, the UK is working towards arrangements which allow for the mutual recognition of conformity assessment bodies

in the sectors covered by those suspended chapters. The clear aim is to have those ready for exit day. With those additional arrangements in place on the MRA, we assess that we would achieve a position of close to continuity for businesses in those areas.

The noble Baroness, Lady Donaghy, raised the rules of origin and the review mechanism. The interim review mechanism will apply only if the UK leaves the EU without a deal and that situation continues for three years. We are aiming to have a deal but, if we leave without one, we aim to have an ambitious relationship on services with Switzerland.

On the potential mistake by DIT officials, I do not have the details so cannot comment. However, I can confirm that what I said about when the rules of origin apply is correct.

The noble Lord, Lord Whitty, referred to the rules of origin. The agreement between the EU 27 for recognition of UK exports to Switzerland ensures maximum continuity. For other, non-EU, countries, it is correct that for accumulation to take place, bilateral FTAs need to be in place between the UK, Switzerland and those countries. However, we have already secured, for example, continuity agreements with Norway and Iceland, which are two of the relevant countries.

The noble Lord, Lord Wigley, said that much of this is within the focus of no deal and asked whether we have the ability and the capability. I know that a significant amount of work had been done with the aim of being ready for no deal on 29 March and clearly the additional extension gives us more time to put the preparations in place.

I turn to the issue of guidance for business. The noble Earl, Lord Kinnoull, made a strong point about consolidation of guidance. All I say is that businesses can look to the GOV.UK website for guidance on how to deal with changes to our trading relationship with Switzerland post Brexit. We have now pulled all the guidance together into one place and the aim is to have a system which funnels businesses to the exact responses to the questions they may have for their specific sector. We will provide further advice to businesses on all the trade continuity agreements to ensure that they are prepared for exit day, whatever form it takes. I am happy to write to the noble Earl and put a copy of that letter in the Library.

As noble Lords know, trade in services is crucial to the UK economy and trade with Switzerland is critical. We have secured agreements with Switzerland in areas of services. There is no single comprehensive services agreement. We have taken the patchwork that exists and continued with it. As has been mentioned, the agreements include air services, road transport and the critical non-life insurance area, replicating the effects.

We have also reached an agreement on citizens' rights. The agreement we have signed delivers on the commitment to safeguard the rights of citizens as we leave the EU. It protects the rights of Swiss nationals living in the UK and of UK nationals living in Switzerland whether we are in a deal or no-deal scenario. It ensures that we can continue to contribute to their communities. As with the citizens' rights parts of the EU withdrawal agreement, the rights include residency, access to healthcare and so on.

I realise that I am running tight on time so I shall try to highlight the key areas. The agreements on service providers will last for five years, which will allow for the 90-day service provision. There is an ability to extend if both parties agree to do so. Our aim is to have a new agreement in place and therefore that will take place only if that is not the case. The other element is the assumption that we will continue unless there is a compelling reason not to. We are close to finalising an agreement on transitional arrangements for workers moving between our states even in a no-deal scenario, and further details of this were published on 24 April. On a future agreement on services, in the agreement we are committing to further progress it within 24 months after we leave the EU. We will look for a more ambitious agreement.

Perhaps I may touch briefly on scrutiny because I know that it is critically important to the House. This is a continuity agreement and we have tried to make sure that we have as much continuity as possible. We sought to make sure that as much as possible is done and we have put in place a joint committee to oversee any changes, to make sure that we can continue to align. As part of this, an additional amendment power was given to the joint committee in article 1.3 to decide to reapply these provisions with or without modifications. Amendments made would not trigger the scrutiny process under CRaG because they would be part of the continuity arrangements. That ensures that we are able to move quickly. The joint committee does have the power to amend other parts, but it is intended to provide consistency; no additional levels of power will be provided for the committee. Decisions taken by the joint committee would not normally be subject to CRaG. However, should any amendment require any change in domestic legislation, clearly it would come to the House, as is usual.

The issue of future scrutiny was discussed at length during debates on the Trade Bill. We are committed to working with the House. We have put together a Command Paper, which we have laid before the House. Our Secretary of State has written to the committees to ask for their input, and we will further develop that. We will respond to the Constitution Committee on its concern over CRaG, and to the Trade Bill.

A number of noble Lords mentioned the importance of having one or two committees of each House with the ability to share sensitive information. That has been fundamental to the scrutiny process. We believe in the need for proper scrutiny from this House.

5.30 pm

Lord Purvis of Tweed: I am anxious that, because she is running out of time, the Minister may not be able to cover the point that I and the noble Lord, Lord Wigley, raised about consulting and involving the devolved Administrations throughout these processes and discussions. Exports from the Scottish economy to the Swiss market are worth about £800 million; this is major for that economy, and has implications for the Welsh economy also. What level of consultation and involvement was there with the devolved Administrations?

Baroness Fairhead: I am happy to deal with that. I was given the wrong information that I had two minutes left in which to sum up. I apologise: I rushed through, rather.

We share the text when it is in a stable form; it goes to the devolved Administrations at the same time as it goes to Ministers. We realise that we have to work with the devolved Administrations. We offer briefing sessions on the continuity agreements, and I believe there is ongoing dialogue at official level. For future trade agreements, we are working with the devolved Administrations on a concordat, and that is, I think, progressing.

I can now say what I was going to say to the noble Baronesses, Lady Armstrong and Lady Donaghy, about the need for any future agreements to take into account civic society, trade unions, businesses and consumers. That is part of the consultation process. We also have the strategic trade advisory group. We are trying to make sure that there is a broader discussion on future trade agreements.

Lord Purvis of Tweed: I promise I will not take up the Minister's extra time with other interventions, but I would like some clarity. She referred to ongoing and future consultation on agreements, but the questions asked were about this agreement and this treaty. What was the extent of the consultation with the devolved Administrations on this treaty?

Baroness Fairhead: My understanding is that there were conversations at official level. After the debate in this House, we made a change and shared the full text of the agreement. For all agreements in place from 20 March, they will get the full text of the treaty. Prior to that, we gave them the text when it was initialled in draft form. We are learning as we go through this process, and fully understand the importance of that involvement.

Lord Whitty: My Lords, I thank the Minister very much for her comprehensive reply, and underline my thanks to her officials for taking us through this process.

I do not intend to keep the House much longer; I have already indicated that I will not move this Motion to a vote. I thank everybody who has taken part in the debate. It indicates that, while this may be an umbrella agreement—and the Government clearly needed to provide a degree of continuity with what is, I repeat, our third-largest non-EU trading partner, and mainly in high-value trade—we need to ensure that the holes in that umbrella are rapidly filled, particularly in relation to the whole range of service industries, as noble Lords have raised.

Hardly anyone has disagreed with the findings on the Swiss treaty. The most wounding disagreement came from the noble Lord, Lord Kerr, who, in effect, said that we are being far too optimistic about potential future trilateral arrangements with the EU. Of course he is right—and that is the difficulty. It demonstrates that unless we can reach accommodation with the EU, the arrangements with Switzerland will be more difficult.

It will be even more difficult with the other big trade treaties. A great deal of reference has been made to the good will of both parties on this treaty, but it will not be so easy with Japan and many other countries. Unless they are played against the background of a positive arrangement with the EU, they will run into difficulties. This provides for no deal, but we hope that we will not be in that situation and will move to a broad understanding with the EU. However, if we do not, those problems will undoubtedly arise.

On the wider problem of scrutiny, Parliament has to take a decision and I am glad that the Minister has indicated that the Government are thinking about it. The noble Lord, Lord Robathan, is right that in the past Parliament did not get much involved in these matters or in treaties as a whole. However, since 2010 it has begun to get involved in treaties but, as far as trade treaties are concerned, until we leave that is a matter for the EU. The point I am making is that parliamentary scrutiny was at the EU level. It was not that the noble Lord, Lord Robathan, was asleep in the House of Commons when treaties were considered—not on that occasion anyway—but that they received the detailed involvement of the European Parliament, in a way similar to Congress's involvement in trade agreements in the United States, as the noble Lord, Lord Kerr, pointed out.

That had the benefit of allowing time and interface with the devolved Administrations and civic society as a whole. That is the way in which we will have to approach the future pattern of our trade—not long-term continuity arrangements—and it will involve a profound rethinking of the role of Parliament in that respect. For all the reasons the Minister has just adduced, we will return to that issue. This treaty demonstrates the need for that. It also demonstrates the shortcomings of simply trying to roll over and the fact that this House and Parliament as a whole will have to return to these issues in short order—particularly if, regrettably, there is no deal. I beg leave to withdraw my Motion.

Motion withdrawn.

Financial Guidance and Claims Act 2018 (Naming and Consequential Amendments) Regulations 2019

Motion to Take Note

5.38 pm

Moved by ***Lord Stevenson of Balmacara***

That this House takes note of the Financial Guidance and Claims Act 2018 (Naming and Consequential Amendments) Regulations 2019 (SI 2019/383).

Relevant document: 21st Report from the Secondary Legislation Scrutiny Committee (Sub-Committee B)

Lord Stevenson of Balmacara (Lab): My Lords, in moving the Motion standing in my name on the Order Paper, I stress that it is an attempt to bring forward an opportunity for those who are interested in this topic to debate it at length. In the absence of any other opportunities, and given the fact that there is space within our normally busy and packed schedule, I hope this will be welcomed by all Members of the House.

I declare my previous interests as a former chair of the StepChange charity and as a member of the Financial Inclusion Commission. However, I have no current interests which would otherwise need to be declared.

The main purpose of the debate is to draw attention to statutory instrument 2019/383, on financial services consumer protection. It deals with the naming of and consequential amendments to the body set up by the Financial Guidance and Claims Act 2018, which this House spent a considerable amount of time discussing and amending before it was completed.

As a result of the provisions of and powers in that Act, it was not at all unreasonable for the Government to suggest that the body previously known as the Single Financial Guidance Body should be renamed. Indeed, the naming has been done relatively quickly and seems to have gone down quite well. It is, of course, rather simple: the Money and Pensions Service. It does not try to confuse by any complicated and clever analysis of the work it is doing. One hesitates to quote, "What's in a name?", but I sometimes wonder whether in the simple name "Money and Pensions Service" lies a deeper worry that we are actually talking about two separate issues. That was a theme in all our debates on the Financial Guidance and Claims Bill. It may be inevitable that how people in this country operate and manage their money is quantitatively and in many other ways different from the way in which they save for and, we hope, live off their pension in the later years of their lives. The functions of the three organisations that were brought together to create one body—I am going to call the Money and Pensions Service "MAPS" in future as it is easier—are different. We should recognise that they are different. They will have different interests and concerns and there will be different pressures brought to bear on the body by those agencies.

The timescales over which those functions operate are clearly different. Debt or concerns about money are very often short term and operate at different times in people's lives. Pensions have to be saved for over an extended period and are subject to much more concern about the impact they will have later in life. With people living longer, they need more concern and interest given to them. The impact that both issues have on the economy is different. Indeed, there was some logic in the Government's original proposal to set up two bodies to look after issues that arise from debt and money more generally, and those that arise from pensions. The final decision was to combine them in one, and we are where we are. I do not think there is much point in going back over these issues. We should acknowledge that we need to give the new body time to settle in and should build in an appropriate review period in which decisions can be looked at. As I say, we are where we are.

Looking at the body itself, it is early days. It has established itself. It has developed a logo, as one would expect. I have no particular views about that. I noticed that at the official launch, the chief executive—it is hard to get a sense of this from reading the speech—made a slightly tentative poke at whether people thought it captured the spirit of what the body is trying to do. I could not hear echoes of laughter or concern in the room as a result; I am sure it went down well. After all, it is a very clean, rather curly object which I am happy to wave around. At least we have it: the body is established. It has its format, it has a board of significant people with real contributions to make in this area. It has a very distinguished chair, Sir Hector Sants, who not only comes from the debt charity StepChange—indeed, he was my successor there—but is also the former chief executive of the FSA. We are talking about a substantial body, at a time when it needs to draw together the issues that have been given to it by Parliament. It now has its senior staff in place, and they look to me to have considerable skills and expertise. I am sure they will do very well. A real commitment comes through in all the documents I have seen—they are largely two speeches, but there are some other papers—to consult about the future, to build on possibilities for the business plan, to engage with as many people as possible and to take advantage of the new body going forward. That has to be a good thing, and I welcome it and look forward to it.

Having said that, there would be little point in having this debate if we did not raise some issues for the Minister to respond to, so I advised her beforehand that I might ask a couple of somewhat difficult questions and raise issues that she might want to reflect on over time. I am going to focus mainly on the debt side of the new body—I think others will come in on the pension side. I hope that together we will get some sense of the overall issues.

We have to recognise that considerable problems in the economy are still arising from unmanageable debt. Recent figures from the StepChange yearbook, which has just been published, show that the total number of people in contact with the charity has increased significantly over the last 10 years—from 577,000 to 657,000. That is significant given the capacity of the body to deal with that number. We are talking about why people get themselves into unmanageable debt. It is mainly down to reduced income arising from unemployment, redundancy or injury. Therefore, there is no change there, and the individual contributions are very interesting.

5.45 pm

More people have increasing levels of debt, which is bad news for society as a whole. Interestingly, a larger number of younger people are coming forward to seek advice. The statistics from the last 10 years show that almost two-thirds of StepChange clients are under 40, compared with a figure of just over half in 2014. Therefore, there is a change in the demography of the people who seek advice.

The gender mix is also changing. More women now seek advice—again, that is a change over the last 10 years. Now, 60% of those approaching StepChange are female and that is an interesting development. Housing is obviously a key contributor to all people's domestic economies. It is interesting to note that over the last 10 years there has been a shift of just over 10% from owner-occupation to rented accommodation, and that might reflect further difficulties and vulnerabilities.

The north-east of England remains the area where most people have difficulty in coping with their finances. It has continuously ranked the highest since records

[LORD STEVENSON OF BALMACARA]
have been kept. The main focus of pressure is, as always, the utilities, but increasingly council tax brings its own issues and problems, as well as hire purchase.

Therefore, we are seeing growth in unsecured debt, which is a bad thing for people who have difficulty in managing their money. The level dipped slightly between 2014 and 2016 but it has now begun to rise, and it rose again last year. Again, unfortunately, we are also seeing a small rise in the proportion of new clients with short-term, high-cost credit debt relating to money lenders and others. Some further attention needs to be given to that by the authorities, including government.

That is the context for the issues that I want to talk about. I hope that the new body will make a better fist than predecessor bodies of understanding what works, what can be supported and how to make sure that the message gets across to people who experience difficulty with their day-to-day budgets that there is no value in waiting and that they have to seek advice early. Getting people on to the systems that will be available will be crucial in dealing with that in the future. The new body will need to understand better than perhaps previous bodies have done how the funding operates and how to ensure that those who need advice get it.

I was very pleased to see that the chair of the MAT said that a key element of the strategy is to ensure that all those with problem debt are able to access free debt advice. If that were possible, I think we would all support it. I see no reason why that cannot happen, although obviously consultations, debates and discussions need to take place. Several large, important and independent charities—Citizens Advice, the Money Advice Trust and others—all need to be brought together with a coherent approach that allows for a general improvement in the ability to reach out to people in debt. Last year, 657,930 people were approached by StepChange, but we are talking about over 2 million people who may well need support, although not all those who approach the charities can be helped.

That is the main thrust of what needs to happen. The pieces that need to be added to that picture will perhaps not fall primarily to the MAT and will still be the responsibility of either government or other agencies. I would be grateful if the Minister could give us some advice on that.

The most important of the additional policies that we should look for in the near future is the question of a breathing space. The proposals for this were much explored when we were talking through the issues in the Bill; indeed, we had amendments at all stages of the Bill but were not quite able to get it to work in the way we wanted. We left the Government with the opportunity to come forward, and there is no question that HM Treasury's proposals on this are pretty good. We are impressed by them. If they come in the form that is currently being discussed, they will offer a good level of protection to people in debt and will provide important incentives for them to seek advice, by providing freezes on enforcement action, interest and charges.

However, there are some issues that still need to be bottomed out. I will list them for the Minister, although I am sure that she will not have all the answers to them, even with inspiration from her usual co-pilot who has special lines into the Treasury—because this is a divided responsibility, not limited solely to her department. So, although the Government always speak with a single voice, it might on this occasion be difficult for them to come up with precise answers to my questions.

One important thing—the noble Lord the Minister will be amused by this—is that there is increasing understanding that some of the people affected by unmanageable debt owe money to the Government. I am afraid that it is becoming clear that the Government—both central and local government—are not the best people in dealing with those who are in debt to them. We hope that it will be possible for the Government to agree, for instance, that government debts should be included in the Breathing Space scheme. That would set up a system under which protection is offered to those who owe money—and I am sure that they accept that they do—to the Government. They would not be threatened, as they currently are rather too often, by the bailiffs and other systems that are routinely the recall mode of first choice by local government. There are difficulties with this, to which I will return. So government debts should be included in the scheme; I hope that the Government will do that. If debts to local and national government are not included, there is a real risk that schemes will fail, because there will be a lack of consistency in how different debts are being treated, which could leave people still facing unaffordable repayments and collections, and undermine the stability and protection that they need if they are to recover financially—which many people are able to do.

There is a need for broader, comprehensive protection for people in debt and who go on to the Breathing Space and debt management schemes. I hope that this will ensure that all the charges and interest accumulations that currently apply are stopped in a way that allows people to be supported. We need to make sure that the overall scheme fits into the broader schemes arranged by the MAT to make sure that those reached out to get the advice they need timeously and are able to take that forward.

Other changes are perhaps a bit more technical. I hope that the Government will look favourably at the suggestion that the breathing space period which is currently proposed as 60 days may need some extension in certain cases; there needs to be a mechanism under which that could operate, perhaps triggered by debt advisers. The Government are currently minded to have a public register of people who join the schemes. This is what happens in Scotland, but the evidence from there is that it can put a significant number of people off accessing those schemes—so I hope that the Government will think very carefully about whether to go ahead with that. A public register could also leave people at risk of being targeted by disreputable, exploitative or fraudulent entities. That is an issue we need to bear in mind in these internet-happy days.

The right gateway for accessing Breathing Space is through free-to-client debt advice of a type beginning to be sponsored and supported by the MAT, but we should not add extra burdens. The process should be as simple as possible, because all the experience we have is that, when people first make approaches for

help with their debts, they are very easily put off—so if there is a complicated bureaucratic system behind all this, it will not work in practice.

In a sense, the Breathing Space issue that we broadly support and would like to see in place as soon as possible is moving in the right direction. There are some tweaks which the Government could easily put in at this stage, and I do hope that these points will be considered. But there are wider issues: the question of whether we have the statutory debt management plan system that is currently being advocated is important, and we must not lose sight of it. A statutory basis will be much better in relation to creditors, giving them confidence that they will not suffer themselves as a result of the debt. I hope that we can hold on to that as much as possible.

But it is not possible to analyse and support the Breathing Space and statutory debt management plan systems without also looking at the wider context for debt relief. The DRO—debt relief order—system operated by the insolvency services, and therefore outside the remit of the DWP, is a good way for people with small amounts of debt to resolve their problems, but it is far too expensive to operate at the moment. The costs fall entirely on the charities, which are not funded for that. There has to be better alignment between the costs of the system and the question of who is going to pay for it. The original problems arose from changes to the legal aid system. However, we are now some way down the track on that and need to think again about how it will happen if we are not to lose the very good DRO system.

It is also time to reflect again on the IVA system, which works reasonably well but still tends to prioritise the repayment to creditors in a way which is in many people's minds rather too generous. If there is to be a review of the broader range of debt processes, we need to look again at the wider context. As I said at the start of this section, these issues are not the direct responsibility of the Minister and I understand if she needs to take time to respond—but they make a package which we hope will be sufficient.

The new Money and Pensions Service that replaces the Money Advice Service and brings into scope the previous schemes around pensions is a bold and imaginative solution to a problem that affects the way in which our economy operates. The dead weight of personal debt and the problems caused by bad pensions advice and poor investment create a drain on the economy that has been estimated as in excess of £8 billion per year. This is not small beer in any sense; it is something that we need to tackle for the good of the economy. But the individual problems caused by debt, and the problems caused to older people by lack of pensions advice and proper information when it is needed, is also something that we should have the power to change. I very much hope that the Government will be prepared to respond to this take-note Motion in a positive way so that we can make some progress. I beg to move.

Baroness Neville-Rolfe (Con): My Lords, this statutory instrument is about a name change, which of course I support. I am glad to hear from the noble Lord, Lord Stevenson, of the distinguished new chair of the service, and the management team. I also commend the DWP—a role model for the Treasury on this, and I am delighted to hear that the Treasury and the DWP are working together—on estimating the costs involved. These are mainly the costs of communication. I have been glad to see the use of social media in this area; I encourage noble Lords to look up @MoneyPensionsUK. There needs to be much more of this, and a more comprehensive Q&A on the website on the issues that this body is set up to care about, communicate and deal with. Obviously, the willingness to listen is most welcome, but this is an area where good communication can help people keep out of trouble if they get it at the right time.

In our society, people do not know or learn enough about how to manage money or about the importance and value of pensions. Good, simple teaching and guidance are essential if debt is to be avoided and managed. People are slow to understand what a good deal pension saving represents because of the add-on that is provided by employers and the system. So a key need is to deal with finance, debt and pensions in the school curriculum—principally in the maths curriculum, as few people understand the basics of compound interest. Indeed, teaching should also be done by youth services, through which some of the most socially excluded end up being taught life skills. Training could also be given to social services to help those preparing for retirement, those leaving the military, ex-offenders and perhaps—to hark back to our discussion in Questions earlier today—those moving to universal credit.

Of course, charities can help, as the noble Lord, Lord Stevenson, explained. However, I would welcome any thoughts or information from the Minister on the curriculum and on training and how this might form part of a comprehensive approach to these issues, which I think represents a quiet and important revolution.

6 pm

Baroness Janke (LD): My Lords, I did not participate in this Bill but I share the sentiments expressed so far about the need for financial guidance, advice and education to help people come to better decisions. I support the remarks of the noble Baroness, Lady Neville-Rolfe, about the importance of including this as a regular part of the curriculum. As a teacher, I have spent some time trying to teach basic financial skills as part of personal and social education, but it is very difficult when there is not proper time allowed for this in the curriculum. I agree that it needs to be given much greater importance. That is even truer now when so many young people have easy access to the internet and easily become fair game to scams, complex bogus schemes and systems of advice which are really there to deceive and take their money. Therefore, I broadly welcome the scheme.

I was interested to hear the remarks of the noble Lord, Lord Stevenson, about debt and debt management and the importance of the latter not just to the economy but to individuals who may be going through a particularly dreadful period in their lives.

As I said, I did not work on the Bill, but I wanted to ask a few things about the Act's progress. Section 3(7)(b)(i) commits the Minister to publishing,

[BARONESS JANKE]

"an assessment of whether unsolicited direct marketing is, or may be, having a detrimental effect on consumers".

Has any analysis of that been done yet? If not, could something to do with the quality of advice and the qualification of some of the advisers be included in that? I do not know whether there was debate on that during the passage of the Bill. Section 4(1) says that the single financial guidance body must provide advice to a member of a pension scheme or an inheritor on what to do with the flexible benefits. Are there any early thoughts or a timetable on that?

I know that with regard to Section 22 there was an issue about whether the Government would limit or control the direct marketing of financial services. Again, has any progress been made on that? If not, is there a timeframe in view? My observation—I speak as a counsellor who has given advice on debt and other topics—is that the question of resources is very important. As part of the programme of austerity, financial and legal advice were two of the areas that were severely cut back. I would welcome assurance that the finance for this will be protected, as has previously been mentioned.

I also wonder about declarations of interest and vested interests. How can customers know whether their advisers have these, and what they are? We talked about lists online about people taking advice. There may be a provision already about who is registered to give advice.

There is also the issue of redress. The legislation talks about the FCA, but my experience is that redress can be very difficult for people who are not knowledgeable about these things. It can be very long and very inaccessible. I hope the Minister can enlighten me on that. Having said that, this seems a very good measure and I look forward to hearing more as the measures in the Act are introduced.

The Archbishop of York: My Lords, I want to support the main thrust of the speech from the noble Lord, Lord Stevenson, about debt. Julia Unwin, who was chief executive of the Joseph Rowntree Foundation, did a big research project on why people were going to Wonga. They went to Wonga because it asked no questions; people knew they could get their payday loan. Other lenders asked more questions and were far more intrusive and credit was not readily available. Noble Lords know that my archiepiscopal colleague, the most reverend Primate the Archbishop of Canterbury, said that he intended not only to reform Wonga but to do away with it, and we know what has happened to Wonga.

Credit unions have been set up, which the most reverend Primate and I support. However, people still find it hard to get credit easily and the organisations responsible have caused a lot of people to go deeper and deeper into debt. When he was Archbishop of Canterbury, William Temple suggested that interest rates should be set only by the Bank of England, and not by credit companies, because the Bank of England is accountable to Parliament, which can ask it questions. Noble Lords know what happened with subprime mortgages, with debt being put into little parcels and sent all over the globe until eventually there was no money anywhere. We all know what happened in 2008 with the credit crunch, which was caused purely by excessive debt.

I welcome the Financial Guidance and Claims Act 2018. The noble Baroness, Lady Neville-Rolfe, is right that education about the dangers of debt should start at a young age. Nevertheless, in the meantime, is there a way for those who genuinely find themselves in real trouble to get support and help in a similar way to how food banks work? A lot of people have found that their money is sometimes not enough to meet their needs and so they have gone to food banks. The good thing about food banks is that they do not give food all the time. People know when to collect it and when they last collected it. This has become a marvellous way of taking people out of great debt.

Will the issues raised in the Financial Guidance and Claims Act 2018 and by the noble Lord, Lord Stevenson, be taken seriously by all of us and particularly by the Government? It is their responsibility to provide the guidance required to ensure that Wonga—this payday lending stuff—will not be resurrected and that the people who genuinely need credit can get it in a sensible way. I am very glad that the Government are trying to say that we should be responsible citizens, not only for pensions but for the whole question of social care, with people beginning to put a little money aside for their social care.

It sounds a bit simplistic, but could we not create some sort of food bank-type arrangement? This would help ensure that people on low incomes do not find themselves borrowing from places that will demand more and more money. Noble Lords know what happened with people being given interest; banks also behaved very badly. In a wonderful economy such as this, could some thought be given to ensure that those who are really up against it do not get into greater and greater debt? They may find that their houses are repossessed or their goods taken away and this again throws them back to bad lenders. They find themselves in a cycle of bad debt, which goes through the family for years. If I took your Lordships around Middlesbrough, you would realise that unless you actually tackle debt, some children are condemned to it and, even if we educate them properly, this will not bite.

Lord McKenzie of Luton (Lab): My Lords, with this take note Motion my noble friend Lord Stevenson has made an important intervention and it is a timely reminder that we should be making progress on matters covered by the Act. Indeed, he has covered a lot of ground, so I can be brief—or briefish.

We are reminded that the decision to name the body the Money and Pensions Service through regulation was to minimise the risk that individuals and organisations might impersonate it prior to its launch. In the event, it seems that it would not have taken a team from Bletchley Park to get close to its actual name. Could the Minister say whether there have, in practice, been successful attempts to impersonate the body before today? To what extent is the juxtaposition of pensions and money guidance in the title considered sufficient to repel impersonators?

This is not just about a name. Getting the business infrastructure of the body in place should involve the making of transfer schemes under Schedules 1 and 2. Are these now complete? So far as its members are concerned, could the Minister confirm that the appropriate proportion of execs and non-execs has been secured for its governance? We do not have the benefit of an impact assessment, but we have an explanation of why not. Could we be told the key monetary amounts attached to these transfers?

We have been reminded of the Act's key provisions, which were the establishment of a single financial guidance body with the objective, inter alia, of improving the ability of members of the public to make informed financial decisions. The strategic function of the body is the development and co-ordination of,

"a national strategy to improve … financial capability",

and to improve,

"the provision of financial education to children and young people".

A number of noble Lords focused on this aspect of the Act and its ambition. We debated this latter point at some length and the extent to which there was scope to use the national curriculum, which had less than full mandatory configuration. I think that we on the Financial Exclusion Committee were surprised by just what a small percentage of the total education infrastructure was subject to the mandatory national curriculum. I cannot remember the precise statistic, but it was less than half. Therefore, that mechanism could not be used effectively to undertake the education one would ideally want. Can the Minister say whether there has been any early planning to enhance the education of young people? It featured strongly in our debates.

There has already been delivery on some aspects of the Act, such as the banning of pensions cold calling, but for other key aspects it seems we have hardly got to first base. It may be a bit early, but can the Minister say anything about how effective the cold calling ban is proving? It is a vital power to stop the scammers. What are the key challenges in making it more effective?

The debt respite scheme, referred to extensively by my noble friend, is increasingly relevant to consumers. As we heard, StepChange, in its 2018 statistics yearbook covering personal debt, set out the scale of problem debt. I will not repeat it, but there was the staggering statistic that it had one new client every 48 seconds. As for the age profile, as we have heard, there is a continuing increase in the proportion of younger clients. Over half its clients or their partners are actually in work. Not surprisingly, a rising proportion of clients rent their homes. To focus on housing and its impact on spirals of debt is absolutely right. I recall from my time as a local councillor, going back a bit, when right to buy came in and people had a bright new shiny door for a little while, then they mortgaged the property again to have some improvements and then again to have an overseas holiday. They ended up homeless and back with the local authority. It is a very important area.

Council tax arrears feature at the top of the list of the bills that create household debt. There, we can put the blame squarely at the feet of the Government for changing the benefit rules and grinding down on local authority support for these matters.

6.15 pm

Where are we on the debt respite scheme? I understand that the body, now the Money and Pensions Service, was established as a legal entity on 1 October 2018. It began delivering its functions on 1 January 2019. Under the Act:

"The Secretary of State must, within three months of the establishment of",

the Money and Pensions Service,

"seek advice … on the establishment of a debt respite scheme".

The advice can cover a range of matters. Perhaps the Minister could say when advice has been sought and what was covered. I hope that my noble friend Lord Stevenson would have been on hand to provide some input.

One area that exercised us when considering the Bill was the requirement to refer members of pension schemes, personal and occupational, for appropriate pensions advice. We had long debates about where the balance between advice and compulsion should end. I think we reached a compromise. This was in circumstances where a transfer of any right was in contemplation and/or benefits were about be provided by the scheme. Under the arrangements we ended up with, the FCA is required to make general rules for trustees or managers in this regard. Has any progress has been made on this?

As for funding, which was raised by a couple of noble Lords, under Section 11 of the Act the Secretary of State may pay grants, make loans or other forms of financial assistance to meet expenditure to establish the Money and Pensions Service and to enable it to carry out its functions. Could the Minister say what has been provided by way of grants, loans or other forms of financial assistance so far? What has been notified to the FCA as required to be recovered? Finally, can the Minister say what to date is the position on delegation of functions to delivery partner organisations?

As might be apparent, we view this as an extremely important piece of legislation—I think we built on a consensus—and one on which we will at least have to have a watching brief.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) (Con): My Lords, I very much welcome this debate. It has been very good, albeit short, and has covered a number of important issues. It is really timely to reflect on where we have come since the passing of the Financial Guidance and Claims Act. My memory has constantly been nudged while listing to noble Lords about many of the things we debated, often at length, particularly regarding education. I will do my best to respond to the questions that have been raised.

I will address some of the specific points in due course, but I start by thanking the noble Lord, Lord Stevenson, for moving this Motion. I will take this opportunity to provide your Lordships' House with an overview of the newly named Money and Pensions Service, what it has done and what it plans to do.

As noble Lords will know, the Financial Guidance and Claims Act 2018 (Naming and Consequential Amendments) Regulations 2019 were laid before this House on 4 March. These regulations came into force on 6 April and renamed the single financial guidance

[Baroness Buscombe]

body, provided for in the Financial Guidance and Claims Act 2018, as the Money and Pensions Service. These regulations also made amendments to existing legislation, so that references to the Money Advice Service or the Pensions Advisory Service were either removed or replaced with the Money and Pensions Service.

The launch of the Money and Pensions Service's new name and brand on 8 April is a very positive development that has been welcomed by experts in this field and by industry. The Department for Work and Pensions is especially pleased that the new name for the single financial guidance body has now been set in legislation. This will ensure that both the body itself and its customers are protected by the criminal power in the Act, which makes it an offence to impersonate the body. That was our key purpose in keeping the name back until after the Act was introduced. We now have safely in place this powerful deterrent to protect customers against fraudulent activity. The new name—the Money and Pensions Service—has been well received. It has been positively noted that references to "advice" and "advisory" no longer feature in the name, which was a particular concern raised by noble Lords during the passage of the Act.

I am pleased to say that work has continued apace since the body was established as a legal entity in early October 2018 on the appointment of the chair, Sir Hector Sants, the chief executive, John Govett, and their executive and non-executive teams. On 1 January, the body began delivery to the public of pensions guidance, money guidance and debt advice. It also took on its consumer protection function, and has since laid out its plans for the development of a national strategy to improve financial capability, an important issue that all noble Lords have touched on this evening.

We were clear during the passage of the Act that we wanted to deliver a seamless transition from the Money Advice Service, the Pensions Advisory Service and Pension Wise to a single organisation, the Money and Pensions Service—which we should call MAPS, as the noble Lord, Lord Stevenson, suggested. I am pleased to confirm that we successfully achieved this with no detriment to the customer. It is, however, important to remember that the new service is going through a period of transition. It is essential that we do not underestimate the scale of transformation it is undertaking. The service needs time to focus its energy and resources on a successful transition, while at the same time building towards its long-term strategy. This was well put by its chief executive, John Govett, who set out that his priority for the year ahead is to, "bring the three" previous,

"organisations into one, and re-focus their efforts to increase the number of people supported by the Money and Pensions Service each year".

This is a laudable and important goal, but it will take time to get right. I noted particularly that the noble Lord, Lord McKenzie, like myself, is always impatient, and rightly so. However, we need to ensure that there are no unintended consequences of moving too quickly. Exceeding expectations and then finding that the body has forgotten to put things into play to support people and protect their finances would be a mistake.

The service will work closely with the Government throughout, particularly the Department for Work and Pensions and Her Majesty's Treasury. I say to my noble friend Lady Neville-Rolfe that yes, I am pleased to report that we are working closely and well with our colleagues at Her Majesty's Treasury. Part of getting it right is ensuring that the new service is responding in the right way to customers' needs. That is why, at the Money and Pensions Service's launch last month, it declared that its mission is to put the customer at the heart of everything it does. Its vision, as spelled out in its first business plan, is to ensure that everyone is,

"making the most of their money and pensions",

and that it is improving financial wellbeing throughout people's lifetimes and equipping, empowering and enabling individuals to make informed financial decisions with confidence.

I am pleased to inform noble Lords that as part of its transition to full service, MAPS has also announced that it will be undertaking a UK-wide programme of listening events. This is really important. During these events, the service will engage with a wide variety of individuals and organisations, including customers, levy payers, providers, consumer organisations, funders and commissioners and other stakeholders, who will help to frame the future strategy of the service. The insight from the listening phase will help to shape MAPS and its three-year corporate plan, which is due to be published in the autumn.

As well as these listening events, MAPS is starting to deliver on the commitment, set out in the Financial Guidance and Claims Act 2018, to gather evidence and develop trials for how to most effectively and more strongly nudge people to take pensions guidance prior to accessing their pension pot—something we debated at length during the passage of the Bill. This builds on the success of the Pension Wise service, which was set up in 2015 to help people understand the pension options available to them. In its first year, 61,000 Pension Wise guidance sessions were delivered. Last year, this had increased to 167,000 and this year MAPS aims to increase that number to 205,000. Building on this tremendous track record, we expect the new service to nudge people towards guidance earlier and to reach them before they start the pension access decision-making journey. This will ensure that consumers have what they need to make a more informed decision, including about taxes and benefits, and to avoid scams—an important issue that was raised by the noble Baroness, Lady Janke. To this end, we are working with MAPS to test with care what is practically feasible. I thank my noble friend Lady Neville-Rolfe for her suggestion of taking a longer look at websites and so on, to ensure that we are giving the right advice in a simple form, because a lot of this is about prevention as well as support.

The Government are also swiftly implementing their manifesto commitment to deliver a breathing space scheme. Her Majesty's Treasury is drawing on the expertise of MAPS in the design of such a scheme—something crucially important and close to the hearts of myself and the noble Lord, Lord Stevenson—including seeking formal advice on specific areas, as required in the Act. The Government will continue to work closely

alongside the body as the scheme is delivered. This close work between MAPS and the Treasury will both support the implementation of the scheme and, when it is introduced, enable MAPS to help people in problem debt in the most effective way possible.

Since the passage of the Financial Guidance and Claims Act 2018, the Government have published a policy proposal on all aspects of the breathing space scheme for consultation, proposing strong protections for debtors. The consultation closed in January and a government response to it, to be published shortly, will confirm the details of the scheme. As I have already mentioned, primary responsibility for this policy rests with the Treasury, which will be publishing the response shortly. As I have already said, we are working closely with it.

I am pleased to say that MAPS will be establishing an industry delivery group, bringing together the pensions industry, consumer organisations and others to implement pensions dashboards, including a non-commercial version. This has not been touched on this evening, but the Government will be introducing legislation in this area when parliamentary time allows.

I will now endeavour to address the outstanding points raised during the debate. Regarding the name, yes, as the noble Lord, Lord Stevenson, suggests, we are in a sense talking about two separate issues—how people operate and manage their money, and how they save. Time frames are different for managing debt and for saving for pensions, but we trust in MAPS to manage these realities.

Key to this debate has been the issue of problem debt. The Government have taken steps to support people who have fallen into problem debt, including providing access to high-quality, free-to-use debt advice. Public funding for debt advice in England has risen to £55.8 million in 2019-20, which will provide help with debts to over 560,000 people in 2019-20—an increase of 85,000 compared to 2018-19. MAPS is an important addition to this. I note the concern expressed by the noble Lord, Lord Stevenson, that those in problem debt include increasing numbers of young people and women. Yes, housing is an issue but that is a government priority across all departments, and we are very focused on all aspects of housing and its funding. It is very important to us.

6.30 pm

With regard to references to StepChange, the noble Lord, Lord Stevenson, will know that I made a visit recently, which reminded me how each person with a debt problem has a different problem. This is not easy or straightforward. There is a growth in unsecured debt and I want to put on record how remarkable charities such as StepChange are in the work that they do. We will do everything we can to support them because it is really important that we have people who want to take the time to care for and help others at times of crisis. For some people, it is a real crisis but it is important to raise awareness in support of those who need advice. That is one of the key things that we are working on.

We are taking the Breathing Space scheme forward. As I said, the Treasury is currently consulting on this and MAPS will feed into that. I agree that beyond brilliant organisations such as StepChange, MAPS can help people to access sound advice early—the earlier the better. The consultation proposed that Breathing Space would offer protection on as wide a range of an individual's personal debts as possible. The Government are continuing to work with expert stakeholders on this and intend to confirm their approach in the response to the consultation. The Treasury is consulting on government debt and my department is currently considering this aspect—the degree to which we cover government debt—but, as the noble Lord said, this will take time. The Government recognise the need to move quickly on debt respite and implementing the scheme, and have committed to laying regulations on Breathing Space by the end of 2019. The statutory debt repayment plan will be implemented over a longer period than the introduction of Breathing Space. Given its complexity, we have to get this right; I say this in response particularly to the noble Lord, Lord McKenzie.

I have another point on Breathing Space. As set out during the passage of the Act by the Economic Secretary to the Treasury, the Government will be laying regulations by the end of this year. We are working well with the Treasury.

I want to add something on what was referenced by my noble friend Lady Neville-Rolfe and the most reverend Primate the Archbishop of York, who spoke so passionately about debt. I could not agree more with him on every point he raised. One great thing we are doing with pensions, for example, is auto-enrolment, which I am proud to say is making a huge difference in raising people's awareness and their understanding of pensions. Over 10 million people have enrolled since 2015, which of course includes a lot of young people, so we are really pleased with that progress. It is helping people to understand the importance of saving for the longer term and there has been such a positive response.

Another very important point raised by my noble friend Lady Neville-Rolfe, the noble Baroness, Lady Janke, and the most reverend Primate the Archbishop of York was about education. I particularly remember that we debated this at great length during the passage of the Bill and it is so important. MAPS is committed to improving the level of financial capability for all. It will be working on its national strategy to improve financial education for children and young people. MAPS is in the process of consulting on the development of a national strategy in this regard. I am really pleased to report that because, as some of us—certainly myself—might say, if only I had better understood the issues in relation to pensions when I was younger, I might be in a better place in that regard now.

Baroness Neville-Rolfe: Before my noble friend moves on, would it be possible to look again at what is in the national curriculum that helps on finance, debt, pensions and the associated things that we are talking about? It is great news that the new body will be looking at a strategy but she knows that I am an impatient person. It would be good to know what is in the national curriculum and what might very easily be added, since it seems to me that a lot of these issues lend themselves very naturally to the mathematics curriculum.

Baroness Buscombe: I thank my noble friend for her point, which is so well made. One reason I am so pleased to have this debate is that it helps, in a sense, to put more pressure on those taking this forward to look a little harder and further at what more we can do to develop financial capability. Yes, as raised by the noble Baroness, Lady Janke, there is always an issue with regard to squeezing this into the curriculum but of course this makes absolute sense, as so many noble Lords said during the passage of the Bill. Many thanks to my noble friend for pushing that point a little further. We need to ensure that we can start the process of education by informing people, when they are as young as possible, about planning for their future; that is, in terms of pensions but also in managing their money. Great work is done by charities, but I am sure it will also be done by MAPS.

The most reverend Primate the Archbishop of York made an important point about exploitative lenders. While this is a matter for the Treasury, I can say that MAPS has ambitious plans to help people make informed decisions about their money—an app has been suggested. We are looking for ways to include this in the issues to do with Breathing Space. As I said, the Government will take forward plans on this in due course.

I am very aware of the time but I will say quickly that MAPS is due to publish the national strategy in the autumn, alongside its corporate plan. I also want to say something quickly on pension scams, which have devastating consequences such as the loss of an entire pension fund. That can leave victims without the means to fund their retirement. The Government are committed to implementing a ban on pensions cold-calling and created the powers to do this through the FGC Act. I am delighted to say that the ban came into effect in January 2019, making it more difficult for scammers to initiate pension fraud. Although the ban will have a significant impact on tackling scams, the Government do not consider it as a job done and we will continue our efforts to understand, and take action to prevent, pension fraud.

I think I have covered almost everything. There may be one or two other points that I have not included but I thank noble Lords for their contributions to this debate. It has been important and I feel proud to stand here to talk about the progress being made. I thank again the noble Lord, Lord Stevenson, for giving me that opportunity. We are in a good place with setting up the right bodies and organisations to tackle some of these really important issues, which are close to all our hearts. I would like an opportunity in the not-too-distant future to tell noble Lords more.

The Archbishop of York: I know that the Minister will not want to go into areas covered by other departments, but will she at least commit to take seriously the question of the curriculum? Governments of all parties in the past have done many good things—a noble Lord formerly in education was here at one point. It is important that this should be part of the curriculum and not purely a vague idea of education, because that can go nowhere. Is the Minister giving a commitment that she will talk to those in education who would like to look afresh at the curriculum and that this, like many other important things, could be included in it?

Lord McKenzie of Luton: The issue seems not so much to be what is covered by the national curriculum as the extent to which schools have to comply with it. That is the challenge. As I understand it, free schools and others do not have to. That is the stumbling block that we hit last time. We need to unlock that.

Baroness Buscombe: I thank the most reverend Primate the Archbishop of York and the noble Lord, Lord McKenzie, for giving me a further springboard to have discussions on this with my ministerial colleagues in the Department for Education. It is something that we worked on during the passage of the Bill. We did not get as far as we would have liked. We will try again, but we will also keep talking to the Treasury about this and hope to make progress.

Lord Stevenson of Balmacara: My Lords, I thank all those who have contributed to this short debate. It has served its purpose and achieved what we wanted, which was a chance to reflect on the progress made since the passing of the Bill and an update on the heartening and encouraging work now going on—the listening posts, the three-year plan and the idea that out of this will come a national strategy. I cannot remember whether in the Bill we required that to be brought back to Parliament, but I am sure that an inventive Minister like the one who has just responded would be able to find a way of allowing us to have another discussion on that strategy when it is produced so that we might at least have some sense of engagement with it.

One question arises from that which does not need to be responded to today. On the programme of events that will accompany the emergence of MAPS as a fully fledged body, the breathing space can be achieved by regulation, but the statutory debt management plans require legislation, as might some of the work on pensions. I do not see many notifications of that in the forward programme, but that itself is also quite difficult to discern. When the Minister has some information, perhaps she might share it with us when we are developing that set of legislative processes, because it would give us opportunities to come back to some of the issues we have not touched on. There is an outstanding Goods Mortgages Bill which would be fantastically important in eliminating one more of the high-cost credit problems that we have; namely, that car book loans, established under Victorian legislation of 1858 and 1862, still exist and fall completely outside the current system under which the Financial Ombudsman and others can operate. They predate that and are about a thing called a bill of sale, which should be outlawed. If we cannot get that on to the statute book as part of this process, we are really failing.

I think the question of bailiffs will come up through the report of the Ministry of Justice on bailiff operation. There is a clear need for a statutory basis for bailiffs' operations. A good code of practice and some form of redress system would contribute considerably to assisting those in trouble. Those are details to be followed up. I include in that the pensions dashboard, which the Minister did not touch on but which is also an important step forward.

The most reverend Primate the Archbishop of York was right to say that there is still too much high-cost credit around. The corollary of that is that there is still

a problem about low-cost credit being available at the appropriate time and in the appropriate amount to those who, curiously, borrow the most in our society. The poorest in society borrow more than those further up the income scale because they have to. As they are paid on a short-term basis or are living on limited amounts of money, they have to borrow when big expenditure arises. The system does not provide for that—not even for basic bank accounts. We need to go back to that and think more about savings. Auto-enrolment is a huge success. A lot of thinking by the Treasury has contributed to it—under previous Governments as well as under the current one—and it is to be given great credit. When it was first proposed when I was in a think tank, I thought it was the daftest thing I had ever heard of—making people contribute to savings when there were so many other pressures on them—but it has been a huge success and I am very glad that it is there.

However, it is only part of the story. It is far easier to borrow money in this society than it is to save. Why is that? Why do we have perverse incentives about people being able to accumulate cash that would see them through? I did not cite the statistics in the StepChange yearbook, but it is still incredible that a huge number of people do not have enough money from their current income to see them through one month's problems. We must do something to help them.

The most important strand is education. We delude ourselves if we think that by simply asserting that this is an important area that should be in the national curriculum we will achieve it. Both my noble friend Lord McKenzie and the noble Baroness, Lady Neville-Rolfe, have experience of trying to get this to work in previous Administrations and I wish the Minister well with it. Is there anything we can do to ensure not only that this is seen as a good idea but that it is taken up by those with the ability to deliver, particularly given my noble friend's points about the new environment? The Government's only statutory ability is in relation to the limited number of schools that are still a local authority concern, but they have no lien in terms of forcing through the curriculum for academies or those schools in private hands. There are situations where kids will not learn what we all know they need to learn. Exactly like the noble Baroness, I wish I had known at the time, when I could have done something about it, what I know now when I am in such straitened circumstances.

Motion agreed.

National Institute for Health and Care Excellence (Miscellaneous Amendments) Regulations 2018

Motion to Take Note

6.46 pm

Moved by ***Lord Hunt of Kings Heath***

That this House takes note of the National Institute for Health and Care Excellence (Miscellaneous Amendments) Regulations 2018 (SI 2018/1322).

Relevant document: 12th Report from the Secondary Legislation Scrutiny Committee (Sub-Committee B)

Lord Hunt of Kings Heath (Lab): My Lords, I am glad to lead a short debate about NICE and the introduction of charges. I was NICE's first Minister and have long taken an interest in the work of the national institute. Overall, it has done a fantastic job; its methodology has been followed by many other countries and, clearly, it has had an impact on judgments about clinical and cost effectiveness.

However, its role has changed over the years. It was brought into being to encourage and speed up adoption of proven, innovative new medicines and treatments because of a concern at the time that the NHS was slow to adopt new treatments and innovations that had been shown to be better than existing treatments and drugs.

To start with, that worked. However, despite the legal requirement on the NHS to implement the technology appraisal decisions of NICE, right from the start it proved remarkably reluctant to do so. As time has gone on and money has been squeezed, NICE has become more a rationer of treatments than a pusher of the introduction of new, innovative products. My concern about charges is frankly not so much to do with the principle of charging, because it follows a well-known model and principle used throughout government endeavours, as with some specific issues, particularly in relation to small companies and the current or future review of NICE's methodology, which I wanted to raise.

We know from the helpful paper produced by your Lordships' Secondary Legislation Scrutiny Committee that the government grant to NICE has fallen from £66.4 million in 2013-14 to £51.2 million in 2018-19 and that the Government have argued that NICE needs to identify other sources of funding to enable it to continue its full programme of work.

Obviously, there was consultation. One issue raised in it was the impact of charging on the relationship between NICE and the pharmaceutical industry—but it is important that we recognise that NICE is concerned not just with medicines and the pharmaceutical industry. In the consultation, the potential for conflicts of interest and the public perception of such conflicts were identified as risks. In other words, because the pharmaceutical industry will now be paying for the work being done by NICE, will that have undue influence on the work of NICE? Looking at the robust approach of NICE, I think we can dismiss that fear, but it would be good if the Minister could say something on the record about how we can avoid any perceived conflict of interest.

The second issue I want to raise is the mechanism for reducing the impact on small companies. The original proposal was for a 25% discount but, as a result of concerns raised, the Government decided to provide a subsidy of 75% for small companies. That is welcome and I accept that the Government moved a long way, but the Ethical Medicines Industry Group, which represents a number of small pharmaceutical companies, says that despite that, there is concern among those companies about the impact on them when they have a number of other issues and challenges at the moment, including Brexit and the rebates associated with statutory and voluntary medicines pricing schemes. It thinks that the NICE charges still present a significant

[Lord Hunt of Kings Heath]
cost for small companies and asks the Government to consider whether further measures could be introduced to help mitigate the impact of this on SMEs. One of its suggestions is a fee exemption for companies bringing their first product to market. I think that is an interesting suggestion in terms of encouraging new entrants into the market, which I believe is government policy.

More generally, it is important that, with the extra resources that will be going to NICE, we take the opportunity to ensure that NICE modernises its approach to medicines assessment. When the Government introduced the concept of cost recovery they said the charging would provide a more sustainable model, enabling NICE to flex its capacity in response to the pipeline of technologies that require assessment by NICE. That is welcome, but I want to refer to a briefing I received from a company called AbbVie, which says that it is imperative that NICE fulfils this commitment to adapt and update its methodology and modernise its approach to assessing new technologies.

One example it gives is that we know that medicines are increasingly targeted at smaller patient populations developed through clinical trials. Inevitably, these will embrace patients in smaller numbers. The problem is that regulatory agencies tend to approach this with some caveats. Inevitably, the clinical trials result in smaller datasets and regulatory agencies are certainly demonstrating significant flexibility to approve such medicines, often conditional on that data. However, the approach of health technology assessment bodies such as NICE is often challenged by such datasets, resulting in delays and highlighting a disconnect in the medicines approval pathway. AbbVie-commissioned research shows that medicines, such as those specifically expedited through the regulatory approvals system, due to their addressing areas of high unmet medical need, take longer, on average, to receive subsequent approval from NICE than those medicines that have not been expedited, thereby making the whole process very difficult. The upcoming NICE methodology review, due to commence through 2019-20, provides an opportunity to look at this again and I would be grateful if the Minister would say one or two words about that.

I also raise an issue raised with me by Alexion, a company focused on the development of medicines for rare and ultra-rare diseases. It has concerns about the potential unintended consequences of introducing charges for appraisals without action to address the significant challenges these treatments face in NICE assessments.

In conclusion, I do not object to the principle of charges: I think it is quite proper and the Government's approach is to be supported. I have concerns about the small companies. I know that the 75% rebate is generous on any count, but any additional costs on those companies is something to be concerned about. The core of my question to the Minister is around the methodology review, to ensure that NICE keeps up to date with developments in science and technology. That is very important.

Turning to my final point, I know that the noble Baroness has taken a great interest in this over the years, representing her old constituency, particularly the life science sector. On the one hand, government policy is about encouraging UK life science and biotech companies to develop, to innovate and to invest in the UK. However, the National Health Service is set up to ensure that those innovations are not adopted by it. Despite a number of welcome government initiatives, they are all what I would call upstream, because the downstream is too difficult. This is a real problem so long as we have an NHS dedicated to stopping innovation. I fear that, despite all the warm words from Ministers that we have heard over the years, the NHS response is to dampen down investment in these new technologies and medicines. My argument is that, post Brexit, we cannot afford for this to happen. One way or another, we have to find a way to get the early adoption of new medicines and new techniques, where they can be shown to do better than the existing ones, and NICE has to play a part in that.

This is really my usual rant about innovation and getting patients access to the fantastic things being developed in the UK. I look forward to the Minister's response and I beg to move.

Baroness Jolly (LD): My Lords, I thank the noble Lord, Lord Hunt of Kings Heath, for giving us the opportunity to ask the Minister some questions. As I expected, it was really interesting, starting with NICE from its inception. Those of us who have been involved with the NHS for some while know the standing that NICE has within the NHS community and how it is changing and adapting to changing circumstances, new technologies and the importance of really exciting new pharma, including pharma for specialised conditions. It also gives us the opportunity to better understand the motivations and reasons behind some of the changes.

As I see it, this SI does two things. It enables NICE to recruit experts from across the UK to its appeal panel, as opposed to individuals only in England. This aspect of the SI appears to represent a sensible change. Secondly, it will allow NICE to charge industry for the cost of making technology appraisals—TAs—and highly specialised technology, or HST, recommendations. I see this aspect of the SI as potentially contentious. How will the anticipated savings from the SI be used? To whom will they be allocated? Will they be used to support growth of the life sciences sector in the UK, or will they just become part of the income stream and then go some way towards the possible privatisation of NICE? Is not the reason for this SI that NICE's government-funded budget is decreasing? The documents with this SI note that in 2013-14 NICE received £66.4 million in government funding, and that by 2018-19 this had dropped to £51.2 million. I wonder how many other NHS-funded organisations have faced cuts of 23% over five years and quite considerable growth in their business.

7 pm

The Government argue:

"NICE needs to identify other sources of funding to enable it to continue with its full programme of work".

The thought of NICE not continuing its full programme of work should, if not send shivers, be an area of concern. Clearly, we need NICE to continue. The department confirmed that charging for TAs and HSTs will enable NICE to continue the full breadth of its

important work, while at the same time reducing its reliance on central government funding. Is this justified? I wonder whether it is the thin end of the wedge. What other cuts do we anticipate to other bodies, such as the CQC or Health Education England? Already, organisations being inspected by the CQC, for example, are expected to pay for the privilege. For health settings, this will come out of their annual funding, while for care organisations their funding is part-private and part-public. How much of their funding will be eroded by potential fee uplifts, and will the Chancellor factor this into his annual grant to local authorities? I think not.

The department found insufficient evidence to conclude that medicines for rare conditions and medical devices would be disproportionately impacted by the introduction of this statutory instrument. Can the Minister tell the House what sort of evidence was gathered to come to this view? What plans are being made to review the impact of this change over the coming years? Will it be reviewed annually or every five years? Will Parliament have a role or will it just be a relationship between the department and NICE? Who is checking whether this impacts on British SMEs? The noble Lord, Lord Hunt, spoke about British SMEs, which are important. The pharmaceutical industry includes a lot of relatively small organisations that are working hard to pull together new drugs, particularly for specialised conditions. What if they decide to market and sell overseas, or even move the business to where the regulation and manufacturing landscape is cheaper and more supportive? Could the Minister tell the House what efforts were made to reach out to equivalent organisations in, say, Australia or Canada, as well as the Medicines and Healthcare products Regulatory Agency, to learn about the problems they have faced in charging for regulation, and to learn from best practice?

Sub-Committee B of the Secondary Legislation Scrutiny Committee asked the department why the Government decided to continue with the proposals considering the consultation outcome. The department explained—I think that all noble Lords will have seen this quote:

> "The Government is satisfied that the introduction of charging for NICE TA and HST recommendations will create a sustainable model for NICE, and that the proposed changes to the charging model will mitigate the risk of any unintended and undesirable consequences".

Efforts to protect small companies are important. However, does allowing small companies to pay by instalments create a potential conflict of interest for teams undertaking appraisals? Can the Minister explain in more detail how this would work?

I find it concerning that the Government have proceeded with this SI, despite 62% of respondents to the consultation disagreeing with the proposals. The rationale for continuing with the SI appears weak. Does it not undermine the intention of consultations to gather and respect the views of industry and experts if, at a stroke, you ignore them? I recognise that the Government have tried. I also recognise that I have asked a lot of questions, and if the Minister is pushed for time or detail, I would be grateful if she would respond by letter.

Baroness Thornton (Lab): I thank my noble friend for bringing this matter to the Floor of the House and for leading this short discussion. I too have many questions for the Minister but many of the questions that I would have asked have already been asked by my noble friend and the noble Baroness, Lady Jolly. It seems that our concerns are very similar. I agree with the noble Baroness, Lady Jolly, that when I read through the notes accompanying this regulation, it seemed puzzling that the consultation had produced a majority against this process, and I too was not completely convinced by the Government's justification. That must lead to something which we can probably call cuts and wanting to save money. To want to save money with an organisation which is so integral to our NHS infrastructure and so important to ensuring the efficacy and cost benefit of and access to medicines and procedures is not a sensible way to proceed.

Some of my other questions centre around a concern about the impact that these charges will have on the jewel in the crown that is the UK-based science industry, particularly at a time when there is already such uncertainty with the dual impact of Brexit and these charges. It seems that the additional costs for a market may diminish the UK's attractiveness for life science businesses, which has already been mentioned, and may also mean that NHS patients get access to new therapies later than those in other countries across Europe, which my noble friend also alluded to. Has there been an assessment of the impact of these charges on the UK bioindustry and its attractiveness to the international life science community, and of the UK as a location to research, develop and launch innovative medicines?

What will be the impact on patients? The UK BioIndustry Association has stated its concerns that the charges for technology appraisals could either prohibit or delay patient access to medicines in England. This could result in inequalities across the UK, as medicines may be available in Wales and Scotland, where charges for technology appraisals have not been introduced, before receiving approval for use on the NHS in England. That might disproportionately affect patients with very rare conditions, and therefore might also undermine the UK rare disease strategy to ensure equity of access across all four nations of the UK. Have the Government considered not only the financial impact but the potential impact on patient health? Do the Government have a strategy in place to mitigate delays in patient access to medicines that may come from these charges?

I join the noble Baroness, Lady Jolly, in asking whether there will be a review of the impact of this proposal, when that will take place, and when we will learn about the impact of this proposal on NICE and the NHS infrastructure. That will be important. We need to review this, because I fear that it may be a wrong decision.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Blackwood of North Oxford) (Con): I thank all noble Lords who have contributed and congratulate the noble Lord, Lord Hunt, on securing this debate. It is an important subject and it is right that we take time to consider it. I know

[Baroness Blackwood of North Oxford]
that he takes a keen interest in NICE's work from his previous role as the first Minister with responsibility for NICE, and it is a privilege to have taken on his mantle some years later.

This year marks a significant milestone for NICE, as it celebrates its 20th anniversary, during which time it has transformed the way in which decisions are made in the health and care system. I echo the comments made by the noble Baroness, Lady Thornton, who referred to NICE as a jewel in the crown of the UK life sciences ecosystem. She is absolutely right that we must ensure that we not only protect it but promote its success. Since its inception, NICE has played a vital role, not only in securing maximum value from health spending but in ensuring that patients are able to benefit from rapid access to effective new drugs and other treatments. The noble Lord, Lord Hunt, hit the nail on the head when he said that that balancing act in the health system is so challenging.

Of course, the NHS is required to fund the treatments recommended through NICE's technology appraisals and HST evaluation programmes, so that they can be provided if a patient's doctor says that they are clinically appropriate for the patient. Over the past 20 years, more than 80% of NICE's recommendations have supported use of the technology assessed, meaning that many thousands of patients have benefited from rapid access to effective new treatments. A less-frequently reported statistic is that 75% of HST applications have also gone through, which is encouraging.

Recent IQVIA research has just been published which showed that, despite some of the frustrations we have with update and access—which is something we are working hard on—the UK is in fact one of the fastest countries in Europe to get products through its regulatory system. We can be very proud of that, and must protect it.

I know that your Lordships will agree not only that it is extremely important that we have a system such as NICE in place to ensure the NHS spends its money in the most effective way possible, but also that it is critical that NICE operates on a sustainable footing so that it continues to be responsive to developments in the life sciences sector, to which noble Lords all referred.

To date, as has been mentioned, NICE's TA and HST programmes have been funded through government resources but, as is common with government bodies, it is right that NICE considers how to operate to the utmost efficiency, and that those who stand to benefit from services contribute.

This is standard procedure and a standard model for many organisations and ALBs such as NICE. It is standard for the MHRA, the HTA, the CQC and for HTAs in other countries, so we are not operating an unusual procedure here, as the noble Lord, Lord Hunt, mentioned. I was grateful for his support for the charging model.

However, recognising the need for sustainability must be balanced with the imperative to encourage innovation, and the Government and NICE believe that the most appropriate and sustainable model for NICE's TA programmes in future is for it to levy a proportionate charge on companies that benefit directly from its recommendations. This goes right back to a recommendation of the triennial review of NICE in 2015, so long-term work has been going on in this area. Recognising the importance of getting it right, the Government consulted on the draft regulations. That consultation has been referred to by noble Lords. At that point, as part of those proposals, the Government proposed the 25% discount for small companies. The consultation also sought views on a proposal to enable NICE to recruit appeal panel members engaged in the provision of healthcare in the health services across the UK instead of just England. This has not been mentioned and I know is widely supported, but I just wanted to point out that fact, which we are very pleased about.

As was raised by the noble Baronesses, Lady Thornton and Lady Jolly, there were 78 responses to the consultation, around half of which represented views from the life sciences industry, including pharma companies, industry representatives, consultancies and medtech companies. Other responses came from patient groups, NHS organisations and individuals. Although, as has been said, the majority of respondents—62%—disagreed with the specifics of the proposal to charge companies for making recommendations, the analysis showed that just over half of respondents agreed that life sciences companies should contribute to the cost of developing NICE recommendations, which is why further work was done to develop the charging proposal but refine it.

Respondents also supported, by 59%, a mechanism for reducing the impact on small companies, but felt that the proposed 25% discount did not go far enough. Other more specific concerns were raised about the potential impact on patient access to new treatments, in particular for rare diseases, the impact on NICE's independence, and the analysis contained in the impact assessment.

The SLSC also picked up on issues in its report, and I will address some of those in response to points raised by the noble Baronesses, Lady Thornton and Lady Jolly. The Government considered the issues raised in the consultation very carefully and carried out further analysis to feed into the final impact assessment. We concluded that it was appropriate to make two main changes to the policy in light of the consultation responses. These particularly dealt with concerns about the design of the charging with respect to SMEs. I know that noble Lords are well aware of those concerns.

There is an increased discount for small companies of 75%, to minimise barriers to the participation of small companies wishing to bring forward new products. I realise that many feel that that did not go far enough but, to address that concern, it also included the new power to enable the Secretary of State to direct NICE in specific cases to calculate charges on what it considers to be the appropriate commercial basis. This provides more flexibility for amending charges, should that be required in future, subject to consultation with stakeholders. For example, we may see different types of innovation, including devices or digital products going through TA programmes, and this provides flexibility for the Secretary of State to direct NICE to

propose charges at a level appropriate to those markets. I think that responds to the point raised by the noble Lord, Lord Hunt.

7.15 pm

As I mentioned earlier, I should like to go through a couple of points raised by the SLSC in its report. The committee, and the noble Baroness, Lady Thornton, noted the potential for conflicts of interest as a result of companies paying for NICE recommendations. We need to give due credit to NICE's world-leading reputation. It was founded on independence and transparency in the work it carries out. The charging model introduced includes clear safeguards to ensure that this remains unchanged. For example, with the exception of small companies, companies will be required to pay the full cost up front, regardless of the outcome, and no one directly responsible for making NICE's decisions will stand to benefit from the income that NICE receives from companies. NICE's recommendations and decisions on the most appropriate programme—TA or HST appraisal—for individual products are also made transparently and in accordance with its published methods and processes.

Secondly, the committee raised the question of the impact on availability of drugs for rare diseases, as did the noble Lord, Lord Hunt. The Government considered whether products for rare diseases should benefit from a discount in common with small companies, but did not consider this necessary at this point, because companies already benefit from a significant set of incentives to develop drugs for rare diseases, and worldwide orphan drug sales are forecast to grow at 11.3% per year from 2018 to 2024, double the rate forecast for the non-orphan drug market. The noble Lord, Lord Hunt, was right to point out that we are also requesting that NICE review its TA and HST methods, specifically to address challenges to cohorts and data management as we committed to within the voluntary scheme. I have asked Andrew Dillon to ensure that the review takes into account the benefits offered by new treatments for severe life-threatening and rare diseases, so this area will not go untested.

Thirdly, the impact on the attractiveness of the UK as a country to invest in and launch new drugs, particularly at the same time as Brexit, was raised by the noble Baroness, Lady Jolly. It is important to note that the cost to companies of a NICE assessment will represent a very small percentage of the potential revenues that a company will generate from an effective new treatment, but we have still said that we will keep the impact of those costs under review in the context of the wider impact on companies of Brexit. We have made that commitment.

The Government's overall aim remains that patients in the UK continue to access the best and most innovative medicines and devices and are assured that their safety is protected through ongoing co-operation and the strongest regulatory framework. Your Lordships will understand that our key guiding principles are to ensure that patients are not disadvantaged, that the UK will continue to play a leading role in promoting and ensuring public health, and that the industry must be able to get its products into the UK market as quickly and simply as possible.

Lastly, the noble Baroness, Lady Jolly, also raised the point that the committee queried how the savings generated from the introduction of charges will be used. As a public body, NICE will continue to be accountable to Parliament for how it uses the government money allocated to it, and I assure your Lordships that that will remain unchanged by the introduction of charging.

I close by stressing that the Government share the view that we have heard today about the vital importance of NICE's work. These matters are very important to all of us. With the changes we have made in response to the consultation comments, I am confident that the introduction of charges and the charging regime for NICE recommendations will enable it to continue to be sustainable and develop its recommendations with the same authority, transparency and impartiality that have been the backbone of its world-leading reputation, and that the UK life sciences sector will remain as strong as it has ever been, if not stronger.

Lord Hunt of Kings Heath: My Lords, I am grateful to the noble Baronesses who have taken part in this short debate. I echo what the noble Baroness, Lady Jolly, said about ensuring that NICE continues with a full work programme, which is very important indeed. I want to reinforce my noble friend Lady Thornton's vital point about the rare diseases strategy and the issue of access across the UK. Twenty years on, NICE can be congratulated on its work. Remarkably, its first chief executive, Sir Andrew Dillon, is still chief executive. I extend my tribute to him. Not only has he done a great job, but he has also always been accessible to parliamentarians and held open debates, which is much appreciated by Members of your Lordships' House.

First, I am quite clear that I do not think that there will be a conflict of interest. We can rely completely on the integrity of the NICE progress in relation to that point.

Secondly, uptake and access are fundamental issues. The noble Baroness pointed out that the UK's position in relation to the speed of regulation is very good, which is pleasing. The problem is that the health technology assessment side is not fast. It is particularly clear from some of NHS England's interactions with NICE that it is keen to slow down the introduction of many of these new products because, I am afraid, it is concerned about the overall financial package. The problem is that NHS England has no responsibility whatever for UK plc, nor for the health of our life sciences sector; indeed, it has often refused to meet that sector. Given who the chair of NHS England is and given how instinctively sympathetic he is to the issues we are discussing, I hope that we will see a change in attitude. If we really are concerned about the quality of patient care, we must be concerned that access to new medicines and drugs in this country is way behind that in France, Germany and other countries. Most decisions are made in North America, although the pharma industry has other global headquarters. Our reputation for being behind other countries in the adoption of such products is a big problem for future investment.

I have one suggestion. It is very disappointing that, under the original voluntary rebate scheme, the rebate money was essentially paid into the Treasury because

[Lord Hunt of Kings Heath]
the amount to be rebated was discounted in advance. In Scotland, some of that rebate has been used for funding that has been fed back into the Scottish health service to fund new medicines and treatments. Thinking about how we might move on, given that we now have a new rebate scheme, that money should be seen as additional money to be used to encourage the health service. I hope that the Government might think about that in future. The debate has been short but really good.

Motion agreed.

Burma (Sanctions) (EU Exit) Regulations 2019

Motion to Approve

7.24 pm

Moved by ***Lord Ahmad of Wimbledon***

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

The Minister of State, Foreign and Commonwealth Office (Lord Ahmad of Wimbledon) (Con): My Lords, in moving this Motion I will speak also to the Venezuela (Sanctions) (EU Exit) Regulations 2019, the Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019 and the Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019.

Noble Lords will be familiar with the Sanctions and Anti-Money Laundering Act 2018, which passed through this House last year. It provides the UK with the legislative framework to continue to meet our international obligations, implement autonomous sanctions regimes and update our anti-money laundering framework after we leave the EU—although the last of these is not under consideration today.

Noble Lords will also be aware of the importance of sanctions. They are a key element of our approach to our most important international priorities. They help to defend our national interests, support our foreign policy and protect our national security. They also demonstrate our support for the international rules-based order. The United Kingdom has been a leading contributor to the development of multilateral sanctions in recent years. We have been particularly influential in guiding the EU's approach, which is why we intend to carry over the policy effects of the EU sanctions regimes by transitioning them into UK law. I will say more about that in a moment.

The principal interests and threats facing the UK and other EU member states will not change fundamentally when the United Kingdom leaves the European Union. The Government recognise sanctions as a multilateral foreign policy tool and intend to continue to work in close partnership with the EU and other international partners after we leave the European Union to address those threats, including through the imposition of sanctions. We are committed to maintaining our sanctions capabilities and leadership role after we leave the EU. The Sanctions and Anti-Money Laundering Act 2018 was the first major legislative step in creating an independent UK sanctions framework.

However, although the Act set out the framework needed to impose our own independent sanctions, we still require statutory instruments to set out the detail of each sanctions regime within that framework. Such statutory instruments set out the purposes of our regimes, the criteria under which the Secretary of State may designate individuals and entities, and the types of restrictive measures imposed. They do not specify which individuals or entities will be sanctioned. The Government will publish a list of those we are sanctioning under UK legislation when those prohibitions come into force. We will then seek to transfer EU designations in each case, but these decisions will be subject to the legal tests detailed in the sanctions Act. Any EU listings that do not meet the tests will not be implemented.

Noble Lords will recall an important feature of the sanctions Act that we discussed in detail during its passage: the right to challenge. Anyone designated under these instruments will be able to request that the Minister carry out an administrative review of their designation. The procedure applicable to such requests for reviews is set out in the Sanctions Review Procedure (EU Exit) Regulations, which were made in November last year and which are now in force. If, following the review, the Minister's decision is to uphold the designation, the designated person has the right to apply to the High Court, or the Court of Session in Scotland, to challenge that designation decision. The court will apply judicial review principles to determine whether the designation decision should be set aside and will apply the procedure set out in the amended civil procedure rules for England and Wales, the rules of the Court of Judicature for Northern Ireland and the rules of the Court of Session for Scotland, which in particular allow for closed material proceedings to take place in relation to such challenges. The regulations underpinning this process have already been subject to debate and approved by this House. I beg to move.

Baroness Northover (LD): My Lords, I thank the Minister for introducing these statutory instruments extremely briefly—more briefly than his right honourable friend in the Commons.

We all agree that sanctions can play a key role in the implementation of the rule of international law and we support all four of the SIs. Clearly, no one wants our sanctions regime to lapse if we leave the EU. As the Minister said, the UK has been a leading contributor to the development of multilateral sanctions in recent years and we have been particularly influential in guiding the EU's approach. Indeed we have—but we risk losing that influence. I am sure that the Minister will agree that sanctions carry greater weight as part of an EU-level arrangement, rather than going it alone. The Minister said:

"We are committed to maintaining our … leadership role after we leave the EU".

Can he say how this is supposed to happen?

I note that in response to a Written Question on 8 October 2018 on the UK's sanctions policies, Sir Alan Duncan stated:

"In future it will be in the UK's and the EU's mutual interest to discuss sanctions policy and decide where and how to combine efforts to the greatest effect".

In light of that, are there any differences in the arrangements here or do they completely mirror what we have in the EU? What exploration has there been on how alignment will be assured in future?

7.30 pm

The Explanatory Memorandum says that these regulations have "substantially" the same effect. Why have the Government chosen this word? Is it a "just in case" word, or does it mean that there are some differences, even if slight? Will the Minister clarify that?

If we diverge in future, can the Minister indicate what the future direction might be? Will we respond when we come under pressure to align with the US or some other ally? In one area, during the passage of the original Bill, Parliament added in our own version of the Magnitsky provisions, which I very much welcomed. Can the Minister explain why that appears not to have been carried over in these provisions? If they are only to mirror what we have in the EU, when does he think that such provisions will be brought forward? We have quite a lot of parliamentary time on our hands.

I turn to the specific sanctions regime, although my noble friend Lord Chidgey will deal with Guinea-Bissau. The sanctions on Burma aim to encourage the Myanmar security forces to comply with international human rights law and to respect human rights. Additional sanctions were introduced in April 2018 in response to the recent appalling human rights violations by security forces. As we know, an EU-wide arms embargo has been in place against Myanmar in some form since 1991. Will the Minister confirm that the UK will continue to adhere to this?

On 26 April 2018, the European Council also sanctioned the export of any equipment to Myanmar that could be used for internal repression. Similarly, it prohibited the export of dual-use goods to the military and border guard police that could be used for internal repression or monitoring. There is also a ban on all military training and co-operation with the army. These provisions were recently extended until April 2020. Will we adhere to this?

Myanmar also currently benefits from the EU's Everything But Arms scheme. The EU has considered temporarily removing Myanmar from the scheme on the grounds of possible violations of UN and ILO conventions. Myanmar's textile industry benefits the most from the EBA scheme. The European Commission and European External Action Service have conducted a fact-finding mission and will now analyse the results. How will the UK respond to any findings? Are we likely to align with the EU?

Human rights campaigners such as Burma Campaign UK have referred to the possible removal of the EBA scheme as a misdirected sanction, likely to impact workers rather than officials. It has instead argued that imposing economic sanctions on the two largest military conglomerates would better target the military. Will the Minister comment?

The European Burma Network has requested that the EU fundamentally reviews its position on Myanmar. It notes that some member states have favoured a stronger approach on human rights, while others favour a policy led by trade and strategic interests. In its view, these divisions undermine EU and international efforts to promote human rights and democracy. How does the UK plan to navigate its way through this effectively? Is it at all likely, for example, that it would impose targeted sanctions, banning European companies doing any form of business with military-owned and controlled companies?

On Venezuela, the EU agreed a sanctions regime on 13 November 2017, given the concern about human rights violations and the repression in civil society and domestic opposition. Thus far, the sanctions include an arms embargo and a ban on exporting any equipment to Venezuela that could be used for internal repression. Will the Minister comment on whether either the EU or the UK alone is considering further sanctions, possibly involving funds held by the Bank of England or the City of London, in the light of current events in Venezuela? Some have argued that oil and financial sanctions are more likely to be effective, while others have warned that such sanctions could have a devastating effect on the people of Venezuela—a position that the EU has taken. The US and the EU have increasingly diverged on Venezuelan sanctions, with President Trump imposing sanctions on Venezuela's state-owned oil firm. What is the UK's position? Is it likely to align in future with the EU or the US?

On Iran, the regulations relate to its human rights record rather than the development of nuclear weapons, which will be dealt with in a separate set of regulations. The Explanatory Memorandum states:

> "This sanctions regime is aimed at encouraging the government of Iran to comply with international human rights law and to respect human rights".

In terms of human rights sanctions, the EU has adopted restrictive measures since 2011. These include a ban on exports to Iran of any equipment that may be used for internal repression or monitoring telecommunications. There are also currently 82 individuals, including judges and prosecutors, and one entity—the Iranian cyber police—on the sanctions list. They are subject to a travel ban and asset freeze in the EU. The Council has just extended the sanctions regime until 13 April 2020, when it will next be up for evaluation. How will the Government engage with this evaluation, and are they minded to stay in line? What is their view on how it would best help those dual nationals held in Iran, such as Nazanin Zaghari-Ratcliffe? Can the Minister tell us what her situation is in light of the proposed prisoner swap that could involve her?

The Minister will know that the US takes a harsher view of Iran than we do, with draconian trade sanctions that may affect many of our companies trading in Iran. Is the Government's current plan to stay in line with the EU on this, as we have on the nuclear side? How are they seeking to protect those companies that could be affected by US sanctions? Can they do so or are they in effect fairly powerless in this respect?

If, indeed, the UK leaves the EU, clearly we need to have in place an effective sanctions regime. I am glad that the Government seem currently to be seeking to align themselves with the EU on this matter, but that does not map out the future. Although some may see opportunities here to strengthen what we might do,

[Baroness Northover]
there has to be a greater risk that we will be tempted to soften our approach as a competitive advantage—and that clearly would not be leading by example.

Lord Alton of Liverpool (CB): My Lords, I am very happy to support the four SIs before your Lordships' House, and welcome the way in which the Minister introduced them. I am vice-chairman of the All-Party Parliamentary Group on Democracy in Burma, a founder of the Jubilee Campaign and patron of Karenaid.

When I took my seat in your Lordships' House in 1997, the then Convenor of the Cross-Bench Peers, the former Speaker of the House of Commons, Lord Weatherill—one of my two sponsors—encouraged me to take an interest in the plight of the Karen in Burma. He introduced me to our late and very much missed colleague, Viscount Slim, whose family had so many historic associations with Burma. Viscount Slim encouraged me to support Prospect Burma, the charity he established, and to take these issues seriously.

I travelled to Burma and entered the Karen State illegally on two occasions, visiting the refugee camps where, to this day, there are more than 100,000 refugees from the Karen communities; some families have been there since the 1940s and 1950s. However, it has to be said that the situation in the Karen State significantly improved during the period of transition when the National League for Democracy won the elections in Burma and started to have some say over the governance of the country. But it has become very clear in the years that have followed that whatever hopes and progress we believed there would be in Burma—not least because of the role that Aung San Su Kyi, we felt, would be able to play—have been dashed.

Two years ago I was able to go to Naypyidaw, the capital city of Burma, and met with Daw Suu. I raised specifically with her what I had seen the day before in a village. I had been to a small village where Buddhists and Muslims had lived together alongside one another in harmony and coexistence for generations, and I saw that the madrassa in the village had been burnt to the ground. I was grateful to the Foreign Office official who accompanied me. We took evidence and gave it to Aung San Suu Kyi. I raised the issue of what was happening to the Rohingya people as well as the Kachin people and other groups among the many ethnicities in Burma who were clearly increasingly suffering. What has been happening to the Rohingya people ever since does not need to be rehearsed at any length with your Lordships. Around 1 million Rohingya are in camps, adding to the 44,000 people around the world who, according to UNHCR figures, are displaced every single day. That is creating untold misery, whether for those who take to the sea or for those who try to cross the borders into Bangladesh and have now been displaced for what is approaching years, with very little progress made to establish their rights to citizenship or to deal with the fundamental issues that led to them fleeing in the first place.

The Minister says that sanctions are a key element of our policy as a way of putting pressure on the military authorities in Burma who have brought this sad situation to pass. I agree that they are a tool in the kit, but one has to ask whether, by themselves, they are actually achieving a great deal. The Foreign and Commonwealth Office is to be applauded for being the most rigorous of departments in European Union countries in enforcing the arms embargo. We have one of the best records, and that should be said. But let us be clear about what these sanctions actually do. Apart from the arms embargo, they only amount to a ban on some 14 military and security personnel in Burma going on holiday to European Union member states. When we think of that as a response to crimes against humanity and what may even be approaching genocide—a point I shall come back to in a moment—it is, to coin a phrase used in a note I received only this morning from Burma Campaign UK, "pretty pathetic".

It is certainly disproportionate, and I remind the Minister of his reply to a Question I tabled on 19 June last year. He rightly said:

> "The Foreign Secretary has been clear that ethnic cleansing has taken place in Rakhine, and that the violence of August and September 2017 may even constitute genocide, though that would be a determination for an international court to make".

On 26 June, I pressed the same issue with his noble friend Lady Fairhead, given that trade is central to the question of sanctions. On 12 June I had asked the noble Lord, Lord Ahmad, whether the Government planned to issue official guidance to companies not to engage in any form of business with companies owned by the Burmese military. The reply from the noble Baroness simply did not accord with the sort of words used by both the Foreign Secretary and the noble Lord speaking for the Foreign Office. The noble Baroness said:

> "DIT continues to support trade with Burma as an important part of driving mutual prosperity".

Who is it that we are driving mutual prosperity with? We are talking about the Tatmadaw, the military junta. They are the people responsible for what has happened in Rakhine, for what is happening to the Kachin people, and for many of the depredations of which we are all too well aware. The noble Baroness, Lady Fairhead, went on to answer my question about whether the Government planned to make a public statement of support for a UN mandated global arms embargo against Myanmar. The reply from the noble Lord, Lord Ahmad, who dealt with that aspect, was:

> "The Government continues to assess that there is insufficient support at present for a UN Security Council Resolution instituting a global arms embargo for Burma".

Perhaps I may press the noble Lord again today as to whether that remains Her Majesty's Government's position and whether sometimes, even if you know you are going to be defeated—I say this for those of us who have spent our lives often being defeated—there are moments when it is right to take a stand and to put people on the spot. If we are saying that representatives of the People's Republic of China are the ones who would veto such a resolution, let them do so and let us demonstrate the difference between their values and ours. Sometimes, I get frustrated that we use this as the first line of defence in places like North Korea, which has been described by the UN as a state without parallel when it comes to human rights violations, and in the case of Myanmar. We are saying that we will not take this forward because we think that others will oppose or veto it. Well, let them do so.

7.45 pm

Post Brexit, we no longer have to be mute in our response. The Government frequently say that we cannot speak out of line with our European Union neighbours—a point alluded to in a positive way by the noble Baroness, Lady Northover—and when we can speak together we should always do so. However, this is used as a double-edged weapon when questions are raised about why we do not ensure that our colleagues in Europe do more about European Union sanctions. The Government say that the discussions are confidential and that they require consensus before the sanctions are toughened up. When this is pressed further, you find out from, for instance, a statement from Burma Campaign UK that the policy is still based on the assessment made of conditions on the ground in 2012-13 and that there is a "three-way split" in the European Union. Some countries work together on a human rights-based approach; others want trade issues to be paramount. But the,

"European Commission/External Action Service has largely been following its own agenda, at times in direct contradiction of what EU member states have agreed".

These positions do not therefore reflect the position of Her Majesty's Government. All these divisions in approach play, in my view, into the hands of the military junta, the Tatmadaw, in Burma. The stated priorities of the European Union—peace, democracy, development and trade—are right, but by anyone's reckoning, Burma is in default on all those things. Surely that alone should be grounds for a fundamental review.

There was never a genuine transition to democracy. The 2008 constitution in Burma is not democratic and the military has not allowed for the fundamental changes that were hoped for and worked for. Military committees regularly take decisions about the future of Burma, rather than civil society, and they carry out human rights violations with impunity. Media freedom and freedom of expression are declining while the number of political prisoners is growing. The peace process is stalled and conflict has increased. A policy based on the realities of today and not those of 2012, on what will happen post Brexit and what we will do about a United Nations-mandated global arms embargo on Burma, are the issues I put to the Minister. I hope that when he responds, he will be able to say something about them.

Baroness Hooper (Con): My Lords, I thank my noble friend for bringing these four instruments before the House and I shall listen with interest to his replies to the many questions that have already been raised. My own interest lies primarily in the Venezuelan situation, which at the moment is highly topical and very fluid. The Venezuelan people have been going through a very difficult time not just over the past two years but for several years. I think that they have suffered enough. Given the fluidity of the situation, would my noble friend be prepared to commit to keeping the House informed with updates as and when any further action may be relevant? Can he also confirm that the Government will continue to co-ordinate and co-operate with the Lima Group in particular to ensure that regional considerations are at the forefront of any actions we take in relation to sanctions against Venezuela?

Lord Chidgey (LD): My Lords, I am delighted to thank the Minister for opening the debate and for giving me the opportunity to contribute and talk about Guinea-Bissau, which lies in an incredibly complex part of Africa, given its history and the influences placed on it, not just by western, European colonialists but by Asia, by religion and by their own ethnic empires in the region. It is a real melting pot. The point is that here we are in the 21st century looking at sanctions on Guinea-Bissau specifically to try to influence the way it relates to the values we believe to be absolutely fundamental in a modern state.

We have to take into account that the political evolution of Guinea-Bissau, before and after independence, has been as troubled and turbulent as that of any country in the region. The armed rebellion against Portugal, the colonial power, began in 1956 with the support of Cuba and the Soviet Union—and China, which was almost unheard of in those days. Meanwhile, in the neighbouring Republic of Guinea, or Guinea Conakry, Ahmed Sekou Toure's Government were choosing not to join de Gaulle's post-colonial French community. This resulted in the immediate withdrawal of all French investment and assistance, creating an economic crisis. In the 1980s, I gained first-hand knowledge of the results of that situation.

Sekou Toure's soldiers crossed into Guinea-Bissau to join the rebels fighting the Portuguese, and the rebels gradually took control of the country. In 1970, the Portuguese organised an attempted coup in Guinea Conakry, with the aim of releasing their troops captured in the fighting in Guinea-Bissau and then held in appalling prison camps just outside Conakry. They succeeded and withdrew, leaving the exiled Guinean troops they had accompanied to fight on alone. Those troops failed to reach the radio station in Conakry in time to prevent a warning being sent to Sekou Toure, the President, thus allowing him to evade capture and certain execution. Following independence, the ruling party in Guinea-Bissau massacred hundreds of thousands of local soldiers who had fought alongside the Portuguese. In Guinea Conakry, over 50,000 people were killed in massive purges. A third of the population fled to neighbouring countries and all French citizens were banished.

Against this background, the introduction of democratic elections in Guinea-Bissau in 1994 was almost bound to end in failure, culminating as it did in civil war. It is a matter of record that, since 1998, Guinea-Bissau has had 10 Prime Ministers and three elected Presidents, none of whom has been allowed to complete their mandate. Four chiefs of general staff of the armed forces have been removed by the military, two of whom were assassinated by fellow officers. With the latest crisis also being marked by military intervention, it is no wonder that, in December 2018, the UN Security Council warned that unless political actors in Guinea-Bissau demonstrate renewed good faith to hold,

"genuinely free and fair elections",

the country is set to face a continuing cycle of instability.

According to the UN's deputy special representative, David McLachlan-Karr, the recent elections were a very positive result for people, heralding the dawn of a new chapter for democracy in Guinea-Bissau. I note

[LORD CHIDGEY]
that in the SI, however, the Government acknowledge that the democratic process in the Republic of Guinea-Bissau remains uncertain. The SI needs to promote the rule of law and good governance and seek to prevent threats to democratic principles, and the Government plan to continue to hold Guinea-Bissau to account for any action that undermines the peace, security or stability of the country. This of course is very commendable, and much to be welcomed and supported.

We understand that the identity of designated persons targeted by the SI cannot be revealed in advance, to limit the opportunity for them to remove assets from the UK. However, if the Minister could advise us, it would be helpful to know the scale of the assets considered and an approximation of the number of designated persons there might be, given that Guinea-Bissau's population is well under 2 million. Are they resident in Guinea-Bissau? Are there conspiracies of organised crime involved? How do the Government expect to monitor their activities and respond to their actions?

Lord Collins of Highbury (Lab): My Lords, I too welcome the Minister's introduction to these SIs, and his brevity. I also welcome the contributions from other noble Lords that related to policy issues. Whenever we talk about sanctions, there is a reason for them, and those reasons need to be clearly expressed. I therefore welcome the contribution of all noble Lords in that regard.

I shall raise specific points that arise primarily from the discussion in the other place, in particular on the Magnitsky clause and the question of human rights. During the passage of the sanctions Bill, we had a detailed debate on human rights, and it was this House that pushed for amendments to include that as a primary reason for sanctions. The Magnitsky clause is an opportunity to expand the scope of the impact of our sanctions.

In the other place, we heard quite a few reasons why we were not going to see anything on the Magnitsky clause in these SIs. It was a bit confusing. The reasons given included that we cannot act too rapidly, and that we have had various legal advice. Sir Alan Duncan also said that we have about 3,000 statutory instruments to get through, and that there is a risk of constant legal challenge. A different explanation seems to have been given by the Permanent Under-Secretary and the Foreign Secretary. When pushed, the Government seem to be arguing that we cannot do this because we are operating within the EU framework and cannot act independently. Yet we know that there are EU countries that have exactly those provisions—Estonia and Lithuania, to name two—where individual Russians who have committed human rights abuses are specifically named.

If Sir Alan Duncan, the Minister, is saying that that action is not consistent with the Government's legal advice, perhaps the noble Lord the Minister can tell us exactly how and when it might fit properly within the implementation period. When pressed, Sir Alan Duncan said that it was difficult to forecast—that seems to be the position of the Government at the moment on this uncertainty. When pushed again, he said that it would be as soon as was practicable. That sounds like quite a short timeframe to me, because it ought to be practicable to do this. I hope the noble Lord will be more precise than the Minister in the other place.

I want to focus on the following questions. What are sanctions for? How do we measure their effectiveness? We have had previous debates on sanctions, and often we get a report from the Government which says that sanctions are effective because they have stopped X, Y and Z. We then have to ask ourselves what impact they are having: are they actually influencing the people committing all these things?

The noble Lord, Lord Alton, is absolutely right. Stopping military leaders means stopping those who control not only the policy of Burma but the economy of Burma. We are not talking about individuals who simply have a role in government. Their influence and the way they have exploited the economy of Burma goes well beyond their military role. We need to address that. The idea that we should simply stop them going on a shopping trip beggars belief.

8 pm

Both Sir Alan Duncan in the other place and the Minister today have spoken about the importance of our leadership role, which we should not underestimate. It has been vital in influencing the European Union and it has had positive effects on foreign policy. We have used different measures in Iran and we are trying to influence it to change its policy on nuclear weapons and engage positively. On human rights, we are clear that its behaviour is totally unacceptable. I hope the Minister will be able to update us on the position of Nazanin Zaghari-Ratcliffe. However, human rights abuses in Iran go beyond that into capital punishment and abuse of the LGBT population. The list goes on.

On the fundamental point of effectiveness and impact, the reason our sanctions have most impact is that we impose them collectively. If we take actions in isolation from the international community, they will not have impact. Can the Minister respond to other noble Lords' questions about the mechanism for maintaining that impact through collective action with our European allies? What discussions are we having? We have taken many actions to prepare for the eventuality of X, Y and Z, but how we are planning? What sort of forums will we consider to ensure that we have a consistent response from our allies?

Another point raised by noble Lords concerns the differences within NATO. Iran is a classic example of where the impact and effectiveness of sanctions on the nuclear weapons programme is undermined by the United States. That, of course, has implications for business and trade.

I had a number of questions on the individual SIs but other noble Lords have picked up on most of them and I will not repeat them. The fundamental point is how we ensure that we have ongoing effectiveness and impact working with our allies in the European Union.

Lord Ahmad of Wimbledon: My Lords, I thank all noble Lords who have again contributed to a very practical and focused discussion. I am pleased that the noble Lord, Lord Collins, and the noble Baroness, Lady Northover, noticed the brevity of my opening

remarks. We have talked about sanctions to a large extent and perhaps I was pre-empting some of the questions. I was not disappointed. There were focused questions on the specific proposals in front of us today and I will answer them directly.

In thanking everyone here, I acknowledge and put on record the thanks of the Government to the Secondary Legislation Scrutiny Committee and the Joint Committee on Statutory Instruments, which have been working terribly hard in the current climate. I appreciate their close scrutiny of the statutory instruments laid before us today.

I agree with the noble Lord, Lord Collins, that it is important that, as we leave the European Union, we align ourselves to working closely with our European Union partners to ensure that any sanctions we impose have the desired impact. It is no good applying a sanctions regime in the UK which is different from that of some of our nearest and closest allies, including the European Union. Discussions on that have taken place with our partners and continue to do so, because we all desire to ensure the robustness of those schemes.

From the discussions I have had with a number of European Foreign Ministers, I can assure noble Lords that, notwithstanding our departure from the European Union, there is a real commitment to continue to work and align ourselves closely on many issues in which we share common perspectives—and sanctions is certainly one such area.

As noble Lords will be aware, the Sanctions Act requires a review of all UK sanctions listings at least every three years. In addition to this triannual review, we will also review all sanctions regimes such as those being debated today on an annual basis. That will present yet another opportunity to review and scrutinise how we are acting in conjunction with other key allies around the world, including those within the European Union. As I have already said, these arrangements will also provide protection for designated persons, especially when coupled with wider safeguards than the Sanctions Act.

I turn to some specific questions. The noble Lord, Lord Collins, rightly asked why we had proposed what is in front of us today and what was the exact purpose of sanctions. As I said in my opening remarks, the SIs are intended to transfer into UK law the respective EU sanctions regimes. The instruments seek to substantially mirror the policy effects and mutually reinforce the measures in the corresponding EU sanctions regime.

The noble Baroness, Lady Northover, and the noble Lord, Lord Collins, rightly raised the issue of human rights. I assure noble Lords that human rights are a significant focus of the sanctions regimes we are debating today. I know that many are keen for the UK to develop its own stand-alone human rights sanctions regime and may therefore query why we are simply transferring existing EU sanctions regimes. I assure both noble Lords that the Sanctions Act gives us the necessary powers in UK law to develop our own such regime. However, these SIs were laid on a contingent basis to provide for the continuation of some existing sanctions regimes should we leave the EU without a deal. Transferring our existing EU measures by laying SIs such as these has been our priority, and I am sure noble Lords acknowledge that. We will soon be able to consider new regimes specifically.

The noble Baroness, Lady Northover, asked a series of questions across different elements. I have already alluded to the issue of the EU and how we will work closely together. I assure noble Lords that we will continue to work closely to strengthen our bilateral relationships with key partners. The UK's existing co-operation with the EU on foreign policy, security and defence issues provides a strong platform on which to build our future relationship. Last week I was at the Security Council of the United Nations, under the German presidency, discussing the important issue of sexual violence in conflict. The bilateral discussions I had with the German Foreign Minister and others concerned how we could align ourselves closely in areas of mutual co-operation.

The EU-UK political declaration, which I am sure noble Lords saw, also mentions specifically:

> "Consultation on sanctions, with intensified exchange of information where foreign policy objectives are aligned, with the possibility of adopting mutually reinforcing sanctions".

That is a clear statement of intent on how we seek to co-operate going forward.

The noble Baroness asked about divergence from EU sanctions. My right honourable friend the Prime Minister has said that the UK,

> "will look to carry over all EU sanctions at the time of our departure".

I assure the noble Baroness that, under the sanctions Act, the Government will produce secondary legislation for each existing EU regime in order to carry EU sanctions over into UK law. Stating what will happen in future would be purely speculative, but I hope that I have given a level of reassurance to noble Lords in respect of our intention to work closely with our European partners.

The noble Lord, Lord Collins, rightly raised human rights and specifically the Magnitsky sanctions. I was proud of your Lordships' role in ensuring that there was a real focus on human rights in the sanctions Act. As noble Lords will have noted, three out of the four sanctions regulations being debated today—on Burma, Venezuela and Iran—are made at least in part to promote compliance with international human rights law and respect for human rights. The sanctions imposed under these regulations are designed to ensure accountability for human rights violators.

As I have already said, the Sanctions and Anti-Money Laundering Act 2018 provides powers for the UK to make secondary legislation to impose sanctions to provide accountability for or to deter gross violations of human rights, and to promote compliance with international human rights law and respect for human rights. I assure noble Lords that the UK strongly supports current efforts to establish a thematic human rights sanctions regime. The Government's focus to date has been on ensuring that we have the necessary secondary legislation in place to implement EU and UN sanctions. The SIs we are debating today are part of that preparation. As a member of the EU, or during the implementation period, EU sanctions will apply within the UK, and we will use the powers provided

[Lord Ahmad of Wimbledon]
by the sanctions Act to the fullest extent possible during that period. The noble Lord talked about different countries during that interim period, and there will be some limitations on what we can impose autonomously. I assure noble Lords that it is our intention that national sanctions in relation to human rights will be brought forward, but we will need to design and draft a statutory instrument to ensure that associated processes and structures are in place. I am sure noble Lords will agree that it is also important that we set up the regime correctly to ensure that sanctions meet the legal tests set out in the sanctions Act. In summary on that point, the Magnitsky clause in the sanctions Act, and the Act itself, provide the governance and framework to allow us to take forward those principles and those protections for human rights.

If I may digress for a moment, it was a huge privilege recently to mark the 40 years in Parliament of the noble Lord, Lord Alton. He has been a strong promoter of human rights over many years. I pay tribute to him and put on record my thanks for being such an advocate for human rights over a number of years. The contribution he made today underlines the intense focus, detail and sensitivity he brings to this subject. I look forward to working with him and, indeed, all noble Lords on these important issues.

The noble Lord, Lord Alton, and the noble Baroness mentioned Burma. I assure noble Lords that the regulations in front of us impose an arms embargo as well as prohibitions relating to dual-use items and items that can be used for internal repression and for the interception and monitoring of telecommunications. There are also currently prohibitions on the provision of interception and monitoring services and on military related services, including the provision of training, personnel and funds to the Tatmadaw. The noble Lord, Lord Collins, alluded to the leadership of Burma. We have led the way in the EU when it comes to sanctions on Burma. The noble Lord, Lord Alton, rightly made a point about the situation in the United Nations. Burma has been an issue. As the penholder on Burma at the United Nations Security Council, we are cognisant of the importance of moving forward on these issues. Undoubtedly some members of the Security Council are reluctant to move forward in the way all of us in this House would want to see, but I will apprise the noble Lord of the progress we can make in this respect. It is not something that we are losing focus on. I stress that in my capacity as the Prime Minister's special representative on preventing sexual violence in conflict, ensuring that we bring justice for the victims and survivors of tragic events such as the ethnic cleansing we have seen in places such as Burma by bringing the perpetrators to justice will remain a key focus of my human rights work.

8.15 pm

My noble friend Lady Hooper and the noble Baroness, Lady Northover, talked about Venezuela. We will continue to work very closely with partners on Venezuela. We are working very closely with the Lima Group and will continue to do so in this respect. Indeed, at a meeting at the UN when the crisis first broke out, my right honourable friend Sir Alan Duncan reiterated our alignment with the Lima Group. To take up a number of points made by the noble Baroness, Lady Northover, on the unfolding situation, the EU has firmly condemned recent events in Venezuela. I must admit that like all noble Lords yesterday evening I was watching what was unfolding on our screens. We are watching events very closely. I assure noble Lords that whether it is through an Answer to an Urgent Question or otherwise we will update and apprise your Lordships' House as things become clearer on the ground. What is very clear is that it is time for Mr Maduro to step aside and time to ensure justice and for the voices of the people of Venezuela to prevail. That is why we have aligned ourselves in support of interim President Guaidó to ensure that we can move forward. We continue to call for free, transparent and credible presidential elections at the earliest opportunity. In this respect we are working very closely with most EU member states, the United States and members of the Lima Group.

The noble Baroness, Lady Northover, asked about the Bank of England and Venezuelan gold. As I have said previously from the Dispatch Box, it is entirely the Bank's decision. I stress again that the Bank of England rightly takes its responsibilities on this matter with the utmost seriousness. We are keeping it extremely well briefed about the fluid situation in Venezuela. As the noble Baroness is aware, the Bank does not comment on its client relationships. I assure her that we are keeping the Bank fully appraised of events on the ground.

Turning to the Iran SI, the noble Baroness raised specific issues. On Nazanin Zaghari-Ratcliffe, the treatment of British detainees in Iran is a priority for Her Majesty's Government. I am sure the noble Baroness will acknowledge my right honourable friend the Foreign Secretary's direct intervention in this case. His intervention has resulted in what we hope is improved access to medical treatment. It is important that we continue to raise this issue consistently and regularly with the Iranian Government, and we continue to do just that.

The noble Baroness asked about working with our European partners on issues around Iran. I go back to what I have said previously from the Dispatch Box about the importance of keeping the Iran nuclear deal on the table and of working with our European partners. That reflects our priority of ensuring that the Government in Tehran continue to be engaged internationally with Governments elsewhere in the world. A point was made about ignoring human rights to pursue nuclear trade concerns. I assure noble Lords that this is a personal priority. We do not pursue trade to the exclusion of human rights or the rule of law and we believe that a complementary approach can be adopted. When it comes to Iran, we believe that we can encourage economic development and openness and that that is the best way to develop our relationship. That provides better leverage.

The noble Lord, Lord Alton, talked about human rights and trade vis-à-vis Burma. In a former role as Transport Minister, I was one of the first Ministers to arrive in Burma heralding the arrival of a new civilian Government. It is regrettable that those ambitions have not been lived up to. We are using all our expertise in Burma in direct relations with the Burmese Government and through the offices of the United Nations to ensure that human rights are rightly seen as a priority.

Turning back to Iran, the human rights situation remains dire and we are determined to continue to hold the Government to account. Perhaps I may give a few facts and figures. The EU has designated more than 80 Iranians as being responsible for human rights violations. We have also helped to establish the UN special rapporteur on human rights in Iran and have lobbied for the adoption of UN human rights resolutions on Iran. We regularly raise these issues bilaterally, including when the Minister for the Middle East visited Tehran in August 2018.

We are fast approaching the month of Ramadan for Muslims around the world, and it is a time for great compassion and humanity. I am sure that we look to everyone across the world to consider some of these cases with the compassion and humanity that their faith calls for, and I particularly appeal to those in Iran to do so.

The noble Lord, Lord Alton, asked what the UK is doing specifically on Burma. I have already alluded to various elements and he is fully cognisant of the aid programme and support that we continue to provide. Sanctions have been raised against 14 individuals in the Burmese military, including the border guard and associated persons who were responsible for human rights violations in 2018. The Foreign Secretary wrote a joint letter with the French Foreign Minister making it clear to the Burmese authorities that their commission of inquiry needs to be both independent and credible. That will lead to a judicial process. As the noble Lord will be aware, the Foreign Secretary visited Burma on 19 and 20 September to see directly for himself the situation in Rakhine State, among other places. In terms of specific sanctions on Burma, the sanctions Act provides a new legal framework through which the UK will impose, amend and lift sanctions in the future. However, while we remain a member of the EU, we will continue to work closely in alignment with the EU sanctions regime.

I assure the noble Lord, Lord Chidgey, that I have not forgotten him—I am coming to Guinea-Bissau. Currently 20 individuals are subject to asset freezes in Guinea-Bissau. We cannot reveal the names of the persons to be designated ahead of the regulations but I assure the noble Lord that we are committed to ensuring that this matter is prioritised, and we have brought forward this SI to ensure that that happens.

To conclude, these statutory instruments transfer into UK law well-established EU sanctions regimes that are in line with the UK's foreign policy priorities. Again, I emphasise that they will encourage respect for human rights, the rule of law, and security and stability in very challenging environments. Approving these SIs will allow the UK to continue to implement sanctions from the moment we leave the EU. It will also send a strong signal about our intention to continue to play a leading role in the development of sanctions in the future.

Once again, I thank all noble Lords who have participated in this short but important debate. When it comes to sanctions regimes, I will continue to work very closely with noble Lords across the House to ensure the prioritisation of human rights obligations. I commend these regulations to the House.

Motion agreed.

Venezuela (Sanctions) (EU Exit) Regulations 2019

Motion to Approve

8.22 pm

Moved by ***Lord Ahmad of Wimbledon***

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

Motion agreed.

Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019

Motion to Approve

8.23 pm

Moved by ***Lord Ahmad of Wimbledon***

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

Motion agreed.

Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019

Motion to Approve

8.23 pm

Moved by ***Lord Ahmad of Wimbledon***

That the Regulations laid before the House on 15 March be approved.

The Minister of State, Foreign and Commonwealth Office (Lord Ahmad of Wimbledon) (Con): Looking specifically in the direction of the noble Lord, Lord Chidgey, I beg to move.

Motion agreed.

Student Loans Company

Question for Short Debate

8.23 pm

Asked by ***Lord Mendelsohn***

To ask Her Majesty's Government what is their assessment of the governance, operations and performance of the Student Loans Company.

Lord Mendelsohn (Lab): My Lords, I am very grateful for the opportunity to debate the governance, operations and performance of the Student Loans Company. I am also very grateful to colleagues for taking part and to the Library for producing an excellent briefing note. I hope that the Minister will take this contribution in the spirit in which it is intended—as a gentle chiding and not as a call for full disclosure of every answer from the Dispatch Box. I also hope that he will accept that some other issues have been raised with me in relation to the Student Loans Company which are not for this debate. I will write to him separately on those.

I have always had a feeling that the Government—all Governments—have been great at announcing business but not always as good at delivery. Most often, political and other pressures have delayed the correct evaluation

[LORD MENDELSOHN]
of what is and is not working, as well as the ability to be open and flexible enough to find a better solution. Inevitably that leads to cost and to some degree of failure to achieve as much as we should, but often it means very real detriment.

In my view, some of the losers from that have been the many great, talented and committed public servants and those brought into public service or contracted to be part of the effort. They are not given enough of something—be it attention, authority, funding, independence or scope for change—that could make a real difference, and those are the people who know what a real difference they could make and how they could reach their potential. I introduced this debate to highlight these issues in relation to the Student Loans Company, in a sense making it the example.

The Student Loans Company is a significant organisation, administering over £118 billion in loans to over 8 million students and graduates. It has a size and complexity akin to a retail bank, with a loan book that continues to grow significantly each year. This is a very complex business and the company and its staff do not have an easy job. In highlighting some of these issues, I do not wish to talk down the company or underplay the challenges or even the new threats that it faces—the Student Loans Company was subject to 1 million cyberattacks last year alone.

The SLC is not without achievements. It was, I believe, the first government agency to achieve Government Digital Service accreditation for two of its services. Indeed, I wish the new chief executive, Paula Sussex, every success in that role. However, around five years ago it was clear that not only did it have profound operational difficulties but it was not really fit for purpose for the future. McKinsey was brought in to make an evaluation and made clear its obvious weaknesses. There were fundamental problems in its governance model. The main issue was identified as the Government's tight control of decision-making, which introduced delay and risks. Improvements were sought not just at the departmental level but at the levels of the steering board and the main board and in the strength of the main board to operate. I believe—perhaps the Minister will confirm this—that at that time it was even floated that an alternative governance model which would make it more independent could be considered. Has that ever been addressed following the evaluation?

McKinsey identified problems in the repayments strategy. The focus on reducing leakage meant that the SLC was not focusing on delivering an overall recovery plan; nor was it able fully to communicate with government on the true state of repayments, the economic life choices of graduates, how to deal effectively with the loan book, the true level of government expenditure and the level of national debt. It uncovered that the commissioning process—that is, how you deliver the Government's policy announcements and adjustments—increased costs and caused delivery problems and complexity. The report also suggested that bringing the Student Loans Company earlier into the design policy could address many of those problems.

It also highlighted the need to transform the organisation's morale and overall health, and the governance and commissioning processes were seen as a critical factor in that. It also highlighted other obvious weaknesses in the IT capabilities and noted significant gaps. In many ways, those related to a mismatch of talent that could not be recruited because of the company's low compensation compared with that of the financial institutions with which, in size and significance, it was competing. The problems of morale, health and governance were also hurdles for candidates to overcome.

Beyond the review, many other familiar problems dogged the company. There was the reluctance of some parts of government to work fully with the SLC. For example, the fact that HMRC, despite receiving payroll data every month, would share that data only on an annual basis was not exactly encouraging and not entirely helpful. There was a lack of available funds to make some of the improvements properly and an allocation process that did not allow for long-term planning. There was a commitment to try to transform this with the appointment of a new chief executive, but unfortunately that change and some of the divisions and conflicts within the operations of government and the governance structure mean that we are not very far from where we were then. In fact, the evidence given by the chairman and chief executive to the Commons Education Select Committee showed that all these issues remained, with the exception of governance. However, the answer to governance was not the changes identified in the report.

It is a matter of public record that during this time the conflicts between the many layers of government—Ministers, officials, senior staff at the SLC and the new external appointments—meant that there were challenges around the fears that people had about the breadth of the transformation plan and how it was delivered, the process of the review and some of the suggested solutions. As with many issues familiar to this House, people will understand that some of these issues were smoothed over and the reviews and outcomes have not fully brought things to light.

Tensions broke out into the open and manifested themselves most seriously in the case of Steve Lamey, who was recruited to be the new chief executive of the Student Loans Company in June 2016 and dismissed in November 2017. He seemed well qualified with his background in industry; he had been with HMRC for eight years and had been involved in many transformation projects in IT, serving both the private and public sectors. One of the most eminent recruitment firms and an excellent selection panel selected him as the only eminently qualified candidate. This does not seem to have been a flaw but rather an illustration of the high bar they established.

In fact, Sir Paul Jenkins' review noted that Mr Lamey's annual appraisal while at the Student Loans Company had reported "an excellent first 10 months", and that he had "re-energised the business" and demonstrated "sound and effective" leadership qualities. In the next two months, as the question of redundancies and implementing change took place, it all went wrong. I do not want to rake over every detail, and this Chamber

is not best place to do so, but this event and the subsequent discussions made me consider that something more was amiss.

My concern is not in any way to dismiss the claims made or their seriousness, nor to cast aspersions on those who were involved or who dealt with the adjudication. But I believe there are many clear flaws in the substance and manner of how all the issues were addressed. Fundamentally, it appears that, yet again, an outsider was outmanoeuvred in office and organisational politics, and that processes for questions that he should indeed have addressed did not seem to be handled proportionately or fairly. I wish there was some way in which what appears to have been an injustice to Steve Lamey could be rectified and the matter dealt with properly and independently. I hope so, but I do not expect so.

While this particular drama became the overall narrative, it meant that such fundamental issues, confirmed and expanded by McKinsey, and evident not only in its review but in other evaluations, have not been addressed with either the pace or commitment needed to get to the heart of the matter and empower the SLC to do the job it needs to do. Today, we have continuing problems of weakness in the retention of clerical staff and high sickness absence, as well as unsettling business practices which, unfortunately, continue to be unearthed.

It was no surprise that, in 2017, the National Audit Office judged that there was enough concern with the SLC to warrant an investigation into its oversight by the Department for Education. Its report highlighted a catalogue of shortcomings. In 2017, the DfE told the National Audit Office that it would be reviewing the governance, structure and operating model, with a first phase concluding by June 2018—and many other aspects to be included in the review. I would be grateful if the Minister could give some indication about that process—its different phases and timings, and its conclusions.

The Student Loans Company has not been able to get into a transformation process that has dealt adequately with its customers. This does not just cause difficulties in its operations, or with the challenges that we have. It shows a constant approach of underplaying some of the problems associated with the overall policy. I am not charging the Student Loans Company with this problem, but it manifests itself in the operation of loan sales and the accounting of loan numbers.

The Student Loans Company plays an important role in enabling the Government to package and sell their loans. We have had tremendous problems. We are selling loans at levels far below their value: £3.5 billion worth of loans for £1.7 billion, meaning a write-off of £1.8 billion. As the noble Lord, Lord Forsyth, has shown in the excellent report of the Economic Affairs Committee, we will underplay with the £12 billion sale a cost of £28.1 billion. The Government make the case that this might not be the value over time, but issue 1 of the prospectus for the Student Loans Company includes a calculation that demonstrates, in my view, that the Government's argument is entirely flawed. Moreover, the fact that we will not be able to recover a likely 60% of student debt—and not appreciating that, for example, 60% of graduates take some form of career break—means that we are placing a huge bet on something that will not come off. The ONS has uncovered this and by the end of the year, we hope that we will see how things will change.

I hope this debate will give us a chance to chivvy the Government—to think about the importance of policy and delivery, understand the importance of reflection and challenge, and be open to being more open about how they are dealing with policy and how that might need to change. When Ministers are comfortable with being challenged, the system should not act to protect them from themselves. It will gain great credit, as companies and local authorities do, for being able to adapt when it gets things wrong, or goes wrong.

We should strive for excellence in our delivery of every policy and always be customer-focused, willing to have effective performance reviews and a degree of independence. This will allow our talented and able Civil Service to thrive. Finally, as we look forward to the Augar review, I hope that the Government might add a little to it, even at this late stage, to include a better assessment of how the policy could work and to design a delivery mechanism that the Student Loans Company could operate and which has the proper interests of its stated objectives in mind: namely, students, higher education and the strength of the UK.

8.34 pm

Baroness Garden of Frognal (LD): My Lords, I thank the noble Lord, Lord Mendelsohn, for introducing this debate on the Student Loans Company, a company which has had more than its fair share of problems. It has had four CEOs within a matter of months. As we have heard, Steve Lamey was suspended and his contract terminated. He was followed by interim CEO David Wallace; then the veteran Peter Lauener took over, also as interim CEO. Finally, in September 2018, Paula Sussex was appointed to this role. To lose one CEO seems careless, but to have four within such a short period smacks of a real disquiet.

The job of the SLC, as we know, is to manage money, pay maintenance grants and loans to learners, and pay grants to HE and FE providers. As the noble Lord has said, this is a complex business, and it appears to be a challenge too far. We know that Mr Lamey was appointed in spite of reservations, apparently on the advice of one of the Minister's special advisers, and he was appointed with an extended probationary period. But then, on 7 November 2017, he was sacked without pay for gross misconduct in public office. Criticisms were made of his leadership and management style, and various other allegations were made which might have been foreseen. Was an injustice done to Steve Lamey?

The Student Loans Company has been plagued by a series of executive scandals. In 2009, two senior executives resigned after the company failed to cope with more than 1 million applications for loans, after taking over responsibility for loans from the local authorities. In 2010, the then CEO Ralph Seymour-Jackson resigned over thousands of late and failed repayments that left undergraduates without cash and universities having to resort to distributing emergency funds. In 2013, the then CEO Ed Lester resigned after he avoided tax by getting his salary paid through a

[Baroness Garden of Frognal]
private company. In 2014, the former chair of the company offered their resignation after the SLC used letters from a fictitious debt collection company to threaten legal action against graduates who had missed repayments. Regulators forced the company to change the wording of the letters. It is a short and unhappy life leading the SLC.

The student loan repayment process has been widely criticised. In 2016-17, 85,000 graduates paid off more than they owed and 40 people overpaid by more than £10,000. The Student Loans Company now recommends that graduates transfer to paying their student loan contributions by direct debit in the final two years to avoid overpayments, but only 34% of eligible graduates do this. However, HMRC and the Student Loans Company have now developed a protocol that allows them to exchange data weekly rather than annually, and hopefully this will prevent overpayments.

Interest on student loans is linked to inflation and is capped at 3% above RPI inflation for the highest earners. By contrast, the Bank of England base rate is 0.75%. This should certainly be reviewed. It seems outrageous that students are expected to pay interest at rates so much higher than other people's. In March 2017, outstanding student loan debt exceeded £100 billion for the first time, which is more than double the outstanding debt from five years ago. Should we be worried about this?

The Education Select Committee has criticised how the Student Loans Company assesses the eligibility of "estranged students"—those who are no longer in regular contact with their parents—for student finance. The National Union of Students has evidence that the Student Loans Company is trawling through the public social media posts of these students to identify conversations between them and their parents.

The Student Loans Company's new chief executive says that governance is improving—it could hardly get worse. However, as of October 2018, the new chief executive had not met a government Minister. Ministers are supposed to meet with the chief executive at least twice a year. Could the Minister say whether such meetings have now taken place?

All of this makes me really nostalgic for the much-maligned Liberal Democrat policy of no fees. Think of all the money spent on the Student Loans Company that would have been saved—money spent on its administration and chasing students, rightly or wrongly, for payments—and the fact that over half of students will not repay the loans, so the Government will be paying anyway. How wonderfully simple it would have been, and arguably more economic, to have adopted our fully costed policy in 2010. Alas, it was not to be and the moment has now passed, but can the Minister say what the actual costs of the student loans are?

The Liberal Democrats would reverse Conservative cuts to higher education so that it remains open and outward-looking and promotes opportunity for all. We would also reinstate maintenance grants for the poorest students, ensuring that disadvantaged young people do not have the highest loans to repay. We would argue for the reinstatement of nurses' bursaries, recognising the urgent need to address the crisis in NHS recruitment and retention. We would lower the cap on interest rates so that it better reflects the cost to government of administering the loans and establish a review of higher education finance in the next Parliament to consider any necessary reforms. This would include the option of a graduate tax, in light of the latest evidence on the impact of HE finance on access, participation and quality.

We all wonder what the long-awaited Augar review will say. We need a better assessment of how the policy would work and its impacts, and to design one which has the proper interests of its stated objectives in mind: namely, students, higher education and the strength of the UK.

I have just come from being awarded a fellowship by Birkbeck. What are the Government doing to restore faith in adult and lifelong learning and how can the loans company contribute in a positive way to this essential part of education?

The Student Loans Company was branded the worst place to work at one stage, with severe discontent among employees. However, last month, it celebrated obtaining silver-standard accreditation status from Investors in People for its ongoing commitment to supporting, developing and empowering its staff, so maybe things are looking up. Last year, the then Minister Sam Gyimah ordered a review of the SLC. I can find no evidence of this review. Am I not looking in the right place? Can the Minister say what has happened to that review?

We hear that in the five years to 2023, the amount lent to students is expected to grow by almost £5 billion, partly due to the increase in maintenance loans following the ending of grants. Do the Government have any plans to reinstate grants? We know that, particularly for adult learners, the prospect of debt is a considerable deterrent to learning, yet the country needs all the adult learners we can encourage if skills gaps are to be filled. It is important that FE is funded and supported, just like HE.

There are questions aplenty to answer over this beleaguered company, and we look forward with interest to the Minister's reply.

8.42 pm

Lord Stevenson of Balmacara (Lab): My Lords, this is a very quick-fire debate. It covers a lot of ground, but I am afraid we are all coming from roughly the same position, so I will try not to elaborate too much on points already made. There is, however, a real need for the Minister to give serious answers to some of the questions raised.

There seem to be three main issues in play here. The question of whether an injustice has been done to the former chief executive of the SLC is part of a wider package of concerns about the overall function and performance of this body. As my noble friend Lord Mendelsohn says, it is sadly not an uncommon story in bodies spun out from previously internally organised functions: when they become independent and have to negotiate their own commercial and policy paths, tensions that were perhaps hidden in the department or under a departmental heading become more exposed. There will be issues that are very familiar to this House from our various discussions about the performance of bodies established to deliver services over that period.

However, as the noble Baroness, Lady Garden, just said, the catalogue of activity and problems in the SLC that she read out would be hard to imagine, let alone recognise as a reality. The constant year-on-year mistakes, errors and judgments that have proved not to be correct and financially impact on individual students might not be large in number, but it would be devastating if every single one hit them. When they did not receive the funding they were promised, or were overcharged in their repayments, they felt betrayed by the system they had put their trust into. They, their parents and others involved in the process of the decision to go to university, very often for the first time in a family, get squashed in the incompetency perpetrated on them through the system. It does not seem right.

I hope the answer to the question the noble Baroness asked about the announced review into the SLC, which seems to have disappeared, can be revealed. When it was announced, my colleague in another place, Gordon Marsden, said that the dismal track record and the problems ventilated about the individual staff do not seem to limit the possible scope of the review to just the SLC. It also needs to have some concern for ministerial oversight and internal governance. Can the Minister confirm that that will be included in the discussion?

The overall list of errors and misjudgments relating to the SLC, which, as I said, affect individuals, also have a cost in terms of the taxpayer's potential returns. Will he also confirm that some effort will be given to providing information about the totality of the costs involved in that arrangement and the evidence behind it? Will he also confirm that the Commons Public Accounts Committee, which has fiercely criticised the Government for selling off part of the loan book—a point I shall come back to—will also receive a full response so that it can continue to monitor the work that has been going on?

The second point is about the current system of student loans: what is it? What is actually happening on the ground here? The two elements about that both concern the ridiculously small amount of money raised by the previous sale. The Government raised about £1.7 billion, according to the NAO, in a sale of the student loans of more than 400,000 borrowers that became eligible for repayment between 2002 and 2006, but the outstanding face value is £3.5 billion. This was picked up by both previous speakers and is the subject of a separate report.

The points that have not been raised and which need to be added to the list of matters that I hope the noble Viscount will respond to are those raised by the NAO later in its findings. They are not specifically about the amounts but about the impact. The Government have, in essence, been selling,

"an uncertain stream of future repayments",

in return for "a lump sum". That is not an uncommon commercial activity, but the NAO continues:

"If government chooses to change repayment terms in future or makes specific mistakes in administering the loans it will need to compensate investors".

There is a hidden additional cost. Will the Minister confirm that? If so, will he give some indication of what the provisional amount of money set aside to cover it is?

The second point, which is more of a policy issue than a practical one, is that that sale is about reducing a headline figure of the amount of public debt. We understand the motivation behind that. Generating £1.7 billion is, of course, not an inconsiderable amount of money and I am not trying to argue against it, but simply reducing headline debt as a measure of public sector net debt does not take into account, the NAO says,

"the loss of future receipts from student loan repayments",

which could in fact go up, because, as the noble Baroness said, this is based on a figure related to RPI—very unfairly, because RPI is a measure no longer used in any other part of government that I am aware of. It should be more directly related to CPI. It is a rather high rate of return. If the judgment is made only on the cash taken, are the Government not also in danger of losing out on future receipts from increases that they might have had from 3% plus RPI? Again, can the Minister confirm that and give us an estimate of what the provisional figure of loss is in that scenario?

Moving on to the broader questions raised by both previous speakers on what the scheme is actually doing, the Minister is well aware of my long-held view that this is the wrong system for financing. I would not go as far as the Liberal Democrats by having free provision—although that is an attractive prospect in terms of the savings and the organisational structures, which are rarely costed in. The Labour Party's previous policy was for a co-payment system. We accept that this is probably the right solution, but the balance is completely wrong. The idea that in some senses it continues to be a market economy in which the student is able to pick and mix between the various options available from the courses and the various institutions is simply a fiction.

We hope that the Augar review, when looking at this, takes into account the broader question of what the system is best able to do. It seems to have been delayed yet again, but when it does report, I very much hope it takes into account the idea that there should be a mixed economy operating in higher education, and that there should be some payment from the benefits that will come directly to the individual undertaking the course, which must be proportionate to the overall cost to the system.

Secondly and most importantly, unless the Government have some control over the system, through grant and aid to institutions, there is a real danger that the Secretary of State will not have the political power to manage and organise the structure in the most efficient way, which must be against the public good. In that situation, one hopes very much that the figures which have been bouncing around—reducing the maximum fee from £9,000 to nearer £6,000—have some merit. Presumably they would not have leaked if there was not some serious work being done on that. What is needed—I hope the Minister will take this away and think about it—is a much broader and deeper understanding of what the system should be, to maximise the benefit not just to individual students but to the

[Lord Stevenson of Balmacara]
economy as a whole. By holding control through payment, the present structure is too focused on regulation and not focused enough on growth and support of the sector. We need to think of how best to allow the higher education system to realise the good ambitions of the industrial strategy, and the need it poses for high-quality graduates and postgraduates to come out of a system that has some alignment to the broad economic goals of the UK. Without that, I do not see how the system can operate.

Thirdly, we have seen the Government preside over a situation in which part-time higher education has collapsed and is no longer a viable and important part of our higher education system. This is a tragedy. The noble Baroness made all the points that I would have made on this. The figures are absolutely astonishing. A 54% reduction in part-time students from a peak of almost 590,000 in 2008-09 is disastrous. There have to be multiple routes for individuals who wish to pursue higher education that fit their circumstances and the way they plan their lives. For years, almost for decades, this country has been at the forefront in providing that sort of mixed economy: those who want to go straight from school to university can do so; those who wish to take time out and earn a little or do something else and then go to university can do so; those who want to learn while they earn can do so. However, that is no longer the case. Major institutions such as the Open University are facing bankruptcy simply because of a perverse, market-orientated philosophy that requires students wanting to better themselves to take out additional grants at the most inappropriate time in their lives—when they are trying to save for a mortgage or educate and support their children. It is just bonkers. I hope very much that, within the overall scheme of policy-making, my points can be taken on board, but the most important is this one—about part-time students.

8.53 pm

Viscount Younger of Leckie (Con): My Lords, I am very pleased to respond to this Question for Short Debate. Very short it certainly has been, but with three weighty speeches—so far. I thank the noble Lord, Lord Mendelsohn, for raising this important issue.

This is a good opportunity to reiterate the raison d'etre of the Student Loans Company and to look at its challenges, but also to touch on those aspects that we feel are going well. However, let me be clear that the SLC and the Government recognise that it will need to continue to change and improve, not least in the area of digital interaction with its customers, so that it is prepared not just for the next academic year but, looking ahead, for five or 10 years. In a way, this may turn out to be a rather lordly SWOT analysis of the SLC.

Let me take a step back and remind the House of the background of the SLC. To some extent the noble Lord, Lord Mendelsohn, has stolen some of my speech. There have been huge changes in the scale of the operations of the SLC since it was set up in 1989. In its first full year of operation in 1990-91, the SLC had 82 staff. Today it has more than 3,000 staff, based across three sites in Glasgow, Darlington and Llandudno Junction. In 1990-91 it had only one product: a UK-wide mortgage-style maintenance loan, with an average loan-per-student value of just £390. Today it offers its customers a range of 25 student finance products, customised to their needs. In 1990-91, it paid out loans to 180,000 customers. By 2017-18, that had increased tenfold as it paid loans and grants to 1,800,000 customers. The cumulative effect of these changes means that the SLC is now the equivalent size and complexity of a medium-sized retail bank, as the noble Lord, Lord Mendelsohn, said. It receives more than 6 million telephone calls every year.

The SLC is continually evolving and improving, as indeed it should, and continues to deliver good and valued service to its more than 8 million customers, 96% of whom are based in the UK. Since the 2011-12 financial year, the SLC has seen its customer base increase by 62% and the value of its loan book increase by 158%. The SLC has also continued to deliver new student finance products for its shareholders; by its shareholders I mean taxpayers, administered by the Governments of England, Scotland and Wales and of course the Administration, pro tem, of Northern Ireland.

These new products have, for example, allowed students to access funding for postgraduate study. They have allowed part-time students to access maintenance loans, reflecting the importance the Government place on part-time study. We are reminded once again of the 50th anniversary of the Open University this year. From this year, students will also be able to apply to access funding for new, two-year accelerated degree courses. This goes a little way to help with our promotion of lifelong learning, which was quite rightly raised by the noble Baroness, Lady Garden. The SLC has played a part in allowing young people from disadvantaged backgrounds to access funding to allow them to fulfil their potential. By 2018, 18 year-olds from disadvantaged backgrounds were, proportionally, 52% more likely to enter full-time higher education than in 2009. This must be a good thing.

We believe that the SLC continues to make good progress in delivering its core functions. For example, in 2017-18 it assessed 95.6% of the applications it received for full-time undergraduate study within 20 working days and 99% of them within 30 working days. This was up from 85.6% and 94% respectively in 2011-12. In 2017-18, customer satisfaction for those applying to the SLC was 84.1%, which was up from 70.5% in 2010-11. That is a much improved rate but we and the SLC believe that there is still room for improvement.

Let me now delve into the detail of the governance and operation of the SLC. Importantly, this is at a time when a number of reforms are under way in our higher and further education sectors. Notably, there is a review of post-18 education and funding, which your Lordships have heard me reference on numerous occasions over the past year, and which the Government intend to conclude later this year. This was raised by not only the noble Lord, Lord Stevenson, but the noble Baroness, Lady Garden, and I listened with some interest and care as it allowed them to expound their own policies. That will of course be on the record in *Hansard*.

The Office for National Statistics review of the classification of the student loan book, with which my noble friend Lord Forsyth and the Economic Affairs Committee that he so ably chairs are most familiar, will alter the way in which student loans are recorded in the national accounts. The noble Baroness, Lady Garden, and the noble Lord, Lord Stevenson, raised the question of RPI and its use. We will consider the interest rates and appropriate use of RPI as part of the Augar review. However, I can assure the House, as I have done previously, that this important change will not affect students and that the SLC stands ready to communicate that message to its customers.

The Government and the devolved Administrations are responsible for the governance and operation of the SLC, which is ultimately accountable to Parliament. The noble Lord, Lord Mendelsohn, talked about the profound operational issues identified by McKinsey five years ago. He also asked for an update on the transformation programme. It is an important point. The Government seriously and thoroughly considered McKinsey's report, which was made to the then Department for Business, Innovation and Skills. The SLC and the DfE have actively learned the lessons from that report and continue to strengthen and improve the SLC's governance and performance. I shall give your Lordships an update on the ongoing transformation later on.

The Department for Education is working closely with the SLC to ensure that its governance is robust to deal with the challenges it faces. That is in three specific ways. First, as I announced to the House by way of a Written Statement on 21 November 2018, the Department for Education is currently undertaking an in-depth tailored review of the SLC. The noble Baroness, Lady Garden, and the noble Lord, Lord Stevenson, asked about that. It is a wide-ranging review that the Cabinet Office requires departments to undertake of all their public bodies at least once in the lifetime of a Parliament, and is assessing the governance and control arrangements in place at the SLC to ensure that they are compliant with the recognised principles of good corporate governance and delivering best value for money. The structure, efficiency and effectiveness of the SLC will also be considered.

The noble Lord, Lord Mendelsohn, and the noble Baroness, Lady Garden, spoke about the departure of Steve Lamey. I do not want to say too much about that—that probably echoes the views of the noble Lord—but the NAO undertook a thorough investigation of the DfE's oversight of the SLC shortly after Steve Lamey was dismissed by it, which goes back to November 2017—some time ago now. That report sets out clearly that Steve Lamey was dismissed by the SLC and that due process was followed by the SLC and the DfE. We are clear that we expect the highest standards of management and leadership consistent with those required for individuals in public life, as set out by the Nolan principles.

Lord Stevenson of Balmacara: Tailored reviews are routine, regular and periodic, as the Minister said, and are required by the Cabinet Office for all bodies in scope. Is he implying that this is just an ordinary review, or does it have the hallmarks of the points made by my noble friend Lord Mendelsohn and the noble Baroness, Lady Garden, about the need to pick up the particular train of events that led to the concerns being raised?

I had in my notes to say at the beginning, but I may not have said it—so I am repeating it in case that is so—that I have a son who is in receipt of a loan from the SLC and is currently repaying it.

Viscount Younger of Leckie: I think that I can answer the noble Lord's first point by saying that it is a regular review, but I have no doubt that it will take account of the issues that have cropped up in recent years—I would be very surprised if that was not the case. If it is not the case, I shall certainly write to the noble Lord and clarify that.

The noble Lord, Lord Mendelsohn, spoke about governance shortfalls. As he will know, the SLC is a wholly government-owned company overseen by a board which currently consists of a non-executive chair, five non-executive directors, the chief executive, the deputy chief executive, the CFO and the company secretary. The board ensures that effective corporate governance arrangements are in place and provides assurance on risk management and internal control. There is a little more that I could say but, due to lack of time, I just want to make it clear that these structural arrangements are in place.

However, there is more to it than that, because the Government are confident that the SLC now has a leadership team in place that is equipped for the challenges ahead, under the able leadership of Paula Sussex, whom the noble Lord mentioned. Paula and her team, in conjunction with the DfE, have now begun to implement a wide-ranging, multi-year, multi-million-pound transformation programme. This will transform the way the SLC interacts with its customers, digitising processes and ensuring that the SLC communicates with its users in a way that is familiar to them—online, real-time and available 24/7.

Lord Mendelsohn: Just to clarify, is that the transformation programme that has operated for the last couple of years, the one that Steve Lamey was responsible for?

Viscount Younger of Leckie: I know that Steve Lamey has been involved in it, so the answer is yes, but it has been taken forward from the work that he has done.

The noble Baroness, Lady Garden, asked whether the new CEO had met Ministers, and I confirm that the Universities Minister met the CEO fairly recently in Glasgow.

I will move on to processes. The SLC is looking to remove inefficient manual processes that drive the small number of complaints it currently receives. The number of complaints is very small indeed: fewer than three complaints per 10,000 applicants and around one complaint per 10,000 loan repayers. Although the number of complaints is low, the SLC is seeking to reduce this further.

Time is running short and I have quite a lot more to say. We believe that the transformation programme has delivered real benefits already to the SLC's workforce.

[Viscount Younger of Leckie]

The noble Lord, Lord Mendelsohn, mentioned pay. Recognising, as he did, the major constraining factor of recruitment and retention, which impacts on achieving even better performance from the SLC, 1,600 of the lowest-paid staff have just been awarded an in-year pay increase of up to 8%. I hope that that will address some of the recruitment problems and improve staff retention rates.

As I mentioned earlier, we are strengthening the SLC's board through the appointment of non-executive directors with financial and public sector experience, which will also help. We will launch a fair and open campaign to recruit a new chair during the next few weeks, ensuring that the excellent work done by the incumbent, Chris Brodie, is continued when his final term of office ends in January 2020. I will write to the noble Lord, Lord Mendelsohn, about the loan book, giving him some details that I have. Bearing the late hour in mind, I will write to all three noble Lords who spoke to respond to any questions I have not answered. I thank the noble Lord, Lord Mendelsohn, once again, for securing this important debate and I hope he feels we have explored the subject. As I said earlier, there is more to do to be sure that the SLC is in very good shape and well prepared for the future.

House adjourned at 9.07 pm.