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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
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

Thursday 2 July 2020

The House met in a Hybrid Sitting.

11 am

Prayers—read by the Lord Bishop of Coventry.

Arrangement of Business

Announcement

11.06 am

The Deputy Speaker (Lord Russell of Liverpool) (CB): My Lords, a limited number of Members are here in the Chamber, respecting social distancing. Other Members will participate remotely, but all Members will be treated equally, wherever they are. For Members participating remotely, microphones will unmute shortly before they are to speak—please accept any on-screen prompt to unmute. Microphones will be muted after each speech. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants.

Oral Questions will now commence. Please can those asking supplementary questions keep them short and confined to two points? I ask that Ministers' answers are also brief.

Covid-19: Mental Health Services

Question

11.07 am

Asked by **Baroness Barker**

To ask Her Majesty's Government what steps they are taking to ensure that mental health services are available in (1) acute, and (2) community, care settings (a) during, and (b) after, the COVID-19 pandemic.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con) [V]: My Lords, the mental health challenge of Covid is a serious matter, and I pay tribute to NHS mental health services in both acute and community care settings, which have remained opened for business throughout this time, including delivering support digitally, over the phone and, where possible, face to face. There are no plans to stand down that support after the peak of the pandemic and we remain committed to our NHS long-term plan ambitions for increasing mental health services in acute and community care settings.

Baroness Barker (LD) [V]: In July 2019, the Government committed £2.3 billion for services for 370,000 people with severe mental illness. Will the Minister give an undertaking that if, as expected, Covid-19 causes greater demand for mental health services, that money will be increased?

Lord Bethell [V]: My Lords, we are investigating the long-term implications on our services from Covid-19. We are engaging with counterparts across Whitehall and, if necessary, we will invest further money. However, the mental health impact of Covid is not clear yet, and we await the final implications of that.

The Lord Bishop of Coventry: My Lords, at least one of the churches in my diocese recently set up a mental well-being centre, providing support groups, a helpline and signposting to professional services. Has the Minister considered inviting churches and other faith communities, with their knowledge of, trust within and connections to the local community, including networks of young people, to participate in the response to the mental health needs caused by Covid-19?

Lord Bethell [V]: The right reverend Prelate makes a good point, and I thank very much indeed those from all faith groups who have provided important pastoral support during this difficult time. On a practical matter, the funding for the mental health projects from our £5 million fund has gone to 130 different charities through the coronavirus mental health response fund. We are assessing the impact of those and we look forward to the recommendations of the Mind and mental health consortia which are behind that fund.

Baroness Redfern (Con) [V]: Mental health community projects are supporting people during coronavirus, and the Government's announcement in May of £5 million of additional funding marked the first round of funding to be allocated to the sector. When will the second wave of projects receive funding, and will that include extra training for staff and to recruit more to service the 24/7 helplines?

Lord Bethell [V]: I pay tribute to charities and other community projects which have contributed to a wide range of projects across mental health, learning disabilities, dementia, isolation, befriending, domestic abuse, women's issues and BAME groups. As I mentioned earlier, the Mind and mental health consortia are making recommendations about the progress of the fund. I look forward to their recommendations and we will act on them wherever we can.

Baroness Greengross (CB) [V]: My Lords, one consequence of the pandemic has been increased rates of violence or harm against old, young and other vulnerable people. Increased pressure on people's mental health during the lockdown will likely have contributed to that. Should the Government make it obligatory for threats of violence, which could be bravado but which could also be dangerous, to be reported to the police as well as to social services, and would such measures help reduce domestic and other forms of abuse and ensure early intervention when someone is having a serious mental health episode?

Lord Bethell [V]: My Lords, threats of violence under any circumstances are reprehensible, and those aimed at the old and the vulnerable are in a category of their own. It is up to the clinical judgment of those involved in social care to decide whether the involvement of the police is of benefit and worth. I would not want to apply a blanket ruling on that, but the noble Baroness makes an extremely important point, which we are constantly reviewing.

Baroness Blackstone (Ind Lab) [V]: My Lords, there is increasing evidence that the mental health of children and young people has been badly affected by the Covid-19 lockdown. Given that the provision of mental

[BARONESS BLACKSTONE]

health services to this age group was already inadequate, why has progress in implementing plans in the Green Paper on child mental health been so poor, particularly in the rollout of child mental health teams? What steps will the Government now take to rectify that?

Lord Bethell [V]: The noble Baroness is likely correct that the epidemic has had a particular effect on children and young people. The evidence on this is not crystal clear, but that is the strong instinct of all those in the field. I personally welcome the reopening of schools, which will have a particularly beneficial effect on those children who at present are stuck at home and do not have the support of the school system. Mental health services for young people are part of our long-term plan, with the additional £2.3 billion of spending on mental health. Our ambitions in that area remain enormous.

Baroness Jolly (LD): My Lords, the Mental Health Act is no longer fit for purpose. With outdated legislation, both children and adults are at risk while either at home or in a care setting. In the aftermath of the Covid epidemic, there is no time for delay. When should we expect a Bill here in Parliament? If that is not in the Minister's brief today, would he write to me?

Lord Bethell [V]: My Lords, we remain committed to publishing a White Paper that will set out the Government's response to Sir Simon Wessely's independent review of the Mental Health Act 1983 and pave the way for reform of that Act. We will publish it as soon as possible. The Covid epidemic does nothing but incentivise us to move as quickly as possible on this.

The Earl of Sandwich (CB) [V]: My Lords, does the Minister share my concern that the data he kindly supplied in Written Answer HL5619 on 22 June shows an 11% increase in March in prescriptions for anti-depressants over the same month last year? Is he therefore considering urgent measures to increase the funding and availability of psychological therapies instead?

Lord Bethell [V]: My Lords, I am as concerned about the over-prescription of anti-depressants as the noble Earl and would much prefer people to take cognitive therapies than drugs wherever possible. As I mentioned earlier, we have invested in two major rounds of support for community groups to help those struggling with their mental health, and we are reviewing additional funding for those schemes. We will keep a careful eye on the prescription of anti-depressants, which we are all concerned about.

Baroness Thornton (Lab): My Lords, health and social care workers battling through the coronavirus pandemic are paying a heavy mental and emotional toll and will continue to do so. Yet the current mental health support available is not adequate. Will the Government commit to appointing a new independent national well-being guardian to co-ordinate and oversee a proper mental health support package for all NHS and care staff?

Lord Bethell [V]: My Lords, the work on the NHS people plan continues during the epidemic and we look forward to making the first announcement on that shortly, which will cover many of the concerns of the noble Baroness. I also remind the House that, on 15 June, Public Health England unveiled its psychological first-aid training course, developed by PHE, which has proved extremely helpful, as has the confidential helpline that was unveiled on 8 April, which we continue to support.

Lord Rennard (LD) [V]: My Lords, people with diabetes are twice as likely to experience depression as those without, and a third of Covid-19 deaths in England are linked to people with diabetes. A survey by Diabetes UK shows that three-quarters of people with diabetes who have felt that they needed specialist mental health support cannot access it. How can the Government help to ensure that more people are tested for diabetes and that those with the condition receive comprehensive check-ups, including screening and support for mental health issues?

Lord Bethell [V]: My Lords, we are investing in new and additional diabetes testing arrangements. Testing is essential for the diagnosis and management of this affliction. The noble Lord is entirely right that the connection between Covid deaths and diabetes appears profound. It is a wake-up call for the whole country and puts a spotlight on the large amount of diabetes in the UK. We will unveil plans in the future for refocusing on this important public health issue.

The Deputy Speaker (Lord Russell of Liverpool) (CB): My Lords, all supplementary questions have been asked, so we now move to the next Question.

Covid-19: High Street Retailers *Question*

11.18 am

Asked by Baroness Ritchie of Downpatrick

To ask Her Majesty's Government what assessment they have made of the impact on high street retailers of the COVID-19 pandemic.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, the global Covid-19 pandemic has resulted in unparalleled falls in retail sales and high street footfall. We have provided unprecedented support to high street businesses. Pubs, shops and hotels will pay no business rates for 12 months. Eligible retail, hospitality and leisure businesses have received cash grants of up to £25,000 and businesses that cannot pay their rent because of coronavirus will be protected from eviction.

Baroness Ritchie of Downpatrick (Non-Aff) [V]: My Lords, reports today suggest that more than 6,000 jobs were lost in one day in the retail sector. As we emerge from lockdown, we need a plan to regenerate and save retail jobs on our high streets. What further steps will the Government take, including a revamped city centre revitalisation programme and fiscal measures, to ensure that our high streets can thrive now and into the future?

Lord Callanan: The noble Baroness is right to highlight the extent of the challenge that we face. On 30 June, the Prime Minister announced a new deal which puts jobs and infrastructure at the centre of the Government's economic growth strategy. This includes £900 million for a range of shovel-ready local growth projects in England, as well as £96 million to accelerate investment in town centres and high streets through the Towns Fund this year.

Lord Pickles (Con) [V]: My Lords, small avenues of shops close to town centres and in estates have always had a difficult trading environment, but the lockdown has demonstrated their importance to community cohesion. They offer the opportunity to shop locally, a bulwark against panic buying and a promise of normality. In view of these important community assets, what plans do the Government have to protect these assets and enhance them?

Lord Callanan: My noble friend is absolutely right to highlight the important role that many of these local shops play in our communities. As I said in the previous answer, we have announced £96 million to accelerate investment in town centres through the Towns Fund. This will provide all the towns selected with between £500,000 and £1 million that they can spend on local initiatives to help their areas.

Lord Kilclooney (CB): My Lords, I declare an interest in a retail unit in the Royal Avenue, Belfast, and in 10 other town centres in Northern Ireland. The Government are to be congratulated on their furlough scheme, which has been of great assistance to retailers and, consistent with health advice, the reopening of hospitality and shops is welcomed. But can the Minister make it clear to us whether any consideration is being given to the reduction of VAT and, secondly, the return of staff to offices in our town centres in Northern Ireland and the United Kingdom, because that would certainly increase footfall in town centres?

Lord Callanan: I thank the noble Lord for his supportive comments. He will of course understand that I cannot make any commitments on what the Chancellor may or may not do in his next announcements.

Lord Allen of Kensington (Lab) [V]: My Lords, in a week that has seen the loss of tens of thousands of jobs, as the noble Baroness, Lady Ritchie, said, to the high street, the Government keep mentioning CBIL and CLBIL schemes, which are clearly welcome. However, a number of large retailers I speak to are being denied access to these funds because of the way that EU state aid rules are being applied. When will the Government get the European Commission to change the way it determines an undertaking of difficulty, so that we can ensure that we do not lose further retailers, employers and jobs on the high street?

Lord Callanan: The noble Lord raises an important point. The CBIL scheme has been unprecedented and extremely successful. We are aware of difficulties that some companies have in accessing it, for various reasons to do with either problems with the bank or the state aid rules. We are urgently looking at this problem.

Baroness Thornhill (LD): High streets were in decline before Covid-19. In fact, the House of Commons report on high streets and town centres last year talked of significant reform in planning and taxation policy, including the options of an online sales tax and reforms to business rates. While the money the Minister has outlined is clearly welcomed and valued, can he assure us that this fundamental, significant work is still being carried on, because this is where the future success of the high street really lies?

Lord Callanan: The noble Baroness raises an important point. We announced a review of the business rates system, which is ongoing, and I am sure we will have more to say on that shortly.

Lord Naseby (Con) [V]: Retail is facing a complete revolution with the move to online, added to which there is a fear factor among consumers against spending at the moment. Should we not, first, ditch the "Stay at Home" message and get everybody back to work? To take one example, why cannot the beauty sector go back to work? It has 200,000 female employees, and what honestly is the difference between them and hairdressers? Indeed, while we are about it, why not allow physiotherapists to open, too? Does not the Minister think that it is time to trust all retailers, so that they can make the decision to open safely, within the boundaries that we have set?

Lord Callanan: My noble friend is right to highlight these issues. I can only tell him that we have studied the health advice very carefully: we are following the scientific advice from Public Health England and others. It is our wish to get every sector reopened as soon as possible, but he will understand that we need to do that as safely as possible.

Lord Eames (CB) [V]: My Lords, some of the hardest hit are small retailers in country and sparsely populated areas, and many of them are in Northern Ireland. What consideration have the Government given to such particular cases of hardship?

Lord Callanan: We recognise the vital role played by retailers operating in sparsely populated and isolated areas in the UK, including those in Northern Ireland. As I said, they have benefited from cash grants of up to £25,000, for rateable values of between £15,000 and £51,000. Many rural retailers have also benefited from the business rates holiday, and the doubling of the small business rate relief and changes to thresholds, but we keep these matters under constant review.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, does the Minister agree that we face a fundamental change in behaviour? The survey figures for future use of the high street make grim reading, with data pointing to a near halving of physical visits post pandemic. What plans do the Government have to anticipate this new normal?

Lord Callanan: The noble Lord is right to highlight the difficulties that many retailers are facing. There has been a big shift to online retailing as well—of course, many high street retailers do both—but we need to

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keep these matters under review. The high street is vital to many local communities, so we want to offer them as much support as possible.

Lord Shipley (LD) [V]: My Lords, does the Minister agree that a high street business rates system based on open market rental value is no longer fit for purpose? When will the new system be introduced? Will it be in the next financial year, because it is urgently needed?

Lord Callanan: The terms of reference for the review were published on 11 March in the Budget. On 28 April, the Treasury set out the timelines for the tax policy consultations in the light of the crisis, and the call for evidence for this fundamental review will be published in the coming months.

Lord Randall of Uxbridge (Con) [V]: Does my noble friend agree that shopping locally, not online, helps not just those struggling retail businesses but the environment, by reducing transport emissions and excess packaging?

Lord Callanan: I can happily say that I agree with my noble friend on that matter.

The Deputy Speaker (Lord Russell of Liverpool) (CB): My Lords, all supplementary questions have been asked, and we now move on to the next Question.

Ultra-processed Foods

Question

11.28 am

Asked by **Baroness Bennett of Manor Castle**

To ask Her Majesty's Government what plans they have to reduce the amount of ultra-processed foods available for purchase in the United Kingdom.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con) [V]: My Lords, to address the consumption of food and drinks high in fat, sugar and salt, Public Health England oversees the sugar reduction and wider reformulation programme on behalf of the Government, as set out in the three chapters of the child obesity plan and the 2019 prevention Green Paper *Advancing our Health: Prevention in the 2020s*. In addition, the Government provide healthy eating advice through the *Eatwell Guide*, social marketing campaigns and food procurement and catering guidance.

Baroness Bennett of Manor Castle (GP) [V]: I thank the Minister for his Answer, but I am disappointed that he did not use the term "ultra-processed foods" in it, which represent 57% of the calories in the British diet. In the past couple of years, we have seen three studies which I shall quote from briefly. The first is from the US, which said

"Ultra-processed foods cause excess calorie intake and weight gain."

A French study states

"a 10% increase in intake results in a 14% increase in death,"

and a UK study says that

"a 10% increase in intake results in an 18% risk of increase in obesity in men."

This is a relatively new area of science, but do the Government not understand that we have to acknowledge that these ultra-palatable foods that are designed not to satisfy have to be part of what the Prime Minister has said is going to be a new focus on tackling obesity?

Lord Bethell [V]: My Lords, the noble Baroness has made her point well. When the pandemic began, the national food strategy team were investigating the health risks associated with a diet heavy in ultra-processed foods. The team is in the process of restarting its work and will return to the question of ultra-processed foods in its final report, which it currently plans to publish over the winter.

Baroness Young of Old Scone (Lab) [V]: My Lords, the noble Baroness, Lady Bennett, has demonstrated that there is a bigger killer on the block than Covid, and that is ultra-processed foods. Covid has increased the focus on the need to reduce obesity and diabetes and to promote healthy eating, but we have run out of road on the kind of voluntary approaches that the Minister has just described. Will the Government now regulate for the rapid reformulations of ultra-processed foods? The responsible supermarkets want a regulated level playing field so that they can get on with helping us all avoid what is now the biggest cause of premature deaths: the consumption of ultra-processed foods.

Lord Bethell [V]: The noble Baroness is entirely right to say that Covid has focused our minds on obesity and the role of diet. However, voluntary approaches are necessary. We have to take people, industry and government with us. That is the core of our approach and it will remain our approach.

Baroness Walmsley (LD) [V]: My Lords, will the Prime Minister's proposed obesity strategy include the full range of obesity services up to tier 4 in all areas, plus ensuring prevention measures such as calorie labelling, portion size, reformulation and the restriction of price promotions of HFSS foods? Will there be independent evaluation of the measures to be proposed?

Lord Bethell [V]: My Lords, it is not my role to pre-empt the Prime Minister's strategy formulation, but the noble Baroness has articulated a very reasonable list of the potential measures. We are closely focused on this area. We are measuring ourselves keenly and our objectives are clearly laid out. The focus is on getting movement on this important area.

The Earl of Caithness (Con) [V]: My Lords, I hope that my noble friend the Minister is as saddened as I am that, in this country, we eat more ultra-processed foods than any other country in Europe. That is a shameful position to be in and clearly the government policy is not working. Would he consider discussing with his noble friend in the Treasury the introduction of VAT on ultra-processed foods?

Lord Bethell [V]: My Lords, I completely agree with my noble friend that Britain's record on obesity and the diet that we as a country eat is not one that we can celebrate or be proud of. The sugar tax has proved a successful measure. It shows the Government's determination to make progress in this area and, if necessary, to use fiscal means to do so.

Baroness Boycott (CB) [V]: My Lords, there is no doubt that HFSS foods are unhealthy, particularly for young children, who are showing such alarming rates of obesity. We also know that advertising works. However, recent research by Cancer Research UK shows that over half of all food adverts on TV during children's peak viewing hours, 6 to 9, are for processed foods that are high in sugar and fat, while fewer than one in 15 are for fruit and vegetables. The consultation on whether the Government would introduce a nine o'clock watershed for such adverts was completed and delivered in June 2019. Can the Minister update the House on the progress of that consultation and tell us when we are likely to have the Government's response?

Lord Bethell [V]: The noble Baroness is right to say that the consultation is an important one and we take it very seriously. Covid has been disruptive, but I reassure her that we will respond to the consultation on extending advertising restrictions as soon as we can.

Baroness Wheeler (Lab) [V]: My Lords, I will focus on food labelling. Does the Minister share my concern that it can be difficult to recognise ultra-processed foods in the supermarket? Even a sugary multicoloured breakfast cereal can state that it is a good source of fibre and is made with wholegrains. What consideration have the Government made of improving the food labelling process by adding the NOVA system of food classification, which divides the foods we buy into four groups ranging from unprocessed to ultra-processed? Would this not help to foster consumers' awareness of how much processed food they and their families eat?

Lord Bethell [V]: My Lords, I agree completely with the noble Baroness that labelling is absolutely critical in this area. We have made huge progress already and it is eye-opening to study the labels on some foods. I agree with her that while some supermarket products can look healthy, they are often anything but. We continue to expand and improve our labelling arrangements and we are looking at the responses to the consultation and considering them carefully.

Baroness Bakewell of Hardington Mandeville (LD) [V]: My Lords, we have seen research showing a direct link between the rise in the incidence of diabetes and the consumption of highly processed foods. In the past, when such evidence on health of certain products has been produced, the Government took action to ban television advertising of them. Cigarette smoking is a prime example. Following on from the Minister's response to the noble Baroness, Lady Boycott, can he say whether the Government will consider banning all television advertising that features ultra-processed foods?

Lord Bethell [V]: My Lords, the noble Baroness has made the point on smoking well. However, we have an issue in that there is no generally recognised agreement on the definition of ultra-processed foods. We are also conscious of the fact that we have to take the British public with us and that regulation and advertising bans on their own do not have the impact that we need to make. None the less, as the sugar tax has demonstrated, we are prepared to use regulatory and fiscal means if progress cannot be made, and we will maintain a review of this area.

Lord Whitty (Lab) [V]: My Lords, does the Minister recognise that the key players in the food system are the large producers, the large supermarkets and the big caterers? Between them they set the prices and standards for small producers and farmers as well as spending huge amounts of money on advertising ultra-processed foods, as the noble Baronesses, Lady Boycott and Lady Bakewell, have just said—20 or 30 times as much as they spend on advertising fresh fruit and veg. Given that the Minister is reluctant to go for an advertising ban, how do the Government propose to get these large companies to help to deliver a more balanced, affordable and nutritious diet rather than to facilitate the reverse, as they do now?

Lord Bethell [V]: My Lords, I take some issue with the noble Lord's demonisation of big companies and his characterisation that our food industry is dominated by a small number of them. Actually, the food industry in the UK is extremely diffuse and, when we consider regulation and advertising, we have to bear in mind that it is often the small producers, the small farmers and the small businesses which are affected by those measures. They have an effect on business, an effect on jobs and an effect on tax, so this is not a simple matter. That does not mean that we are not serious about the subject, but we have to bear in mind the effects on the entire supply chain, which includes many important British companies.

The Deputy Speaker (Lord Russell of Liverpool) (CB): My Lords, the time allowed for this Question has elapsed.

Environmental Projects Question

11.38 am

Asked by **Lord Randall of Uxbridge**

To ask Her Majesty's Government, further to the announcement of a New Deal for Britain by the Prime Minister on 30 June, what plans they have to ensure that environmental projects will be given priority in their economic growth strategy.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, as we recover from Covid-19, the Government intend to deliver a UK economy that is stronger, cleaner, more sustainable and more resilient. As the Prime Minister set out in his speech on Tuesday, we intend to

“build back better, build back greener, build back faster and to do that at the pace that this moment requires.”

The UK has shown that growing our economy and cutting emissions can be achieved at the same time.

Lord Randall of Uxbridge (Con) [V]: I welcome the Government's determination to get the economy moving again, but perhaps my noble friend the Minister could reconfirm their commitment not to let new developments override environmental protections for habitats and species, including the great crested newt.

Lord Callanan: My noble friend makes a good point: we want to tackle delays in the planning system to support economic recovery, but that does not mean

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weakening our environmental protections. We can speed up developments while still maintaining the strong protection for the species he highlights, such as the great crested newt.

Lord Snape (Lab) [V]: Does the Minister share the widespread disappointment that, despite the Prime Minister's green rhetoric on Tuesday, there was no mention of the Conservative Party's manifesto commitment to spend around £9 billion on a countrywide house insulation scheme? Instead we have promises to spend around £100 million on new road schemes. Does the Minister agree that such schemes inevitably cause more pollution and congestion, are in no way helpful to cutting emissions and certainly do not assist the Government in meeting their published target of being carbon-neutral by 2030?

Lord Callanan: No, I do not agree with the noble Lord. Local road schemes can contribute to reducing congestion in many areas. We are still committed to our manifesto commitment of home insulation. The noble Lord will want to watch this space for further announcements.

Lord Rogan (UUP) [V]: My Lords, taken at face value I welcome the Prime Minister's speech, in particular his commitment to accelerate projects

"to drive economic growth in all parts of the country", including Northern Ireland. I note that Mr Johnson also set his Government the goal of producing the world's first zero-emission long-haul passenger plane. Can the Minister tell the House the timescale for this and whether there may be a prominent role for Bombardier's Belfast plant in its design and manufacture?

Lord Callanan: I cannot give the noble Lord specific commitments on Bombardier's role in this, but it is a world-class aeroplane manufacturer. This is an extremely optimistic long-term goal that the Prime Minister has set out, but we are totally committed to making progress towards it. It will be a tremendous achievement by Britain's scientists and engineers when we achieve it.

Lord Robathan (Con) [V]: My Lords, there is a great deal to welcome in this policy, but I am concerned that any large development inevitably impacts on trees, ancient woodland, wildlife and biodiversity in general. Like my noble friend Lord Randall, I am concerned about some of the measures mentioned. The statement says that the Government will

"set out further measures as part of its green agenda".

Can the Minister perhaps give us any pointers as to what these further measures might be?

Lord Callanan: My noble friend will understand that I cannot go into too many details on this until those announcements are made, but we believe we can get the balance right between protecting our environment on the one hand and cutting out many of the unnecessary delays in our planning system on the other.

Baroness Kramer (LD) [V]: My Lords, Germany has just announced €7 billion to drive forward a green hydrogen economy and France has just announced €8 billion to promote its electric car industry. By contrast, Boris Johnson reannounced just £40 million

to create 3,000 green jobs. Why did the Prime Minister fail to commit the resources necessary for a green recovery from Covid? Can the Minister now commit to major new resources for energy conservation, especially home insulation, electric vehicles and a new hydrogen economy?

Lord Callanan: We are committing resources to all those issues. We are already investing up to £121 million in hydrogen innovation, supporting a range of projects exploring the potential of low-carbon hydrogen for use in heating and transport and the production of low-carbon hydrogen with CCUS and electrolysis technologies.

Baroness Hooper (Con): My Lords, it is good to be back in the Chamber. Does my noble friend agree that all stimulus packages would benefit from a green sheen and that all the capital investment projects referred to by the Prime Minister—from schools to prisons to roads—could now take advantage of this opportunity to build a greener future? In this context, can he assure us that the British Overseas Territories, which contribute so much to our consequence in biodiversity terms, should not be forgotten when they apply for funding for environmental projects, especially as much of their previous green funding came from the European Union? Of course, many of these overseas territories could also contribute to the development of green finance, in which the City of London is leading the field.

Lord Callanan: I welcome my noble friend back to the Chamber. I agree with her that we are committed to building back better and greener. I am sure the overseas territories will have an important role to play in that, and of course we will consider requests for funding from them.

Lord Ravensdale (CB) [V]: My Lords, while the establishment of a Cabinet committee on climate change is welcome, we need to do more to embed climate consideration in policy-making across government and consider the systems nature of net-zero delivery. Will the Government consider establishing a cross-departmental body to oversee the delivery of net zero and mitigate the siloed thinking inherent in individual departmental responsibilities?

Lord Callanan: The noble Lord is correct: the net-zero challenge is fundamentally cross-cutting. That is why in the run-up to the COP 26 summit we will bring forward ambitious plans across key sectors of the economy, including an energy White Paper, a transport decarbonisation plan and a heat and building strategy. We need to avoid siloed thinking in government across these endeavours.

Lord Stevenson of Balmacara (Lab) [V]: My noble friend Lord Snape drew attention to the fact that the Prime Minister's recent speech made no mention of plans to insulate homes, although this was a £9.2 billion spending commitment in the Conservative manifesto. The Committee on Climate Change noted recently that retrofitting insulation would be the most effective measure in the race to get to zero carbon. Of course, as we have acknowledged in previous exchanges, this would be an excellent and inexpensive new job creator. Has the manifesto pledge been abandoned?

Lord Callanan: We remain completely committed to taking all the necessary action to improve the energy efficiency of the UK's buildings, delivering a UK economy that is stronger, cleaner, more sustainable and more resilient after the crisis.

Lord Taylor of Goss Moor (LD) [V]: I draw attention to my interests in sustainable development and renewables, as in the register. The Minister is aware that it is vastly more expensive to retrofit old homes than to build new ones to the right standards in the first place, but the new standards for homes—the elimination of gas, for example—will not come in until 2025. As part of the programme to get people back to work, would it not make sense to make sure that the homes we build are built to the highest standards in the first place and that those standards are brought forward using proven technologies, as some councils are already doing?

Lord Callanan: That is an important issue. We keep things such as the building regulations under constant review, but we need to proceed at a pace that the building industry can cope with and that consumers will accept.

Lord Bilimoria (CB) [V]: My Lords, we welcome the Prime Minister's emphasis on promoting a green recovery in his "Build, build, build" speech. Will the Minister inform us whether the formation of the Green Investment Bank, launched in 2012 with £3 billion, was key to backing the offshore wind industry? It was sold to Macquarie in 2017. Will the Government form a new green investment bank? What about collaborating with countries such as India, which has set a target of 100 gigawatts of solar power by 2022 to lead the world in solar power? Should we partner with countries such as India?

Lord Callanan: The role of green finance is particularly important; it is one we are working closely on. The former Governor of the Bank of England is leading our efforts on that. Of course, we must partner with many other countries around the world. This is a global challenge and has to be addressed on a global level. India will play a crucial role, as will many other countries.

The Deputy Speaker (Lord Russell of Liverpool) (CB): My Lords, the time allowed for this Question has elapsed.

Arrangement of Business

Announcement

11.49 am

The Deputy Speaker (Lord Russell of Liverpool) (CB): We now come to the first motion in the name of the Senior Deputy Speaker. The Procedure Committee agreed that this type of business should be conducted as physical proceedings only, with no opportunity to participate virtually, other than by the mover, in this case, the Senior Deputy Speaker. There is no speakers' list, but Members present in the Chamber are entitled to participate. The Procedure Committee guidance requests any Member intending to speak on such Motions to give notice in advance. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

Procedure Committee

Motion to Agree

11.50 am

Moved by The Senior Deputy Speaker

That the Report from the Select Committee *Parliamentary Works Estimate Commission* (2nd Report, HL Paper 46) be agreed to.

The Senior Deputy Speaker (Lord McFall of Alcluith) [V]: My Lords, the report makes a single, simple recommendation, to which I will briefly set out the background for the benefit of the House.

The Parliamentary Buildings (Restoration and Renewal) Act 2019, which established the Parliamentary Works Sponsor Body as an independent body, also requires the establishment of a separate statutory body called the Estimates Commission. This body will consider the Sponsor Body's annual estimate and lay it before the House of Commons for approval, and it will assess the Sponsor Body's own expenditure. The Estimates Commission will consist of four members: two from the House of Commons and two from the House of Lords. The report recommends that nominations should be made by the House of Lords Commission and approved by a resolution of the House. The report anticipates that I will be appointed to the Estimates Commission in an ex-officio capacity, and that I may make Written Statements and answer Written Questions on behalf of the Estimates Commission. If this motion is agreed to, consequential changes will be made to the *Companion to the Standing Orders*. I beg to move.

Motion agreed.

Secondary Legislation Scrutiny Committee

Services Committee

Membership Motions

11.52 am

Moved by The Senior Deputy Speaker

Secondary Legislation Scrutiny Committee

That Lord German be appointed a member of the Committee in place of Lord Rennard.

Services Committee

That Lord Clement-Jones be appointed a member of the Committee in place of Lord Kirkwood of Kirkhope.

Motions agreed.

11.53 am

Sitting suspended.

Arrangement of Business

Announcement

Noon

The Deputy Speaker (Lord Russell of Liverpool) (CB): My Lords, proceedings will now commence. Some Members are here in the Chamber, others participating virtually, but all Members are treated equally. For Members participating remotely, microphones will unmute shortly before they are to speak. Please accept any

[LORD RUSSELL OF LIVERPOOL]
on-screen prompt to unmute. Microphones will be muted after each speech. If the capacity of the Chamber is exceeded, I will immediately adjourn the House. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. The usual rules and courtesies in debate apply. Please ensure that questions and answers are short.

Lammy Review

Commons Urgent Question

The following Answer to an Urgent Question was given on Tuesday 30 June in the House of Commons.

“Racism is an abomination. It is morally and intellectually bankrupt, and it strikes at the foundations of a fair and just society. It is particularly corrosive when found within the criminal justice system, because in that context the stakes are particularly high—guilt or innocence; freedom or incarceration.

That is why the Government, back in 2017, commissioned the Lammy review into the treatment of and outcomes for black, Asian and minority ethnic individuals in the criminal justice system. Although it was an independent review, it was heavily backed by government resources. A team of six, headed by a senior civil servant, were devoted to the review, and it took evidence from across the world, with fact-finding trips as far away as the United States and New Zealand. We are profoundly grateful to the right honourable Member for Tottenham (Mr Lammy) for the constructive and consensual way in which he led the review, and for the valuable 35 recommendations it produced. It is a good report and it has made a big difference.

Not uncommonly when reviews are commissioned, it was clear to Government that not every last recommendation could or indeed should be implemented precisely as requested. The Government made that clear, and they did so openly and publicly in their December 2017 response. Instead of flatly rejecting a large number of the recommendations, the Government were mindful of the importance of progressing the policy intent that lay behind them. That is why the Government undertook to take them forward to the fullest extent possible. They repeated that stance in the further lengthy progress updates they published in 2018 and most recently earlier this year, with the latest one running to more than 80 pages. The position now is that 16 recommendations have been completed, two have been rejected and 17 are in progress. Of those 17 in progress, 11 will be completed within 12 months and six thereafter.

Let me close by saying that enormous progress has been made, particularly in respect of the functioning and fairness of prisons. By way of one example, recommendation 3, which recommended the publication of datasets held on ethnicity, has been complied with, including in respect of home detention, curfew, release on temporary licence and prisons. All that data is set out in the official GOV.UK updates on the ‘Ethnicity facts and figures’ website, which is, by the way, arguably one of the most transparent sets of Government data in this field anywhere in the world. As a result, data on staff and prisoner ethnicity is significantly better than it used to be, allowing a spotlight to be more easily shone on disparities and action taken.

We have gone further, too, making progress in areas such as setting up the Race and Ethnicity Board to hold key partners across the criminal justice system responsible for improvement in their respective areas. Of course there is more to do, and I hope we can continue the constructive dialogue in taking forward the recommendations of this excellent report. I know things are different now. The consensual has necessarily, because of the right honourable gentleman’s elevation, given way to a more adversarial approach. That is understandable, but great progress has been made. With common purpose and focus, we can finish the job.”

12.01 pm

Lord Ponsoy of Shulbrede (Lab) [V]: My Lords, the Minister in the other place spoke about the progress the Government had made in implementing the recommendations of the Lammy review. However, my right honourable friend David Lammy spoke of a lack of trust, which is exacerbated when the Government claim to have implemented some of his recommendations when in fact they have not been implemented. Does the Minister agree that the outcomes of the report matter more than the outputs of the recommendations, and that the outcomes are getting worse, with 51% of children imprisoned now from BAME backgrounds, which is an increase from when David Lammy completed his review? Also, the proportion of stop and searches on BAME young people has increased since the report was published. Does the Minister agree that if the Government aim to build trust in the criminal justice system by the BAME community they need to start by being honest and straightforward about the recommendations that they have implemented from the Lammy review?

The Advocate-General for Scotland (Lord Keen of Elie) (Con) [V]: My Lords, we responded to the Lammy review by publishing in December 2017 our undertakings at implementation. Where a recommendation could not be implemented in full or as set out in the review, alternative approaches have been sought to achieve the same aim. We were clear then as to how we intended to proceed with implementation and we have been consistent and open in reporting against the actions we committed to take in a report in 2018, and more recently in a report of February 2020. We keep under review the report’s aims and make progress on a wide range of areas—indeed, in some areas beyond the Lammy recommendations. But I accept that there is a great deal more to do.

Lord Paddick (LD) [V]: My Lords, the Minister in the other place suggested that police stop and search has increased from 25% to 40% BME over five years because the police are taking action against knife crime. However, 60% of all stop and searches carried out by the police are for drugs and only 13% for weapons. The Lammy report requires agencies to explain or change. The explanation given for you being almost nine times more likely to be stopped and searched by the police if you are black than if you are white does not hold water. When will the Government require the police to change?

Lord Keen of Elie [V]: Clearly, these issues are under continuous review, but we have a particular concern over knife crime and we are bringing forward legislation

on serious violence that will oblige responsible bodies in local areas to create a comprehensive plan tailored to their area. Stop and search is just one approach and we expect plans to be drawn up on a wider crime reduction basis.

Lord Ramsbotham (CB) [V]: My Lords, in 2000, Zahid Mubarek was murdered by a known racist psychopath in HMYOI Feltham. The case was eventually judicially reviewed by Mr Justice Keith. If more of his 78 recommendations for improving the treatment of BAME prisoners had been implemented, the Lammy review might not have been necessary. Can the noble and learned Lord please tell the House why the Ministry of Justice has been so dilatory in tackling known BAME issues?

Lord Keen of Elie [V]: My Lords, I do not accept that the MoJ has been dilatory in this respect. As the noble Lord's question implicitly acknowledges, the Lammy review was necessary. We are still taking forward the recommendation on prisons and prisoners, in particular the position of BAME prisoners. Indeed, that is also reflected in the steps we have taken in recruitment.

The Lord Bishop of St Albans [V]: My Lords, one of the important ideas found in the Lammy report is the use of relative rate index analysis, which provides important data on the way decisions at various points of the criminal justice system take place. This is the sort of tool we will need if we are to address this deeply embedded problem. Will the noble and learned Lord tell the House whether this relative rate index analysis has been a repeated and whether the lessons are being implemented?

Lord Keen of Elie [V]: My Lords, the CPS in particular is fully committed to ensuring that its decisions are free from racial bias. In that context, it is currently investigating a limited number of offences where review showed evidence of disproportionality in charging. It continues with such quality assurance decisions to check for racial bias. However, there are considerable practical difficulties in pursuing this and the CPS has to act on material passed to it by the police. This has to be undertaken across the entire criminal justice system.

Baroness Browning (Con) [V]: When David Lammy was preparing his review, I held a meeting with him because he had identified within the BAME prison population a significant number of prisoners on the autism spectrum. Can my noble and learned friend tell me, particularly in respect of the functioning and fairness of prisons, how this group of people is being supported?

Lord Keen of Elie [V]: My Lords, clearly, support is given to those suffering mental health issues. Unfortunately, that reflects a large proportion of the prison population. I cannot give identified observations or information about the BAME community, as distinct from the prison community as a whole, regarding mental health, but I am confident that its members receive similar and suitable treatment.

Lord Griffiths of Burry Port (Lab) [V]: My Lords, we have heard ample reference to the fact that a number of aspects of the way racial minorities are treated in the justice system has simply got worse since the Lammy report, which is difficult to square with the assurance given by the Minister that so much is being done. Let me quote someone from the Government Benches: Mr Sajid Javid argues that it is time to shine a light on injustice, but that that is not enough. He says:

“We need an action plan ... The Racial Disparity Audit found the data. The commission must deliver the solutions.”

The Runnymede Trust added that the Government are “knee-deep in evidence”. Can the Minister give us the assurance that a sense of urgency is being injected into this whole process? We have heard the same allegations over and over again since Scarman in 1981.

Lord Keen of Elie [V]: My Lords, we are committed to improving the collection and publication of data, and to using the data to identify and tackle disparities across the criminal justice system. We have been working very closely with the Race Disparity Unit since its formation in 2016, and we continue to add and update metrics on the ethnicity facts and figures website as part of our commitment to transparency.

Lord Sheikh (Con) [V]: My Lords, 41% of children in prisons are from the BAME community, and a large number of them are Muslims. About 15% of prisoners are Muslims, and in London, the figure is 27%. Some of those Muslims have been victimised by the staff. The custodial sentences imposed on those from BAME communities can be up to 10 years longer than those applied to white people—several lawyers have said this to me. There is an appalling lack of diversity in our judiciary, from the magistrates' courts to the Supreme Court. Only 7% of judges are from BAME communities, and the figure for magistrates is 12%. Stop and search in BAME communities has risen by 69% for the last five years. I have been stopped by police for allegedly using a phone, which was not so. A sergeant then turned up and said that if there was any difference of opinion between me and his officer, he would believe the officer. I was appalled by the closing of ranks. I believe that I was picked upon because I was driving a Bentley coupé with a personalised number plate. Can the Minister comment on my points?

Lord Keen of Elie [V]: My Lords, we are of course concerned about ensuring visible diversity across the entire justice system. That is particularly challenging in the judiciary and magistracy, and we have introduced an education programme for those from backgrounds not properly represented to undertake training in order that they can apply. Further across the criminal justice system, I note that we have made progress. For example, with the Parole Board, there was grave underrepresentation of BAME members, but we reported in February this year that 53 independent members would join the board, 48% of whom are from a BAME background.

12.13 pm

Sitting suspended.

Arrangement of Business

Announcement

12.30 pm

The Deputy Speaker (Lord Russell of Liverpool) (CB): My Lords, proceedings will now commence. Some Members are here in the Chamber, others are participating virtually, but all Members are treated equally. For Members participating remotely, microphones will unmute shortly before they are to speak. Please accept any on-screen prompt to unmute. Microphones will be muted after each speech. If the capacity of the Chamber is exceeded, I will immediately adjourn the House. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. The usual rules and courtesies in debate apply.

Public Service Vehicles (Open Data) (England) Regulations 2020

Motion to Approve

12.31 pm

Moved by **Baroness Vere of Norbiton**

That the draft Regulations laid before the House on 14 May be approved.

Relevant document: 16th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con) [V]: My Lords, these draft regulations are being made to provide new legislation to require the operators of local bus services across England outside London, including cross-border services, to openly publish data electronically about their services, including timetables, fares and location data.

For the benefit of noble Lords who may not be aware, open data is data that is published electronically, standardised, publicly discoverable and can be used by those who wish to do so without restrictions on its use and disclosure. Open data has transformed other sectors; for example, rail, where open data is feeding into customer-facing apps such as Trainline and National Rail Enquiries, and is simplifying journey planning and ticket purchase.

Bus open data will allow app developers to create applications, products and services for passengers so that they can plan journeys, find best-value tickets and receive real-time service updates. This is absolutely essential if we are to encourage the travelling public to use their local bus services and make the switch to public transport, which is vital to reducing congestion and improving air quality.

Since 2007, Transport for London—TfL—has made all its bus and transport network data freely available through the London Datastore. Currently more than half—51%—of all bus journeys are in London, with the remaining 49% across the rest of the country. A 2017 study by Deloitte exploring the value of TfL's data found that open data was being used by 8,200 application developers to power 600 apps used by 42% of Londoners. This includes apps such as Citymapper and Bus Times London, which together were found to be delivering

economic benefits of between £90 million and £130 million a year. These benefits came from travel time savings, additional journeys taken, reduced congestion and business innovation. Transport for West Midlands has also invested heavily to improve its public transport data in recent years. It has provided a single source for apps and journey planners across the region and is one of the few areas to report year-on-year growth of 7.8 million bus journeys, against a backdrop of continuing decline in bus passenger journeys elsewhere.

The statistics show that we can change how buses are perceived and attract new customers. This will be particularly important as we continue to recover and rebuild our services after lockdown. We will need to get people back on the buses when it is safe to do so, and if people feel that buses are not for them, we need to change that perception. As franchising is not yet in place in any local transport authority in England, except London, we believe that it is a vital part of the levelling-up agenda that we, as central government, regulate to require bus operators across England to openly publish data. We need to enable the provision of travel apps and services up and down the country.

These regulations will mean that any operator of a local bus service in England must publish its timetable, fares and location data to the bus open data service—which I will call BODS—before the service comes into operation and that changes to the data must be provided as updates. Data must be provided using legally mandated data standards and within set time periods. The consequences of not providing the data from the commercial perspective of the bus operator is lost revenue, and for passengers, it can be the difference between waiting at a bus stop for two minutes or 20 minutes. These new rules will be enforced by the Driver & Vehicle Standards Agency—DVSA—which will conduct checks of the bus open data service to ensure that any operator of a registered local bus service has published the required datasets.

I turn to the content of the SI. Where a local bus service is being operated in England an operator will be legally required to make freely available information about that service, including timetables, fares and location data, to comply with the Public Service Vehicles (Open Data) (England) Regulations 2020. Punctuality data will also be legally required, and local transport authorities will be legally responsible for maintaining data about bus stops and stations. It will be a civil offence for any operator of a service to be in breach of the requirements in the regulations.

The regulations will be commenced in a phased manner, with timetables and stop data requirements being enforceable from 31 December 2020, basic fares and location data from 7 January 2021, and complex fares from 7 January 2023. Breaches of the requirements by operators can be enforced under existing provisions in Section 155(1)(c) of the Transport Act 2000.

This draft instrument ensures that those operators which breach the new requirements may face financial penalties or the removal of their licence. Operators in England may face a fine of up to £550, and this sum can be multiplied by the number of vehicles operating under all the different licences held by that operator.

The policy area of public service vehicles open data is devolved with respect to Scotland, Wales and Northern Ireland, and Scotland and Wales are currently preparing equivalent legislation.

In summary, these regulations are essential to ensure that operators of local bus services across England are compelled to make freely available information to help passengers plan their journeys. The new bus open data requirements can be enforced for local bus services across England from 31 December this year. These rules are at the heart of improving the public transport experience, digitally transforming the bus sector, and the levelling-up agenda. I am sure that noble Lords share my desire to ensure that they can be fully enforced as soon as possible. I commend these draft regulations to the House and I beg to move.

12.38 pm

Lord Bradshaw (LD) [V]: My Lords, I believe that what the Minister has said will broadly be welcomed by the bus industry. There is one question. The responsibility for making the information available should rest with the operator, and I believe there is some confusion about whether local transport authorities should be responsible. I think that responsibility for the registration of the route and the details should lie with the traffic commissioner.

I take this opportunity to remind the Minister that bus use outside London is still very low and much encouragement needs to be given to people to get back on the buses. In some places there are applications to expand city-centre car parking to cater for the extra cars on the road. It would be a pity if the message sent out is that you should not use the bus. It should be “Please use the bus”, because many operators—I can instance three—have got apps that tell you which journeys carry spare seats if you wish to use the bus.

12.40 pm

Lord Lucas (Con) [V]: The Government are to be congratulated on these regulations. As the Minister said, they open the possibility of people creating comprehensive apps to enable bus travel to become as plannable and easy as train travel is currently. This will be a considerable advance as we look towards a multimodal, well-integrated, low-carbon transport future.

I would be grateful if my noble friend the Minister could enlarge a bit on how these regulations will apply to demand-led bus systems—those designed to meet patchy demand, going to places only when they are required to, having variable routes to meet demand—as are being developed by TfL in some places on the outskirts of London, and contemplated in other places. For locations such as Eastbourne, where I live, where there are diffuse, tortuous estates of nice houses with lots of gardens around them, full of old people, it is really difficult to maintain an economical bus system on the standard model of a timetable and fixed stops. Something much more flexible is needed, and I very much hope that these regulations will not impede that.

I hope that the regulations will also not impede the use of frequency-based services, where you have services based on timetables, to which the operators tend to be held and penalised if they do not keep to them. But if

you want to encourage multimodal transport, and therefore to be able to drop a bicycle or a mobility scooter on to the back of a bus when needed, you need something where the operator is held to frequency and not to timetable, and I hope that that will fit within these regulations.

I also very much hope that my noble friend will allow me to quote her when I write to Nick Gibb, saying that if the Government are heading in this direction it is high time that we look at schools admissions information and enable open data for that in the way that we have done here.

12.43 pm

The Earl of Clancarty (CB) [V]: My Lords, I welcome these regulations. I want to say a few words about apps.

I first came across the multimodal transport app Moovit a few years ago when visiting the Rhine-Ruhr area of Germany. I was amazed that it could predict quite a complicated journey involving a bus, a train and a tram, timed down to the nearest minute. I do not know Citymapper so well. Pre-Covid, going up to London by train, most people would be checking the train company’s own app. Ultimately, one would want to use a single app that covers the whole of the UK, rural areas included, and abroad as well. Certainly, this would be true for tourists.

Of course, these apps are only as good as the detail and accuracy of the information fed to them, although presentation, including the map used, is clearly important. My questions to the Minister are as follows. Will these data for buses, including GPS data, be supplied alongside all other public transport data in a freely available format appropriate for use by any multimodal transport app? What recourse does an app user have if information is found to be deficient, particularly in regard to rectifying data? If equivalent legislation is happening in Scotland and Wales, can the Minister assure us that the data supplied will be easily connectible between countries? The question ultimately begged is: how much of an integrated national transport network exists that will then make sense for passengers?

These apps strongly emphasise the network aspect of our transportation system; in other words, this is about not just a national bus strategy but a whole public transport network, of which buses and coaches are a significant part. What is particularly interesting about these apps is that they do not recognise a hierarchy of modes of transport. Everything is equal. The question is just how you get from A to B, although the user might take other factors into account. Where the network is weak, that will weaken the network as a whole, such as it exists.

Last year’s report by the Campaign for Better Transport found that 3,000 bus routes had been lost or been significantly reduced in the past 10 years, which is bad news if we are fighting to protect the environment as well as combat social isolation in rural areas. Due to the Government’s austerity measures, local authority funding of bus services has fallen by 40%, while central government funding over the same period has reduced by 19%. This is relevant to the regulations because, without services, there will be no data.

[THE EARL OF CLANCARTY]

Therefore, I ask the Government not just whether they will reverse these cuts—on top of the financial aid necessary to maintain services during the Covid crisis—but whether they will use these data, or encourage local authorities to do so, to help identify holes and unreliability in the network, in particular with regard to town-centre congestion, which bus companies, whose drivers have been doing such an important and dangerous job in recent months, have limited control over in terms of scheduling.

12.46 pm

Baroness Jones of Moulsecoomb (GP) [V]: A happy moment is when I can say that the Government are moving in the right direction towards a cleaner, greener and much healthier future. It is true that Transport for London has led the way on a lot of this innovation. It has been able to make travelling in London much easier, and during this period of coronavirus it is again moving forward on that front in London.

We definitely want people to use public transport more, and we want to reduce car use, simply because it clogs up our towns and city centres. Therefore, this is a very good move. It is a little late, coming many years after Transport for London did it, but at least it is happening. However, I have two questions for the Minister.

First, when will the Government insist that bus crash data is also part of the information that potential passengers can look up? In places where this is freely and readily available—not just by digging into the STATS19 of police forces and so on—and people can see on which bus routes and with which bus companies there are regular crashes, brake failures or even driver failures, they can make decisions, and the companies become safer, because they become aware of the problem.

Secondly, going cash-free is another big move that has made Transport for London bus services much more regular and reliable. Therefore, I am curious about when the Government will help the rest of the country become cashless, as it would help people to make greater use of public transport. In these days of coronavirus, we have become used to not using cash, so this would be a sensible next step.

12.49 pm

Baroness McIntosh of Pickering (Con) [V]: My Lords, I congratulate my noble friend on introducing these regulations, which I warmly welcome in principle. My questions concern how they will work in practice—in particular, in rural areas. My information is that 51% of all bus journeys take place in London, where, as my noble friend said, you might have to wait between two and 20 minutes for a bus. In rural areas, you might have to wait two hours, which is unacceptable. Is one reason for the need for the regulations that currently fewer than 50% of the 87 local authorities in England provide real-time information for the bus system and there is no national database for fares information?

Will the Minister also respond to my concern that most passengers who use rural buses are on concessionary fares? Concessionary fares are most welcome but, when they were rolled out from a local/regional system

to a national system, this left many local authorities, including North Yorkshire and others, cash-strapped as they had more people willing to use the service from outside than were contributing to it in the area.

The Transport Secretary is custodian of this digital service. Can the Minister explain the implications of that and where this service will be publicly available? Does one have to use the app? I agree with the noble Earl, Lord Clancarty, that Movia, in Copenhagen, works very well indeed and provides information on not just buses but train connections. If, for example, you are connecting through York to the outlying villages, it is extremely important to know if your train is delayed as that might impact on the time the bus leaves.

Although I welcome the emphasis on buses, I think it realistic to say that the Government's announcement on e-scooters will not bring any benefits to North Yorkshire. What are the cost implications for bus operators? Will there be any implications for local authorities, which are extremely cash-strapped, with very few staffing or financial reserves at the moment? Can the Minister put my mind at rest that these regulations will work as well in rural areas, where buses are few and far between, as they are currently deemed to do in urban areas such as London?

12.51 pm

Lord Holmes of Richmond (Non-Aff) [V]: My Lords, I welcome these regulations and congratulate my noble friend the Minister on the clear and comprehensive manner in which she introduced them.

I salute all our front-line workers who have kept the bus fleet moving during the Covid crisis, putting themselves in harm's way; we owe them all an enduring debt of thanks. I also send sincere condolences to the families of those who lost their lives while working to ensure that other key workers could get to work to look after those of us who have fallen sick as a result of the Covid-19 pandemic.

I very much welcome these regulations. The provision of clear, coherent, consistent real-time data will not only drive passengers on to the buses in a really positive way; as other noble Lords have commented, it could bring tech and innovation into this sector. When this service was introduced in London, for example, it added some 14,000,700 jobs to the local economy. Anyone who has been on a London bus will realise the benefits of this service, and of audio-visual announcements on buses. I commend all the drivers on my local 65 bus route—for those who are interested, it runs from Ealing to Kingston very regularly.

I wrote to my noble friend the Minister last year with a question—WQ 15588—about the provision of accessibility data within this system. She said that it was not possible to include such data at that stage of the rollout. Does she think that, a year later, the time is now right to do so? Providing that information would enable those who may otherwise be uncertain about using, or unable to use, the buses to do so. There is a potential market to consider, as well as the obvious question of inclusion. It could also increase innovation in the form of apps and technology solutions to support, enable and empower disabled people.

Finally, on a separate but allied note, can the Minister tell us what is happening at Bank junction in the City of London, where currently, only buses are allowed through? This is appropriate to a certain extent, but will she look into enabling London-licensed black taxis to go through the junction? They have never been involved in a crash. For some people, particularly those with accessibility needs, a black taxi is not a luxury but a necessity to get to appointments in that part of the City.

12.54 pm

Lord Blencathra (Con) [V]: My Lords, I join my noble friend Lord Holmes in paying tribute to those unsung heroes: the bus drivers, taxi drivers, lorry drivers and shelf-fillers who have kept the country going during Covid-19.

I totally support these regulations—they seem like a jolly good idea, creating a sort of Trainline.com for buses. My interest today is in what the Government will do with the information they collect. It seems that they will put all the information on a website, but will they develop any apps for users? According to my understanding of the regulations, anyone else can take that information and invent an app, so long as they credit the Government as the source of the data. Is that correct? Are there any circumstances in which the department might wish to develop its own app, albeit that that seems a risky policy these days? When does my noble friend the Minister expect the Government's website service to start? Will the Government wait until they have every bit of information from every operator, or will they kick off when they have, say, 50%?

One can buy train tickets from the train company or from Trainline. Would there be any bar to an app provider selling bus tickets? With regard to the Secretary of State's liability, I know that the app developer has to state that he accepts that the Secretary of State cannot guarantee the integrity and quality of the information, but will that hold up in court? We know that lawyers are now piling in by their thousands to sue over Covid-19, and to sue for any excuse. Could an app developer sue by alleging that the department was, say, too slow in putting timetable changes on to the website? Suppose an app provider breaches some of the conditions in Regulation 16: what can the department do to stop him or strike down his app? I cannot see any provisions for that.

The review period is every five years. I suggest that the first review should be after two years, with subsequent reviews at five-yearly intervals.

Finally, I have a couple of asides, prompted by what the Minister has said. She said that missing a bus may result in a delay of 20 minutes, or two hours in Yorkshire. Up here in Cumbria, if you miss the bus you wait another seven days until the next one comes along. I am not surprised that 51% of UK buses are in London. Every day when I was in London, I would see hundreds of empty, diesel-polluting buses clogging the streets. The boast that there is a London bus every 12 minutes reminds us just how mollicoddled Londoners are and how much the rest of the country needs to be levelled up. That said, from what I saw of the carnage in Paris the last time I was there, I suppose that diesel buses will kill fewer people than the e-scooters when they start this weekend.

12.58 pm

Baroness Randerson (LD) [V]: My Lords, the Bus Services Act 2017 gave the Government powers to require operators and transport authorities throughout England and outside London to publish, free of charge, a comprehensive set of data including fares, timetables, bus-stop location and real-time data on bus location, hence allowing expected arrival time. For some mystifying reason, some operators seem to believe that this sort of information is commercially confidential. So, these regulations are greatly to be welcomed.

If you travel by train, you take this type of information for granted. As the Minister pointed out, if you travel in London, you take the availability of this kind of bus information via an app for granted. It is regarded as an essential part of the efficient use of public transport in the capital city. Yet, most of England lags badly behind. This is yet another example of the major damage done to bus services by deregulation in 1985. To put that into perspective, that legislation was passed when I was a very young councillor on my first council committee. It is therefore in great need of modernisation. Deregulation opened up a gulf between the quality of bus services in London and the rest of the country, and the decline of bus services almost everywhere else has had major social and environmental implications.

I hope that the regulations may start to address these problems because passenger surveys consistently show that a lack of information is a substantial barrier to getting new customers on the buses. The Explanatory Memorandum reveals the extent of the problem. Despite the bus industry and local authorities having had three years' notice that they would be required to provide this information, only 40 out of 87 local authorities currently do so. The EM refers even now to a "phased implementation". The Minister gave us some dates. Are those dates set in stone? Does she regard them as being soon enough? Can she foresee anything that that might delay further the introduction of these regulations? I am getting pretty impatient for progress, and that is what we need as a result of the regulations.

The 2017 Act was very modest and in many ways it was a missed opportunity, but, as I said, we are now three years on, and it is two years since the DfT's own consultation on the detailed requirements for this data finished. The Explanatory Memorandum's reference number suggests that that was written in 2018 as well. Where has it been all this time? Is it yet another casualty of the long Brexit saga? Unfortunately, it has finally made its way here at a very difficult time for expanding bus usage. I spent some time in the last 48 hours using public transport in London, and it was obvious to me that things cannot carry on like this for very long. It is important that everything possible is done to get people back on to the buses and tubes as soon as it is safe to do so.

Paragraph 13.3 of the Explanatory Memorandum refers to user research that was due to conclude this spring. Can the Minister confirm that that actually happened and was not interrupted by the pandemic?

Given the disparate nature of the bus industry and the financial plight of local authorities, I am glad to see that the Government have decided to bear some of the costs of processing this data. I also welcome the

[BARONESS RANDERSON]

additional assistance to small operators, which tend to serve rural areas, where information on when the next bus is due is crucial. Various noble Lords have given an estimate of how long you wait in rural areas. I am aware that in many cases you can wait until the next day if you miss the bus, and sometimes you can wait until the next summer season.

I have a couple of other questions. The regulations apply to England only, but bus services go across the Wales-England border. Were there any discussions with the Senedd or the Welsh Government about the provision of information?

This could be a small revolution but only if potential bus users know how easy it will be to find information on their local bus services. Existing passengers will find out pretty quickly because bus companies will tell them about apps and further information, but buses need new passengers. What resources do the Government intend to put into raising public awareness of these regulations?

1.04 pm

Lord Rosser (Lab) [V]: I thank the Minister for her explanation of the content and purpose of this draft order. I add my support to the words of the noble Lords, Lord Holmes of Richmond and Lord Blencathra, about the important role and work of staff in the bus industry, particularly during Covid-19.

As the Minister said, the Bus Services Act 2017 amended the Transport Act 2000 to provide for the Secretary of State to make regulations requiring bus operators and local transport authorities to make data available regarding timetables, fares, stopping places, vehicle location and the time at which buses arrive or are expected to arrive. Information on historic punctuality data is also included. These regulations now make that provision, to allow for the development of bus information applications for use on mobile and other devices to help passengers in England to make informed decisions about their journeys, although I suppose that in the current situation it is a moot point whether it is less a case of passengers wanting to find out where the buses are than the buses wanting to find out where the passengers are.

The objective of the regulations is to be achieved by requiring operators of local bus services, and local authorities outside Greater London, to make their bus data available, including on timetables, fares and location, through the Secretary of State. The Secretary of State will in turn publish it on a website for developers of bus information apps to access so that they can create applications, products and services for passengers' mobile and other devices. As has been said, that already happens in Greater London for buses, and across the rail industry, enabling passengers to plan journeys, find the cheapest fares and obtain real-time service updates and information.

The Minister has already answered in her opening contribution some of the questions that I was going to ask so I will try to avoid repeating them, at least in some cases. She said that the order was essential to encourage the travelling public to use their local bus services and to make the switch to public transport,

in order to reduce congestion and improve air quality. I know the Minister will acknowledge that more than the provisions of this order will be needed to get people back on to buses. So, in addition to this order, do the Government intend to provide bus operators and local authorities, including Transport for London, sufficient long-term assistance, particularly financial funding, to ensure that their income from running buses is maintained at at least at pre-Covid-19 levels until passengers return in sufficient numbers to achieve this objective without financial support? If that is not the Government's intention, the anticipated and hoped-for favourable impact of this order on buses, which we support, will be somewhat diminished.

Under the order, any operator of a local bus service across England must publish its timetable, fares and location data for the bus open data service before that service comes into operation. The new rules will be enforced by the Driver & Vehicle Standards Agency, which will be able to conduct checks to ensure that the operator is complying. How will those checks be conducted and what form will they take? Will that require additional resources for the DVSA?

Punctuality data will also be legally required, and local transport authorities will be legally responsible for maintaining data about bus stops and stations. As has been said, the regulations will be brought in in phases: timetables and stop data requirements from the end of this year; basic fares and location data from early January; and complex fares from January 2023. Why is such a timescale deemed necessary in respect of complex fares? What is the definition of a complex fare? As far as the two much earlier deadlines are concerned, are the Government satisfied that these much shorter timescales can still be delivered in light of the disruption resulting from Covid-19?

The order does not appear to cover the provision at bus stops, as opposed to via mobile devices, of information for waiting passengers on when the next bus or next few buses will actually be arriving, on which routes and to what destinations. Is that the case? If so, what is the reason for that? Such information, where already available at bus stops, can be very useful for passengers who may not have any other means of finding out how long they will have to wait for their bus to arrive.

What growth in bus use are the provisions of this order expected to generate? Paragraph 12.1 of the Explanatory Memorandum refers to it being "assumed" that this will

"lead to increased bus patronage."

There is also a reference, I think in the same paragraph, to greater profits for bus operators of £0.8 million to £5 million per year. What percentage increase in profits does that represent? Would it also mean a reduction in the level of subsidy that local authorities pay to operators for running local authority-subsidised services?

As I have indicated, we support the provision of more comprehensive information, including real-time information, about bus services to passengers. We hope that the order achieves its stated objectives.

1.10 pm

Baroness Vere of Norbiton [V]: My Lords, I thank all noble Lords who have taken part in today's short debate for their generally warm welcome for these regulations, and for the bus open data service as a whole. I will respond to as many points as I possibly can in the allotted time, but I will of course write on the points which—[*Connection lost.*]

1.11 pm

Sitting suspended.

1.13 pm

Baroness Vere of Norbiton [V]: My Lords, my sincere apologies to the House for my poor internet—and I am in London.

As I was saying, these regulations have been subject to extensive consultation with the industry and local authorities. The noble Lord, Lord Bradshaw, noted that they are broadly welcomed by the industry, which I believe recognises the important consequences of these regulations. The noble Baroness, Lady Randerson, noted that there has been a formal consultation on these proposals. The Government published their response in January 2019, and it was decided that 2020 would be the transitional year for operators to start publishing their timetable data, and for the bus open data service to come into its own. It was therefore launched in beta on 28 January this year, so we have already seen companies getting involved and publishing their data, and that is a very good sign.

However, to meet the requirements of the regulations, operators need access to appropriate software to generate the data files and to create digital and data capabilities within their organisations. We realise that that can be a challenge, but bus operators have had many years to think about this, budget for it and upskill their workforce. The costs of doing this will vary by operator: some operators do much of it already and use it with their own apps.

The noble Baroness, Lady Jones of Moulsecoomb, asked why we have not done this earlier. One of the reasons why this has taken a little while to come in is the small operators. The bus sector is hugely diverse, from the very largest operators to the smallest, and it is the small operators that need the most support. We have been helping the sector make its way through these proposals and are focusing our support on the small operators. For example, the team within the department has created a timetable data creation tool, which allows these operators to submit their data in a standardised and easy fashion—we have done exactly the same for fares as well. We have also offered to host data for the small bus operators if they cannot host it themselves.

Given the potential impact of coronavirus on the bus industry, as noted by the noble Lord, Lord Rosser, and the noble Baroness, Lady Randerson, it is the case that we may need to give certain operators breathing space if absolutely necessary, and if there are mitigating reasons, as we move towards the deadlines in the regulations. We will work with the traffic commissioners

to adopt a lenient approach, and of course we will work with the bus operators to ensure that they can make progress as quickly as possible.

My noble friend Lord Blencathra asked whether the review of the regulations should be after two years instead of five. I do not think that two years would provide the sufficient timeframe to evaluate the impact of these regulations, particularly the benefits and outcomes that we anticipate. The post-implementation review, which may happen every five years, is often started after three to four years, as these things can take quite a long time to deliver and report on.

We expect to see an uplift in bus usage as a result of these regulations, based on our experience with TfL and with Transport for West Midlands. This might mean that existing services become more sustainable and would therefore need less support from the local authority. That local authority would then be able to direct its own resources on to other routes that are perhaps particularly vulnerable. It could lead to a shift in resources, which would be a good thing.

We have had lots of round-table meetings with app developers all the way through developing these proposals, to make sure that they are happy with what is happening. Given that some data has already been published, some app developers are already accessing it and putting it to good use. I reassure my noble friend Lord Blencathra that it is not the intention of the Government to get involved in transport app development at the current time. But what we will do—I think this is only fair—is require developers to acknowledge on their app that the information has been taken from the bus open data internet site. My noble friend also asked what would happen if an app developer breaches the conditions of use for the data. If they do that, the Secretary of State can switch off the app provider's API key and restrict access to their account or close it down completely. They would then not be able to access the data at all, which is clearly quite a significant sanction.

With regard to any liability on the Secretary of State and a potential challenge in court as to the accuracy of the data and so on, the Secretary of State has made the information available and the data consumer—the app developer—has chosen to use it in accordance with the restrictions in Regulation 16. There is no contractual relationship between the Secretary of State and the app developer, therefore there is no liability created to the state.

The noble Lord, Lord Rosser, noted the provision of real-time data at bus stops. I agree with him that it can be really useful for people to see when their next bus is coming. This falls under the remit of local transport authorities, and although the data on BODS—the bus open data service—would support its widespread rollout, the issue is that the purchase and maintenance of screens can be prohibitively expensive, particularly at less frequently used bus stops. We will look into this further; it may well be that screens become cheaper over time and easier to maintain. It is something that we believe would benefit passengers.

I was very interested in the broader issues raised by the noble Earl, Lord Clancarty, and I will write with my reflections on them. App developers are already very good at taking data from lots of different datasets,

[BARONESS VERE OF NORBITON]
collating it and then publishing it. We are in conversations with the devolved nations—Scotland and Wales—to ensure that we have equivalent data standards and that the data will be interoperable.

As apps develop further and become more mobile as a service, a more high-quality solution could allow the integration of different transport modes, so that passengers can plan an entire journey and eventually make a payment for a single journey across all different modes, if they can get agreement with the travel operators. I hope that we will move in that direction. This regulation will enable that, but in many cases we are not quite there yet; I hope we will be in the future.

One of the issues is the difference between complex and simple fares. At the moment, bus operators have no obligation to provide information about fares, except at the point of boarding. Even publishing the simplest fares will be a step forward. Bus fares can be hugely complicated. They can vary depending on the route taken, the duration of the journey, the type and number of passengers, whether a discount or a cap is applied and all sorts of other things. Therefore, establishing a digital standard for these complex fares will take some time, and that is why we have given ourselves the deadline of very early 2023 to establish it.

Rural areas are very important, as noted by my noble friend Lady McIntosh, and of course they do not have the sort of services that we have in London. The bus open data service will help passengers enormously in rural areas, because they will have real-time information. It is about giving rural communities the access to the same information as passengers in London. They will know if their bus is delayed, whether it is yet to turn up and how long they will have to wait at the bus stop, and they will be able to check that without even leaving home. For rural app development, we have made sure that the data is available in very developer-friendly formats, GTFS and GTFSRT—real-time—because we hope this will mean that the maximum number of app developers can come in and develop solutions for rural as well as urban areas.

My noble friend Lord Lucas mentioned demand-responsive systems, which are incredibly important. Flexible services are within the scope of the legislation, and hail and ride sections on fixed routes can already be represented and published. For demand-responsive transport, we will need a different dataset, which will require further development, but it is our intention to release this functionality in due course.

I am well aware of the commitment on information on accessibility mentioned by my noble friend Lord Holmes, and I would like to reassure him that we are considering how to provide accessibility data for vehicles and bus stops. The bus open data service has been designed to allow operators to provide some accessibility data, particularly about vehicles, and we will be encouraging operators to provide this information to the service. The information will also be very good for talking buses—accessible information on buses.

If I may take just a few more seconds, on enforcement, the noble Lord, Lord Rosser, mentioned the DVSA and what it will be doing. It will be checking that the data on the system matches what is happening on the ground,

to make sure that practical provision is being matched with the data provided. Any resources needed will be scooped up as part of the annual work-planning process, but we will continue to monitor resource levels as these regulations come into force.

This Government are hugely supportive of the bus industry. Currently, we are supporting the majority of bus services in this country directly from government funding, because we recognise the important contribution they make. We also recognise that we will have to look at some sort of medium-term financial—and other—solution to bring the bus industry out of this current phase, back into recovery and out the other end.

We have committed £3 billion to the sector. We are working on how best we can invest that, both in zero-carbon solutions and supporting services across the country. Allied to that will be the national bus strategy, which will also discuss many of the issues outlined by noble Lords today, including demand-responsive transport, rural services, integration with other transport modes and all of that. Finally, we will be working with the industry on a very robust communications strategy. I share your Lordships' concern that we will not get people back on buses. We have to get people back on buses, and we are committed to working on that. I commend the regulations to the House.

Motion agreed.

1.26 pm

Sitting suspended.

Arrangement of Business

Announcement

1.45 pm

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): Good afternoon, my Lords, proceedings will now commence. Some Members are here in the Chamber, others are participating virtually, but all Members are treated equally. For Members participating remotely, microphones will unmute shortly before they are to speak. Please accept any on-screen prompt to unmute. Microphones will be muted after each speech. If the capacity of the Chamber is exceeded, I will immediately adjourn the House. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. The usual rules and courtesies in debate apply.

Contracts for Difference (Electricity Supplier Obligations) (Amendment) (Coronavirus) Regulations 2020

Motion to Approve

1.46 pm

Moved by Lord Callanan

That the draft Regulations laid before the House on 4 June be approved.

Relevant document: 18th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, the aim of this draft instrument is to limit the negative short-term impact on electricity suppliers

of an unexpected increase in the costs of the contracts for difference—CfD—scheme as a result of measures introduced to reduce the spread of the novel coronavirus. Before outlining the provisions, I will briefly provide some context for the benefit of your Lordships.

The CfD scheme is the Government's main mechanism for supporting new renewable electricity generation projects in Great Britain. The CfD is a 15-year contract between a renewable generator and the Low Carbon Contracts Company—LCCC—a government-owned company that manages CfDs and is at arm's length from the Government.

Contracts are awarded in a series of competitive auctions that determine the strike price in pounds per megawatt hour that the generator will be paid for the electricity produced. Generators receive revenue from selling their electricity into the market as usual. However, when the market reference price of electricity is below the strike price, generators receive a top-up payment for the additional amount. Similarly, at times when the reference price is above the strike price, the generator pays the LCCC.

The LCCC is the designated CfD counterparty under Section 7 of the Energy Act 2013, and as such it has a power to collect payments from licensed electricity suppliers through the CfD supplier obligation to enable it to make CfD top-up payments to generators. This obligation comprises a daily interim rate levy paid on each megawatt hour of electricity supplied, plus a total reserve amount paid in the form of a lump sum at the start of each quarter to cover uncertainty.

Both rates are set by the LCCC three months ahead of each quarter, based on the LCCC's forecasts of CfD payments and electricity demand. At the end of each quarter, the LCCC carries out a reconciliation of the amount owed by suppliers, based on the actual payments made to generators and amounts received from suppliers. The LCCC advised BEIS that, because of measures introduced to reduce the spread of coronavirus, it was anticipating a shortfall in funds required to pay CfD generators in the second quarter of this year, from April to June.

The LCCC had observed a sharp fall in electricity demand across the quarter, of around 13%, as a result of the lockdown. This would have meant a significant reduction in the amount collected from suppliers under the interim rate levy. There was also a significant fall in the wholesale price of electricity, which would lead to increased payments to CfD generators of £18.6 million higher than forecast. The combined effect of these unanticipated changes is a forecast shortfall of £121 million between the amount owed to CfD generators and the amount collected from suppliers under the interim rate levy.

To address the shortfall, the LCCC was considering an increase of between 22% and 35% in the interim levy rate part-way through the second quarter of this year. This would have been the first time such action was needed. Electricity suppliers would have faced an unexpected increase in their obligations at short notice and at a time when they were facing significant other pressures. Therefore, in line with efforts to support the economy in the light of the Covid-19 national emergency, the Government agreed to provide a loan of up to £100 million to the LCCC so that it could continue to

pay CfD generators during the current quarter without increasing the financial burden on suppliers. The loan is governed by a separate agreement between BEIS and the LCCC and is not covered in this instrument.

Following consultation, the Government also announced that they intended to make changes to regulations to enable the LCCC to defer collection of the additional obligations covered by the loan to the second quarter of 2021. If regulations were not changed, suppliers would face a higher lump-sum payment to the LCCC this month, following the quarterly reconciliation exercise. This draft instrument makes four technical changes to the existing Contracts for Difference (Electricity Supplier Obligations) Regulations 2014 to implement the deferral.

First, it reduces each electricity supplier's obligation in a quarterly obligation period by the amount of the financial assistance provided by the Government to the LCCC for that purpose, multiplied by each supplier's market share in that quarter. Secondly, it increases each electricity supplier's obligation four quarters later by the amount of financial assistance previously provided to the LCCC, multiplied by the supplier's market share in that later quarter. Thirdly, it enables the LCCC to take into account anticipated receipt or repayment of financial assistance provided by the Government when setting the obligation for a quarter. Finally, it enables the LCCC to repay any financial assistance provided by the Government using moneys collected from electricity suppliers after the reconciliation process following the relevant quarterly obligation period. This deferral will give suppliers more time to prepare for the increase in payments. It provides greater confidence over the level of additional costs that they will face in the second quarter of 2021, enabling suppliers to price future tariffs with minimum cost risk.

I stress that the Government are committed to upholding the self-financing nature of levies in the energy system. The loan to the LCCC and the arrangements for deferring repayment are therefore envisaged to be a one-off response to the current exceptional circumstances arising from Covid-19. However, the mechanism in this instrument is not time-limited and could be used again in the future, if required. This would enable the Government to intervene quickly to ensure that CfD generators can continue to be paid, and burdens on suppliers could be deferred, if a similar exceptional event arose in the future. These legislative changes need to be made ahead of the LCCC's quarterly reconciliation process that determines suppliers' obligations for quarter 2 of this year. This is expected to take place on 9 July. Therefore, subject to the will of Parliament, this instrument will enter into force the day after it is made, and I commend these regulations to the House.

1.53 pm

Lord Foulkes of Cumnock (Lab Co-op) [V]: My Lords, I thank the Minister most sincerely for his very helpful and comprehensive introduction, which enables me to be briefer than I had intended. I thank him also for his courtesy in asking us all in advance whether we had any questions.

I should say first, as a Scottish Peer, that I am very proud of the progress that we in Scotland have made with renewable energy electricity generation. Indeed,

[LORD FOULKES OF CUMNOCK]

it is now reported that an equivalent of 90% of Scotland's electricity consumption comes from renewable sources, representing an increase of 14% year on year. Despite some policy uncertainty over recent years, which has limited deployment, our 100% target for renewable power generation in 2020 looks as if it remains on track. I am sure that the Minister will agree that success with renewables, including solar, onshore and offshore wind, and tidal and thermal energy, will all be critical in demonstrating that we in the United Kingdom have shown leadership when we come to COP 26, which we look forward to hosting in Glasgow next year.

I have a couple of questions for the Minister. The explanatory statement to the instrument notes that there is opportunity for these regulations to be used in "similar exceptional circumstances" without the need for further secondary legislation or debate. Can the Minister inform the House what "similar exceptional circumstances" would look like in the future? In this event, would the Government commit to providing further loans to support the Low Carbon Contract Company?

Finally, since these regulations are temporary, my main question is how the Government will reassess these payments in a year's time. With the current uncertainty in the market, the composition of the players involved may have altered in a year's time, so I would find it really helpful if the Minister would tell us and help us to understand how they will secure future payments and whether this will mean redistributing them among new market formations. I look forward to hearing the Minister's answer to these two questions in his reply to this debate.

1.57 pm

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, the government loan and delayed payback mechanism in this statutory instrument gives the electricity suppliers time to work unexpected higher charges through to customers. By delaying four quarters rather than three, the extra cost can be fed into the retail price cap to ensure that higher prices do not hit in the winter months. It is all very logical but, in the retail price cap, will any account be taken of the fact that it is not domestic energy consumption that dropped due to lockdown? Working from home, having children at home, extra cooking, baking, computer use and other household activity has led to increased consumption, and putting these levy-related costs on to domestic supply later on is retail picking up the tab for disruption in industrial consumption.

For those on low income, where fuel poverty is a serious matter, any rises are dreaded. What planning is being done for how the levy cost blip will be reflected in the price cap? Will the retail share of the levy blip be limited to cover, say, 30%, or whatever the 2019 domestic percentage of household electricity consumption is, and not the higher percentage that will probably happen in 2020 due to lockdown? Will it be reversed out of the baseline in later cap updates?

My back-of-envelope calculation for the spring quarter, based on the £100 million cap, has a possible maximum levy of around £125 million, over 28 million households and using 30% of total electricity. That share would

come out at only about £1.50 per household for the quarter. Will that be the kind of maximum increase allowed? To some, even that is significant. Further loans are presently ruled out, but is it not the case that an elevated levy is likely in later quarters, as overall consumption and market prices remain depressed?

The Government said in their consultation that suppliers should absorb some of the costs, that being the reason for not giving 100% cover, and the payback will then be mutualised among suppliers extant in a year's time—not least in case some go bust. Once the price rise comes in, all levy costs will surely be clawed back, but what will be the effect on consumers if some suppliers go under, including where there are advanced payments? Are those lost as unsecured creditors? Finally, have the consultation responses been published? I looked for them on the BEIS website but did not find them, and it is not really a public consultation without seeing the responses.

2 pm

Lord Naseby (Con) [V]: My Lords, I welcome this SI and say well done to the Government for anticipating this need. If they had not done that, there could have been problems with the continuity and reliability of supply, and it is absolutely crucial at this difficult time that we do not go through any of the old problems we had in the past. As an aside, I recently had no telephone, no wi-fi and indeed no water supply, but thankfully they are all back on again now.

I have a few questions. First, what consultation was there with the key renewable companies over this arrangement and were any problems raised by them? Secondly, following the speech by the noble Baroness, Lady Bowles, does Ofgem fit into this anywhere? She is right in the sense that we know that, domestically, demand has gone up because everyone has been locked down and stuck at home, and we have all been using our computers far more than we would normally do. Thirdly, some might say that this action is undermining efficiency and making it a little too easy for companies that ought to be able to handle the toing and froing of challenges. However, maybe looking at the detail of the SI, the Minister will tell me that paragraph 7.5 of the Explanatory Memorandum answers that question.

What exactly is the estimated cost to the Government through this transitional loan? Presumably it is a cost of lost interest, and is that somehow rolled up at the end of the process? Finally, as someone who was a very junior Minister in Northern Ireland, I am not sure why Northern Ireland is not involved. Is it because Stormont was not sitting and this came under Stormont, or is the infrastructure in Northern Ireland different from the rest of the United Kingdom?

2.02 pm

Baroness Sheehan (LD) [V]: My Lords, the only good thing to come out of the coronavirus lockdowns worldwide has been the biggest fall in energy demand in 70 years. That has had the fortunate effect that global energy-related carbon dioxide emissions in 2020 are set to fall nearly 8% to their lowest level in a decade. However, that reduced demand for energy means that the LCCC has a cash-flow problem. However, here is a remarkable statistic: renewables generated 47% of the UK's energy in the first three months of this year.

While I do not oppose the Government's plan to step in temporarily to ease the situation for energy suppliers, I wonder what discussions are taking place about other ways to smooth out the demand-and-supply mismatch that can sometimes occur with renewable sources of energy, given that we cannot control when the wind will blow. For example, the climate change committee's progress report, published last week, stated that battery storage facilities need greater investment and development. If we had the ability to store power when it was produced in excess, the LCCC would be much less likely to be in a situation where the price of electricity went negative. Is investing in battery technology—a technology that is moving apace—under consideration?

Another way to smooth out supply and demand is to move energy around more efficiently—for example, through interconnectors. Can the Minister update the House as to when the Denmark-Britain cable will become operational?

Given the Prime Minister's intention to lift restrictions on people's movements to get the economy moving again, which will have the effect of gradually increasing demand for energy, was a more phased approach to clawing back the deferred payment considered?

Lastly, this is a Treasury intervention that will support energy suppliers, with the effect that consumers should be protected from energy price rises. Can the Minister confirm that that is indeed the case and that no supplier benefiting from deferred payments will increase energy prices for consumers?

2.05 pm

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, these regulations seem to suggest a fundamental flaw in the way the Government are thinking about funding new energy generation. It looks as though the Government intend to tie us into tens of billions of pounds of these contracts over the coming years, for everything from new nuclear power stations to solar and wind energy. Contained in these contracts is a guarantee that energy payers will pay high energy prices whether or not the wholesale price is much, much lower, and whether or not we use much less energy. Surely the Government can see that that is a bad business practice. Why would a Conservative Government do something like this?

We have used less energy while in lockdown, and that has essentially bankrupted the Government's whole energy-generation scheme; I understand that. As we embark on the rapid reduction in energy consumption that is necessary if we are to meet a net-zero carbon future, we will see the same thing happen again and again. However, for me this is a stealth tax. It will be deeply regressive, pushing the burden of costs on to the fuel-poor and disadvantaged while the wealthy will barely notice the difference.

For these very reasons, the Government should abandon this bankrupt contract system and instead bring their energy-generation and energy-efficiency schemes into normal government capital investment, to be funded by progressive taxation. Will the Minister comment on those ideas?

2.07 pm

Baroness McIntosh of Pickering (Con) [V]: My Lords, I congratulate my noble friend the Minister on bringing forward these regulations for our consideration this afternoon. My first question is not dissimilar to that asked by the noble Baroness, Lady Bowles, and I am grateful to her for the research she has clearly put into that. Paragraph 7.1 of the Explanatory Memorandum states this fairly complicated payments procedure and says at the end:

"We expect that suppliers pass on the costs of these payments to their customers."

As we know, while retail shops and business customers generally closed down, as they were told to do because of the Covid-19 virus—and it was absolutely right that they did so—that meant that everybody was working from home and the consumption of electricity and water went up incrementally. I am therefore concerned that this will be passed on to the domestic customer in what is a very grey area as regards transparency of payments.

Successive Governments have introduced renewable energy, and we as domestic customers pay handsomely for the privilege. However, the transparency of how we pay is indeed very opaque. Can my noble friend put my mind at rest as to how this increase will appear, and what role Ofcom will have in agreeing to this? Presumably Ofcom was consulted, and as the regulator it will have a view when it comes to sorting this out at the end of the next quarter or at the end of the financial year.

Finally, I do not quite understand the thinking behind why the agreement that the Government have entered into—between BEIS and the LCCC—is not part of our proceedings this afternoon. That would have been very helpful. I hope that my noble friend will agree to publish all the responses on the website, in the normal way.

2.10 pm

Lord Holmes of Richmond (Non-Affl) [V]: My Lords, I congratulate my noble friend the Minister on the clarity and thoroughness of his introduction to these regulations. I also sincerely thank all those key workers in energy and power production, not least everyone at National Grid, who have kept the lights and the heat on through this Covid crisis, often putting themselves in harm's way to ensure that everybody across the country has power.

I welcome the regs in the sense that they are necessary, given the current construction of the sector, but as other noble Lords have commented, there is an extraordinarily high level of complexity and opacity in the whole energy sector. Does my noble friend the Minister agree that it would be helpful to produce a clear chart showing the real price per kilowatt hour of energy, including everything, from whatever source that energy came?

I appreciate that this is somewhat off-piste, but perhaps my noble friend will indulge me: in this new future that we are embarking upon, does Hinkley C in any sense seem like something we should be doing? A technology unproven and unbuilt, a deal done at a strike price three times the strike price at the time—it was a bad deal then and it looks disastrous now. If he were offered that today, would he say "deal" or "no deal"?

[LORD HOLMES OF RICHMOND]

Finally, what are the Government doing to address one of the most pernicious energy issues? Those on meters or pre-paid cards—those in our society who have the least—often find themselves paying the most. Does he agree with me that we still need to do so much to address this inequity?

2.13 pm

Lord German (LD) [V]: My Lords, it is worth reminding ourselves that the purpose of the CfD is to incentivise investment in low-carbon electricity generation in the UK. I support the measures taken in this set of regulations, in so far as they avoid a large increase in suppliers' payment obligations at this stage, thereby temporarily avoiding the inevitable passing on of those extra costs to the consumer or a reduction in the effectiveness and economic sustainability of those suppliers. However, we must see these regulations through the perspective of whether they will incentivise investment in low-carbon electricity generation.

As many noble Lords have said, these regulations imply a loan, which will have to be repaid. At present, that is envisaged for next year, although I note, as the Minister said, that it is not time limited. I suspect that he is not in a position to tell whether, if it is to be repeated, there will be an equivalent investment by the UK Government, putting money into the pot to make sure the books balance.

I want to consider the impacts on the generators' side of the CfD, which are current as well. Can the Minister explain the impact of the changes that have arisen from the targeted charging review? The changes proposed will have an impact on the revenue stream of most low-carbon energy generators. Larger generators will miss out on transmission generation residual payments, which are currently equivalent to about £2.30 per megawatt hour. Once these TGR payments are reduced to zero, a wind farm bidding for a CfD will have to increase its bid by £2 per megawatt hour to ensure the same internal rate of return. This, in turn, will have an impact on new generation projects coming forward. Ofgem acknowledges the impact of the TGR on generators, stating:

"There is a risk that these changes could lead to the cancellation of some projects, including renewable generators which have been awarded CfD contracts".

Can the Minister tell us whether these changes have been postponed? They would certainly affect the quarterly reconciliation process under the CfD, which determines obligations. In turn, that would mean a shortage of low-carbon generation to meet the Government's targets. The regulations we are considering today acknowledge the urgency of ensuring that additional costs arising from the response to Covid-19 will not fall upon suppliers. But if the whole purpose of the CfD is to incentivise low-carbon electricity generation, these regulations must provide a temporary fix not just to one side of the equation; they must pay attention to the generation incentive as well.

2.16 pm

Lord Kirkhope of Harrogate (Con) [V]: My Lords, the title of this statutory instrument is long and complex, but the issues are, I think, relatively simple. In order to

encourage alternative or green suppliers of electricity, the levy on energy suppliers provides resources to support contracts for difference—or CfD—generators. So far so good. However, a combination of seasonal or weather-related issues plus Covid-19 issues has resulted in overall demand for electricity dipping substantially, creating a serious financial position for suppliers. Effectively, therefore, what is proposed is a loan of up to £100 million for the Low Carbon Contracts Company—the LCCC—so that the CfD generators can continue to receive the sums due under their respective contracts.

I therefore have several questions for my noble friend. First, I understand these government moneys are just loans that will be clawed back within a year. How are these loans to be secured and enforced, especially if the suppliers continue to have financial pressures? Secondly, to what extent should general energy prices have any effect in the next year? Are the contracts from the so-called difference auctions flexible in this regard? Does my noble friend understand that low energy prices give rise to the concern that the prices paid for the alternative suppliers are fixed at a much higher rate, especially if these low prices in the market continue, with a depressed economy, the Covid aftermath and resultant low demand?

Thirdly, the reference to "similar exceptional circumstances", allowing these measures to continue without any further parliamentary scrutiny by even secondary legislation, concerns me. Definitions such as this are imprecise; we need to be sure that they are not used in respect of only slight changes in energy prices, usage or climate variations. Can my noble friend describe what "exceptional circumstances" means? As this measure postpones the levy payments only for a year, and as the costs are ultimately borne by the consumer, can he advise us of the likelihood of a fresh price cap following a new Ofgem determination?

As noble Lords know, as the dispenser of the levy, the LCCC is established as an independent body. I hope, therefore, that this intervention by the Treasury with these loan moneys—for no doubt very merit-worthy reasons—will not affect that longer-term independence which I believe is so vital in these overall energy relationships.

2.19 pm

Lord Oates (LD): My Lords, I thank the Minister for introducing the regulations so clearly. As my noble friends have indicated, on these Benches we recognise the need to bring forward these regulations in order to tackle the exceptional circumstances that coronavirus has given rise to. It is a reminder of how the pandemic has affected almost every aspect of life. I join the noble Lord, Lord Holmes of Richmond, in paying tribute to the front-line workers in the electricity industry who have worked so hard on our behalf to keep the lights on.

As my noble friend Lady Bowles highlighted, the issue here is not so much the need for these regulations, but how their consequences will work through the system—and indeed out of the system. I note that the impact statement at the end of the Explanatory Memorandum states that there

"is no, or no significant, impact on charities or voluntary bodies"

and that:

“The impact on business is expected to be positive and welcomed.”

The impact assessment also states:

“There is no or no significant impact on the public sector.”

It does not, however, address the potential impact on domestic consumers. Indeed, the only reference to consumers is in the section relating to the positive impact on business, in which the Explanatory Memorandum states:

“It will give electricity suppliers a high level of confidence over the additional costs they will incur for each unit of electricity”

and:

“This will enable suppliers to price the additional costs into consumer energy bills in advance with minimal cost risk.”

I am sure that will be encouraging and reassuring to suppliers, but what about consumers? Will the Minister tell the House what assessment the Government have made of the impact of these regulations on consumer prices in the second quarter of 2021? My noble friend Lady Bowles had a go at suggesting a figure, but it will be useful to know from the Minister whether the Government accord with that. Have they assessed what, if any, impact this will have on fuel poverty, bearing in mind that the impact of even a small rise may be significant on the fuel-poor?

The Government have stated that they regard the loan to the Low Carbon Contracts Company as a one-off response to the current crisis. None the less, they have taken powers in these regulations that are not time-limited. I admit that I would normally be extremely suspicious of Ministers seeking unending powers to tackle what they claim is an exceptional situation. However, given that the reduction in demand has been principally driven by industry, it is unclear how long energy prices in the wholesale market are likely to remain below the strike price, and, as a consequence, whether the Government will need to intervene again. What assessment have the Government made of the trajectory of prices in the wholesale market and how that will impact on the system?

As the Government seek to put the country on the right track to meet our 2050 net-zero target, it is important to bear in mind the points made by my noble friend Lord German. The purpose of the CfD system is to expand investment in renewable and non-carbon sources of energy. It is very important that we bear that in mind as we go forward. Have the Government considered how we may need to adjust market mechanisms in the longer term to support the move away from a carbon economy towards a net-zero figure? What impact does the Minister think the crisis may have on investments in renewables, which have expanded so rapidly and encouragingly in recent years, not least because of the visionary decisions taken by the then Climate Secretary, Ed Davey, during the coalition Government? What steps will the Government take to ensure that the positive picture that has arisen is built on over the coming years?

My noble friend Lady Sheehan raised the important issue of the need for the Government to invest in energy infrastructure through battery storage and other means to help smooth the use of renewables in the supply system. That will be a critical part of building

an energy system fit for the future and, in particular, fit to meet the Government’s commitment to net zero by 2050.

I hope that the Minister will be able to answer the questions that my noble friends and I have asked and other noble Lords have raised, but, with that said, we recognise the need for these regulations. We thank the Minister for the clarity with which he introduced them, and we support them.

2.24 pm

Lord Grantchester (Lab): I thank the Minister for his introduction to the regulations, but I admit to being slightly thrown by how I understood them to work through to consumers. Let us hope that there are easy explanations.

As the Minister said, the aim is to limit the negative short-term impact on electricity suppliers of an unexpected increase in costs of the contracts for difference scheme due to the pandemic. The CfD scheme is the main mechanism for supporting new renewable electricity generation projects in the UK and, in outline, the government-owned Low Carbon Contracts Company, or LCCC, manages those generating contracts, collecting payments for generation from electricity suppliers, which pass on those costs to customers in their bills. As the Minister explained, there has been a shortfall in funds required to pay the generators in the second quarter of 2020 following a sharp fall in the demand for electricity ensuring a low wholesale price of electricity, leading to higher payments to generators as they have to be paid the difference between the wholesale price and the strike price agreed necessary to bring forward renewable generation. The Government have brought forward these regulations to assist with the consequences—for example, by extending a one-off loan to the LCCC to enable payments to generators without increasing the financial burden on suppliers and therefore consumers. I understand the time-sensitive nature of the regulations being approved so that they can come into force before the quarter reconciliation date of 9 July. I also understand that they will not impose burdens any more onerous than before or require different behaviours without sufficient time for reorganisations.

Regarding the consultations on the regulations, due to the urgency, I understand that a longer period than the one-month consultation undertaken was not practicable, yet the engagement seems to have been widespread and productive, resulting in the payback period being put back a full 12 months to avoid spikes in consumer prices during winter, and the sensible determination of the split between suppliers in accordance with their share of the market at that time, rather than at the time of the loan, which is to be made to the total cost of the LCCC irrespective of present market shares.

All that is clear and sensible. However, I have one or two anxieties on which it would be useful to have clarity from the Minister. The regulations are made for quarter two, from April to June. These measures may well need to be used again without recourse to more regulations if there are “similar exceptional circumstances”. Will the Minister confirm that the regulations will not be used for circumstances other than those due to the coronavirus pandemic? What similar exceptional circumstances might he envisage in

[LORD GRANTCHESTER]

the future? Temporary volatility of prices or seasonal demand fluctuations should be excluded, I would have thought, but would he care to determine any specific margin?

Furthermore, this pandemic may well continue and we are now into July. Will the Minister explain to the House how the effects of the pandemic are continuing to affect the market? What is the size of the loan that the Government are giving to the LCCC and therefore the size of the overhang in the market that will need to be reconciled in 12 months' time? I believe the Minister mentioned the sum of £121 million in his introduction. We also need to consider the implications of the price cap legislation passed last year under the stewardship of Claire Perry, who appreciated the effects of energy prices on consumers. Has the Minister's department had discussions with Ofgem regarding how these increased costs will be reflected in its future determination of whether the prices cap will continue into next year or not? It is important to get a general understanding of the expected effects and outcomes at this stage.

Under the Energy Act 2013, which governs this instrument, the Government sought to distance the Treasury from the implications of a support system for renewable generation. It is now back in the spotlight. What are the terms of the loan to the LCCC and how do this Government view this breach? The Minister may well reply that it is a temporary measure, but, as I have just said, it may not be a one-off for only one quarter. It would be helpful to understand the full circumstances of the instrument in that respect. Has the Treasury published any guidelines and made them publicly available?

No understanding of the impact has been undertaken, in the expectation that it will be positive and welcomed, at present. But it may not turn out that way in the long run, when the time comes for the sums to be passed back to consumers. On the assumption that it is only a one-off, one-quarter situation, can the Minister say what added rise in consumer bills due to this pandemic easement will come about in 2021? That the answer will be known now means that suppliers might begin to pass the cost on to consumers well in advance of these provisions, and thereby negate the main object of the loan to the LCCC. Perhaps the Minister can require Ofgem to report on this situation, so that the full fall in wholesale prices is not passed back to consumers, which is extremely worrying for many people.

2.31 pm

Lord Callanan: I thank noble Lords for their valuable contributions to this debate. As so often, they have strayed far and wide on the general subject of renewable energy and government support, as well as addressing the individual points made in this particular instrument. Nevertheless, in an effort to be as helpful to the House as possible, I will address most, if not all, of the points that noble Lords have raised.

Coronavirus is the biggest challenge that the UK has faced in decades. During this turbulent time, the Prime Minister has said that we will take every step that we can to ensure businesses are protected and the economy remains strong. The Government have introduced an exceptional package of financial support

for households and businesses to help them through these difficult times. This includes £330 billion-worth of loans and guarantees, tax deferrals, and a package of temporary welfare measures worth over £6.5 billion, including increases to universal credit, working tax credits and local housing allowances.

It was therefore important that the Government took action when the LCCC advised BEIS that, as a result of measures introduced to reduce the spread of coronavirus, suppliers would face a significant unexpected increase in their obligations for the second quarter of 2020. By providing the loan to the LCCC to cover the majority of these unanticipated and exceptional additional costs, and by deferring repayments by 12 months, the Government are ensuring that the impact on suppliers is minimised. It also provides them with greater confidence in the additional costs that they will face in quarter 2 of 2021, enabling them to price future tariffs with minimal cost risk. In addition to protecting suppliers at this time, it is essential that we maintain investor and generator confidence in the CfD scheme by ensuring that payments can be made to renewable generators. This will allow us to continue to deliver on our commitment to provide clean, affordable electricity for consumers.

I can tell the noble Baroness, Lady Jones, that the UK is a world leader in clean growth, with more than £94 billion having been invested in clean energy in the UK since 2010. In the first quarter of this year, the renewables share of total electricity generation was 47%, the highest quarterly value on record and exceeding the share of generation from gas. I am sure that she, as a Green, will welcome these figures. The success of the CfD scheme will be pivotal as we emerge from Covid-19 into a phase of renewed green recovery and economic growth on the path to net zero.

In response to the noble Lord, Lord Oates, I can say that, so far, the CfD scheme has awarded contracts for 16 gigawatts of new renewable energy capacity, including 13 gigawatts from offshore wind. It is also driving down the costs of renewable technologies: for example, offshore wind clearing prices have reduced by 65% since the first CfD allocation round, with projects now being delivered for as little as £39.65 per megawatt hour of electricity generated. The Government have committed to providing up to £557 million for additional CfDs, giving the industry the certainty that it needs to invest in bringing forward new projects. On 2 March this year, the Government announced their intention to allow pot 1 technologies, including onshore wind and solar, to compete in the next CfD allocation round of 2021. This could provide even more jobs in the solar and onshore wind industries, in addition to the 12,100 already supported, and power millions more homes with clean energy by the end of the decade.

I will move on to some of the specific points raised in the debate. The noble Baroness, Lady Bowles, asked whether Ofgem would take the increased obligation into account when settling the price cap in August. Ofgem has the powers, timing and information necessary to ensure that the impacts of the changes to the supplier obligation provided for in this SI can be reflected in the price cap.

The noble Lords, Lord Grantchester and Lord Oates, and the noble Baronesses, Lady Bowles and Lady Jones, raised the impact on bills. The increase in suppliers' obligations will be very small; we estimate that it will correspond to approximately 0.1% of a typical domestic annual bill. The precise amount will vary, depending on how much of the loan is used by the LCCC and on the evolution of bills over time.

The noble Baroness, Lady Jones, also renewed our long-standing debate about where we should fund the various schemes from: should it be from general taxation or from levies on bills? She knows my position on this, and I am sure we will continue to have that debate going forward.

The noble Baroness, Lady Bowles, and my noble friend Lord Naseby asked about the responses to the consultation. These have not been published, but the organisations that responded are listed in the Government's response, and individual responses can be viewed on request. I can tell the House that the measures were broadly welcomed by both electricity suppliers and trade associations.

The noble Lords, Lord Foulkes, Lord German, Lord Kirkhope and Lord Grantchester, asked what similar exceptional circumstances would require these regulations to be used again. Obviously, by the very nature of exceptional circumstances, it is difficult for me to be precise—nobody could have predicted coronavirus—but this intervention can be used again in future if the effects of Covid-19 last longer than anticipated, or in the event of a similar national emergency, whatever that may be, and this will be decided by the Secretary of State on a case-by-case basis. I hesitate to say it, but perhaps it is a case of the noble Lords having to trust the Government on this one. But I can make the general point that we are committed to upholding the self-financing nature of levies in the energy system, and we will not intervene to alleviate normal fluctuations and variances in the LCCC's forecasts.

My noble friend Lady McIntosh asked how the loan is being financed. It is being financed in a loan agreement between the LCCC and the Secretary of State, and it has been drawn in accordance with government accounting rules and is non-budget. However, as I said at the start, that is not actually the subject of this instrument.

The noble Lords, Lord Kirkhope and Lord Grantchester, asked whether we could be confident that it would be repaid in full by quarter 2 of 2021. We are confident that the loan will be repaid in full. If suppliers do not pay their obligations, the LCCC has enforcement powers to ensure that they pay. If suppliers go out of business and do not have the collateral available to pay the obligation, the LCCC can mutualise losses across remaining suppliers to repay the loan in full to my department.

I want to just correct slightly the figures quoted by the noble Lord, Lord Grantchester. I think we said that the shortfall in the LCCC was up to £121 million, but the loan provided by BEIS to alleviate that is up to £100 million; the LCCC will be financing the rest of the amount itself.

My noble friend Lord Naseby asked me about Northern Ireland, which is not currently covered by the CfD scheme. That was the choice it made; it is open for Northern Ireland to join the scheme in future if it wishes.

The noble Lord, Lord German, talked about Ofgem's targeted charging review. Network charging is for Ofgem itself to determine as an independent regulator.

The noble Baroness, Lady Sheehan, asked about the Committee on Climate Change report. We will formally respond to that later this year, but the PM has set up a Cabinet committee focusing on climate change.

My noble friend Lord Holmes talked about Hinkley Point C, which is totally unrelated to this debate. Nevertheless, we remain committed to Hinkley Point C as the first new nuclear power station in a generation. We believe that we negotiated a competitive deal which ensures that we will pay for any construction overruns until the station starts generating.

I am running quickly out of time. The noble Lord, Lord Oates, talked about the potential impact on consumers. We said that it would probably be 0.1%, but of course it will depend on aggregate demand.

The noble Lord, Lord Grantchester, talked about the size of the loan; I have dealt with that. I have also dealt with the issue about exceptional circumstances.

In conclusion, the technical amendments to the supplier obligation mechanism in this SI, combined with the provision by government of a one-off loan, are intended to ease the burden on licensed electricity suppliers at a time of great financial stress due to Covid-19. I commend these draft regulations to the House and apologise if I have not dealt with any individual questions from noble Lords.

Motion agreed.

2.41 pm

Sitting suspended.

Arrangement of Business

Announcement

3 pm

The Deputy Speaker (Lord McNicol of West Kilbride)

(Lab): My Lords, proceedings will now commence. Some Members are here in the Chamber and others are participating virtually, but all Members will be treated equally. I ask noble Lords to be patient if there are short delays as we switch between physical and remote participants. The usual rules and courtesies in debate apply. The time limit for the following Motion in the name of the noble Lord, Lord Callanan, will be one hour.

Electricity Capacity (Amendment etc.) (Coronavirus) Regulations 2020

Motion to Approve

3.01 pm

Moved by Lord Callanan

That the draft Regulations laid before the House on 4 June be approved.

Relevant document: 17th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, before outlining the provisions made by this draft instrument, I will briefly provide some context for the benefit of noble Lords.

The capacity market is at the heart of the Government's strategy for maintaining security of electricity supplies in Great Britain. It secures the capacity needed to meet future peak electricity demand under a range of scenarios through competitive, technology-neutral auctions normally held four years and one year ahead of the relevant delivery year. Those who win capacity agreements—known as capacity providers—commit to providing capacity during periods of system stress in exchange for receiving capacity payments. Capacity payments are funded by electricity suppliers, which recover this cost from consumers.

This draft instrument, together with capacity market rule changes, which have recently been laid, will ensure that the capacity market remains compliant with its state aid approval by giving effect to government commitments recorded in the state aid approval decision. It will also make temporary modifications to support capacity providers in the light of the effects of coronavirus.

I will now briefly outline the context of the capacity market's state aid approval, before detailing the changes proposed in this SI. The Commission's state aid approval of the capacity market in 2014 was annulled in November 2018 by a judgment of the General Court of the Court of Justice of the European Union. This introduced a standstill of normal operations of the capacity market until October 2019, when the European Commission completed its reinvestigation of the capacity market and granted state aid approval.

The Commission's state aid approval in October 2019 recorded government commitments to make technical changes to the capacity market's design to reflect recent market and regulatory developments, including reforms that my department had already identified through the statutory five-year review of the capacity market conducted in July 2019. Specifically, these draft regulations will reduce the minimum size of capacity which is permitted to compete in the capacity market from 2 megawatts to 1 megawatt. This aligns the capacity market with other domestic energy markets, making it easier for smaller providers, such as demand side response operators, to participate.

This draft instrument will also introduce the arrangements necessary to enable demand side response—DSR—operators, which provide capacity by reducing the import of electricity from the electricity grid, to compete for multiyear agreements if they can meet the relevant capital expenditure thresholds. This will bring arrangements for demand side response operators in line with generation and might encourage greater DSR participation in the capacity market.

The regulations seek to provide a legislative underpinning of the UK's long-standing commitment to procure at least half of the capacity set aside for the one year ahead of delivery year auction. This is set aside when the target capacity for the auction four years ahead of delivery is set. This change will help provide some certainty around auction volumes and will assist market participants, particularly DSR operators.

Finally, the draft instrument seeks to revoke an exclusion in place since 2014 that prevents a small number of holders of long-term contracts for the provision of an electricity market balancing service—the short-term operating reserve, or STOR—competing in the capacity market. In 2014, STOR contracts were expected to pay out very high revenues, and, to prevent windfall profits, holders of these contracts were therefore excluded. However, since then the energy landscape has changed significantly and revenues from STOR contracts have been much lower than originally anticipated. Therefore, it is no longer appropriate to maintain this exclusion.

I turn to the temporary modifications that this draft instrument seeks to make in recognition of the fact that coronavirus has impacted the ability of capacity providers to meet some of their obligations under the capacity market. The approach that we are taking of making temporary easements is similar to that adopted to support capacity providers during the capacity market's standstill period last year. This draft SI will support modifications to the capacity market rules to allow a capacity provider which is late in demonstrating that it is ready to deliver capacity in this current capacity market delivery year to access capacity payments that have been suspended if the requirements are met by a later, specified date.

As the disruptive effects of coronavirus might lead to more capacity providers facing termination of their agreements, the regulations will increase the time for capacity providers to issue appeal notices to terminate their agreements to the Secretary of State. It also seeks to provide the Secretary of State with greater discretion when considering appeals: either extending the time for capacity providers to comply with requirements to avoid termination or directing that agreements should be terminated, without a fee, on the grounds that non-compliance was due to exceptional circumstances arising from the effects of coronavirus. That will reduce the risk of terminating capacity agreements where this would have an overall detrimental impact on security of supply.

In conclusion, this draft instrument will ensure continued security of electricity supply by ensuring that the capacity market continues to comply with its state aid approval. It will also reduce the burdens on capacity providers during the coronavirus pandemic. Finally, these changes will maintain confidence in the market. I commend these draft regulations to the House.

3.07 pm

Lord Campbell-Savours (Lab) [V]: My Lords, this is a very complex issue. I have listened very carefully to the Minister's comments. As I understand it, the capacity market is there as a sort of back-up. As the pandemic has distorted the market with collapsed demand, wind and solar on occasion generate electricity to meet our needs, with wider excesses being dumped, in effect, at silly prices on the market.

I cannot understand why, in these extreme conditions, at a cost of potentially billions, we have to buy in through the interconnector. I have a simple question. Is all this to be renegotiated in the new Europe or is it all to remain in a spirit of compromise? With the

pandemic testing the resilience of the system, we are told that capacity providers need time to either comply with EU requirements or appeal. Will this all be sorted by exit day?

With worldwide volatility in energy markets, if we are to be locked into the EU regimes, will that mean linkage to slow-lane EU emission targets, over which we will have no influence? Conversely, if not, how do we intend to respond to opportunities from pumped storage? That would help flush out fluctuations between high and low demand, particularly if combined with small modular nuclear reactors.

Finally, I have a simple question. We were told that our EU departure would lead to new trading patterns and greater self-sufficiency in steel, fisheries, farming and energy. With that in mind, why will we increase interconnector use from 4% to 9%, effectively doubling power imports? Also, how can the Government honestly claim a net-zero commitment if we buy in from countries which still generate from coal sources? I am thinking of Maasvlakte in Holland, or even Russian gas. Are we not then left in the absurd position where we end up switching our renewables on and off in favour of imported fossil-fuel-generated power supplies? In a nutshell, why should we end up paying capacity support costs to support their excess fossil production costs? How can we, whether it be for the short term or the long term, argue that the interconnector needs to be part of the mix when our objective must be decarbonisation throughout Europe? If we were not leaving Europe, at least we would have some influence on events in future.

3.11 pm

Lord Purvis of Tweed (LD): In introducing this measure, the Minister said that it is necessary for the UK to remain compliant with the EU regulations. Is it the Government's intention that we will continue to stay compliant with state aid regulations? If so, and the Minister is bringing this measure forward now to remain compliant, what is the timeframe for that compliance? Is it for the duration of this temporary measure only, or do the Government intend that we will remain compliant and able to continue operating seamlessly with the European market? Given that the Government have not carried out an impact assessment, what is the likelihood of this supporting smaller operators? What is the impact on bigger operators? There are many references to these powers possibly enabling operators, but what is the assessment of the likelihood of that? If it is an EU-based energy supplier, will it be able to benefit from this measure?

I want to quote to the Minister some remarks made in the House of Commons during the debate on this measure:

"I am very concerned about the regulation, its provenance and whether it will limit our freedom of manoeuvre in ways we do not wish from the beginning of next year ... I therefore find it extremely worrying that we have responded to a state aid challenge upon us in the dying days of our membership of the single market, or its rules, when we are no longer a member of the European Union which sponsors it."—[*Official Report, Commons, 15/6/20; col. 566.*]

That was Sir John Redwood. I have never doubted the Minister's credentials as a Brexiteer. He has reminded us of that on far too many occasions over the past of couple of years. So, can he explain why Sir John Redwood

is so wrong and why we need this measure urgently in order to continue to be compliant with EU state aid regulations?

The Minister said that the measure will end on a specified date. What is the process for deciding that specified date? As we know, the impact of coronavirus, and potentially other waves, is an unknown situation. I think there is common ground across the House about the benefits of reforming the electricity market and the capacity market, and of paying for reliable sources of capacity alongside electricity revenue. I do not think there is any doubt about that. Sir John Redwood said that,

"we are talking about whether this country is now going to have its own energy policy, or whether we are hastily legislating so that we can, for the foreseeable future, still be effectively under EU state aid rules, edging ever closer to integration with EU energy policy."—[*Official Report, Commons, 15/6/20; col. 568.*]

Will the Minister say why Sir John may be wrong on that point? Bearing in mind that we are likely to get up to 10% of our energy from the European market, given the way the state aid rules operate, for how long will we be compliant with those rules?

3.14 pm

Baroness McIntosh of Pickering (Con) [V]: My Lords, I thank the Minister for introducing these regulations and entirely endorse the reasons for them. He very kindly gave us the detailed background, particularly about the judgment by the European Court of Justice and the decision of the European Commission. I spent six very happy months as a stagiaire in DG4, which is now called DG Competition, becoming familiar with the anti-trust rules and regulations of European law, although I am less familiar with state aid, so I will put a question of principle to my noble friend. It is not dissimilar to that of the noble Lord, Lord Purvis. As we are leaving the European Union and will exit at the end of the transition phase on 31 December this year, that begs the question, what will be the future arrangements for such support being meted out under the regulations before us this afternoon? Which body will replace the European Commission as the regulator of these subsidies—as we are apparently going to call them in future—or state aid, going forward? Can he give the House an assurance this afternoon that his department and others will indeed be subject to overview and scrutiny in all these decisions? Can he confirm that it will be the Competition and Markets Authority?

I have a separate question that relates entirely to the regulations before us this afternoon. Can the Minister confirm that long-term STOR contract holders will be able to compete in the capacity market as a result of these regulations? Is he convinced that it is absolutely a good idea that they be included?

3.16 pm

Lord Mann (Non-Aff) [V]: My Lords, we did not vote to leave the European Union, only to have the European Commission telling us what our state aid rules should be, particularly in the energy sector, where the European Union has had the most incoherent, disjointed approach for decades. That is summarised by, in recent years, the French going nuclear while the Germans went back to coal. Can the Minister clarify the implications for the remaining coal-powered generators

[LORD MANN]

in this country, for which the economics of the capacity market are critical? Several have closed in the past year, including Cottam, which I can see from my window today, leaving, I believe, three, including West Burton A, which has a capacity of 2,000 megawatts a year. West Burton is due to close in 2021. Will that closure be brought forward, will the date remain the same or will it be delayed? In other words, will we remain reliant on coal for longer than 2021, or will these regulations have nil effect in extinguishing what remains of our coal-fired energy generation power station system?

3.18 pm

Baroness Sheehan (LD) [V]: My Lords, I shall not oppose this SI, which temporarily loosens regulations for providers and ensures the security of the electricity supply. It is important that we maintain a certain level of electricity capacity, in which renewables play an increasing part. I have two short questions for the Minister. The first goes back to the subject of interconnectors, which I raised in the previous debate on the regulation of contracts for difference. Any country that wants to reach its net-zero commitment will necessarily be reliant on interconnector capacity. Will this continue to be an important part of the UK's energy mix once we have left the EU? Will this feature large in the infrastructure investment through which the Government plan to stimulate the economy and create jobs?

My second question relates to the Prime Minister's plan to build tens of thousands of new homes. If they are built to today's poor efficiency standards instead of being designed for net zero carbon, they will lock us into high carbon emissions for decades to come. Does the Minister agree that reducing our consumption of energy is the most efficient way to reach net zero and keep our energy use to a minimum?

The Deputy Speaker: My Lords, the noble Lords, Lord Wei and Lord Bhatia, have scratched and the next speaker is the noble Lord, Lord Moynihan.

3.21 pm

Lord Moynihan (Con): My Lords, I fully appreciate that these regulations are narrow in purpose and I welcome them in addressing market providers who are facing current difficulties such as the termination of contracts for non-performance, timing extended to where the performance of the contract begins and how we can protect the continuity of the capacity market. However, as noble Lords have already pointed out, it is impossible to detach them from the past and present pressures on the capacity market, which secures our electricity supplies.

I hope that the Minister can address one specific question. I accept that these regulations provide the opportunity to meet some of the commitments that were given at the time of the EU annulment in 2018 to comply with state aid approval—there is very little mention of state aid approval in the documentation that accompanies the regulations. Were any commitments made at the time of that judgment which have not been included in these regulations and, if so, can we expect them to come back to this House or, indeed, are the Government looking towards the end of the year for a complete exit from that requirement?

In his introductory speech, my noble friend the Minister touched briefly on the broader context, and indeed in another place the Secretary of State went into greater detail. Indeed, a great deal has changed since I was a Minister for Energy, and the White Paper will no doubt provide an opportunity for Members of this House to consider the consequences of technology-neutral auctions, decarbonisation, flexible pricing and the escalating cost and uncertainty of an essential nuclear programme.

However, I hope that the Minister can confirm today that natural gas-fired power generation should be a key part of the UK mix. In a living-with-Covid future, the re-stimulus of the global economy will have to be based on strong green roots, albeit that energy affordability will be a much stronger part of the post-crisis global policy debate than was the case before the coronavirus began to stalk the globe. Gas is an obvious partner for a global renewable industry which needs to prove to a post-crisis world that firm—which can never be the case for sun and wind—but affordable and reliable power can be delivered to the UK economy, which cannot afford the huge hidden costs of an ever-expanding renewable system: back-up costs, system balancing costs, curtailment costs, new grid costs and nascent battery storage scheme costs. It is gas which must and will continue to improve its environmental performance and should, I hope the Minister will agree, be an essential part of our energy balance.

3.23 pm

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, I should like to thank other noble Lords who have spoken in this debate because they have touched on issues that I was going to ask about. I refer in particular to the noble Baroness, Lady Sheehan, who talked about the Government's promise to increase the number of houses that are to be built. The chances are that they will not be constructed to anywhere near the sort of standards that we need if we are serious about our net zero carbon budget over the next few years.

I also thank the Minister for answering my other queries earlier, but I would like to point out that when he talks about Britain being a world leader in green energy, that is of course in spite of all the government cuts to solar capacity and solar subsidy as well as, of course, closing the wind turbine factory on the Isle of Wight. So well done to those who have taken this particular form of energy seriously, and not at all to the Government.

3.24 pm

Lord Oates (LD): My Lords, I am grateful to the noble Lord for introducing these regulations and, as my noble friends have indicated, we recognise the need for them in addressing the unique issues that have arisen as a result of the coronavirus pandemic. However, this is a slightly curious statutory instrument in that it combines the urgent measures needed for the electricity capacity market arising from coronavirus with measures to address issues arising from a judgment by the Court of Justice of the European Union and the later decisions of the European Commission. These are two related matters, but they are definitely different. It is hoped that one will be temporary in terms of the adverse

impact of coronavirus on capacity providers to meet their obligations, while the other is, if I understand it correctly, a permanent change to the way in which the market works.

With respect to the former, while we recognise that these measures are urgent and necessary, the Explanatory Memorandum tells us that the relaxation and removal of obligations and deadlines on providers will be temporary. Given that the pandemic is likely to continue to impose constraints on those providers, albeit in a less dramatic way than during the initial phase of the crisis, can the Minister set out how the Government will approach what may well be an ongoing problem and not simply a short-term blip?

The second part of the regulations tackles the commitments made to the European Commission to adjust the mechanism in light of the adverse judgment of the Court of Justice of the European Union on state aid rules. This has caused me a little puzzlement. I am unsure about why that judgment has caused the UK to enter into these commitments, given that my understanding is that the CJEU judgment was against the Commission for the way in which it had investigated whether we were in breach of state aid rules, and that the reinvestigation by the Commission found that we were not. So can the Minister explain to the House how that has led to us entering into further commitments?

The changes that the instrument proposes to the current system to implement those commitments are significant. My noble friend Lord Purvis raised the important question of whether it is the Government's intention that those changes and their decision to ensure that the market is in compliance with the European Commission's desires on state aid rules with continue after transition. Does the Minister not recognise that the integration of our capacity mechanism via the interconnectors with the European energy market really underlines the hollowness of those who believe that we can somehow separate ourselves entirely from European Union markets or indeed from the EU's regulatory systems?

I hope that the Minister will be able to give us a little more detail about the impact of some of these changes. In particular, can he explain the exclusion of stand-alone batteries from the mechanism? How will that impact on the expansion of storage within our electricity system which, as my noble friend Lady Sheehan pointed out in the previous debate, is critical if we are to restructure our energy infrastructure so that we can underpin the increased use of renewables within the system?

My noble friend also made the important point that the best way to maintain adequate capacity is to reduce consumption. She raised in particular the issue of new homes, which was also raised by the noble Baroness, Lady Jones. In that context, will the Minister answer the question that I put to him yesterday, but which I fear he chose to sidestep, and tell the House definitively, one way or the other, whether the new homes that were announced this week by the Prime Minister under the new homes programmes, will be built to net zero standards? It is a simple question and I hope that on this occasion he can give me a simple answer.

Finally, I welcome the reduction in the minimum capacity threshold that is set out in these regulations. As the Minister suggested, it is hoped that this will allow more providers to compete in the market, and in particular that it will allow smaller and more innovative providers to take part. With that, as I have said, we recognise the need for these regulations, but we would be grateful if the Minister could answer the questions that I have put to him.

3.30 pm

Lord Grantchester (Lab): I thank the Minister for his considered explanation of the instrument before the House. As he explained, it has two purposes: to support market participants during the pandemic by removing or relaxing temporarily certain obligations or deadlines that they are contracted to adhere to during the current delivery year of 1 October 2019 to 30 September 2020; and to make permanent other changes to the capacity market as a consequence of the judgments made by the Court of Justice of the EU in October 2019 over the state aid provisions that the capacity market entailed. These regulations are also under the Energy Act 2013 to provide capacity in the electricity market to meet consumer demand.

On the easements in response to the effects of the pandemic, the measures are sensible, temporary, proportionate and flexible. Once there was full clarity, the consultation did not seem to expose strong disagreements or objections, albeit that it lasted for only one week at the end of April. It is recognised that where capacity market contractors have problems with construction deadlines, supply chain supply issues or financing arrangements there should be leeway and discretion to help them through any present difficulties.

The necessary changes following the Government's agreements to alterations to the capacity market operations after the EU's state aid judgments need further critical appraisal. At the time of the EU court's annulment, there was anxiety that the capacity market was not fit for purpose and did not operate fairly, especially regarding demand-side response—DSR—measures, which had drawn complaints once the market came into being after the EU initially had passed the state aid provisions. The two changes made to the demand-side response measures are welcome, and arguably the disruption could have been avoided if they had been enacted at the outset. The other three measures are also, in many regards, helpful to DSR, are welcomed and seem to allow for a more flexible, more competitive market through the T-1 capacity auction, reduction on minimum capacity thresholds and interconnectors.

That is as far as the regulations go. Can the Minister set out any further commitments given at the time of the judgments that are not included in these measures? Does that mean that further amendments will be brought forward at a later date, or will they be held up in further negotiations until December and may never come forward? I understand that these commitments are regarding interconnectors and deal with the prequalification of foreign capacity to the system, because they are not in the UK to be able to bid into the capacity market, and are not to do with either the actual size of the

[LORD GRANTCHESTER]
interconnection or whether more interconnectors will be built. Could the Minister explain the implications of this and what the current position is?

Could the Minister also explain what changes there might need to be regarding generation emission ceilings on capacity? When traditional technologies such as gas-fired generation bids into the capacity market they must quite rightly comply with legislative plans to limit emissions. There has been a consultation on whether to limit emissions by both kilowatt hour of electricity and the average per year. Has the Minister's department come to any conclusions on these matters, especially since, as I understand it, commitments to bring forward changes were made at the time of the court's judgment?

I am content to approve the regulations, but seek reassurances from the Minister regarding the capacity market's possible further developments. Perhaps he might finish by clarifying how much further delayed the energy White Paper, which would so helpfully shed light on all these matters, might be?

3.34 pm

Lord Callanan: I thank noble Lords once again for their valuable contributions to this debate. The capacity market has played, and continues to play, a key role in maintaining secure electricity supplies for consumers and businesses in Great Britain. The market is tried and tested, and it is working. It has secured the capacity we need to cope with unexpected peaks in demand until 2024 at prices far lower than expected.

As older, dirtier generating capacity has retired—we are now down to our last coal plant in the capacity market—over 10 gigawatts of new-build capacity has come forward to replace it, including renewables and smart technologies, in response to the noble Lord, Lord Oates, such as battery storage and demand-side response. I will take this opportunity to reply to the question from the noble Lord, Lord Mann, on coal. We remain committed to switching away from coal. It is our ambition to bring forward the date by which unabated coal must be phased out, which is currently 1 October 2024. The closure date for specific stations is a commercial matter, but we hope that they might even close ahead of 2024. We are committed to this switch. We have made changes to the capacity market rules to apply carbon emission limits to existing plant, which should prevent coal securing capacity agreements from 1 October 2024, in line with our ambition. As I said, we hope that they will close earlier.

It is essential that the design of the capacity market adapts to an ever-changing world if it is to continue delivering on its objectives of ensuring security of supply at least cost and supporting our decarbonisation plans. Recent changes include the introduction of carbon emission limits into the scheme, which will prevent the most carbon-intensive capacity competing in future auctions. The list of renewable technologies that can compete in the capacity market has also been expanded to include onshore and offshore wind and solar photovoltaic. These changes will directly support our wider efforts to decarbonise the energy sector.

The proposed changes contained in the instrument continue this trend of continual evolution and improvement of the capacity market. By ensuring that the capacity market continues to comply with its state aid approval, the instrument will ensure the continued operation of the scheme and engender confidence among market participants. Many of the changes contained in the instrument, such as the reduction in the minimum capacity threshold from two megawatts to one megawatt and enabling demand-side response to access multiyear capacity agreements, are in line with the reforms identified in my department's five-year review of the capacity market, published in July 2019, and aimed at better facilitating the participation of demand-side responses in future auctions.

That brings me to the various questions asked by noble Lords, in particular the Liberal Democrats, who never fail to disappoint in these matters. Actually, though, they posed exactly the question I asked when these regulations were first put in front of me: why are we complying with these commitments if the UK is leaving the European Union? It is indeed a very good question. The noble Lords, Lord Purvis, Lord Oates and Lord Mann, and my noble friends Lady McIntosh and Lord Moynihan all raised similar points.

These commitments are consistent with the domestic policy for the capacity market set out in our five-year review, which my department published in July 2019—in other words, we would have moved to implement them anyway, regardless of our obligations as a member state. We are currently in the transition period as set out in the withdrawal agreement, with which we are all so familiar, so European law continues to apply to the UK until the end of the year. We will then be able to implement our own state aid regime. We are working at pace to develop this policy and will share more details on domestic subsidy control with key stakeholders in due course.

We believe strongly that we must retain our sovereign right when deciding how and when to spend taxpayers' money to intervene in markets to support business, workers and consumers. The UK's subsidy control regime will not involve any alignment with EU rules. I realise that is a challenge for the Liberal Democrats, but they will be able to continue to contribute to these debates. We will have our own debates in our own Parliament about what our domestic state aid regime should be, which I think is a good thing.

The noble Lord, Lord Campbell-Savours, and the noble Baroness, Lady Sheehan, talked about interconnectors. We continue to believe that interconnectors make a valuable contribution to the UK's security of supply, while increasing competition and diversifying our electricity mix. Many of our interconnected markets have a high penetration of renewables and low-carbon electricity; much of the electricity imported into the UK through interconnectors from France is zero-carbon nuclear-generated electricity.

My noble friend Lord Moynihan asked why the state aid commitments are not in the regulations. We have laid out the capacity market rules, which complete the implementation of the majority of the commitments,

including the introduction of carbon emissions limits. The final commitment on enabling foreign participation does not need to be introduced now. We will consider further arrangements and consult in due course.

The noble Lords, Lord Purvis and Lord Oates, continue their obsession with the European Union—I am joking, obviously—and ask about participation in the internal energy market. We will not be seeking alignment with EU law. The UK will make independent decisions on our energy policies, and will be leaving the internal energy markets. I am sure they are thrilled to hear that.

The noble Lord, Lord Campbell-Savours, asked why we are not doing more to support pumped hydro. In 2019 we published our five-year review of the capacity market, which noted that some new-build pumped hydropower storage projects have very long construction times that may make participation in the capacity market difficult. Therefore, we are exploring options for addressing this issue. I agree with my noble friend Lord Moynihan that natural gas should continue to play a part in the overall energy mix.

Many noble Lords raised important points about the energy policy in general; they will be aware that we are currently working on an energy White Paper, which will be the best forum for considering the range of challenges faced by the electricity sector as we move towards delivering net zero. This White Paper remains a priority for the Government and will be published soon.

My noble friend Lady McIntosh asked about long-term store contract holders being able to compete. We believe that there is no longer a risk of windfall profits for providers holding both capacity markets agreements and long-term store contracts, and therefore no reason to continue excluding them from the market. Allowing them to be included could increase competition.

The noble Baroness, Lady Sheehan, and the noble Lord, Lord Oates, asked about energy efficiency and supporting continued energy efficiency in homes. We are publishing a home heat review later this year. We are committed to our clean growth strategy aspiration that as many homes be upgraded to energy performance certificate band C by 2035 as is practical, cost-effective and affordable. Furthermore, this draft instrument ensures that the capacity market adapts quickly to address the effects of coronavirus on existing capacity providers by proposing targeted and temporary measures where coronavirus has impacted the ability of capacity providers to meet some of their obligations under the capacity market.

In summary, this draft instrument is necessary to ensure the continued security of electricity supply by ensuring that the capacity market continues to comply with state aid approval and by supporting capacity providers during the coronavirus pandemic. I commend it to the House.

Motion agreed.

3.44 pm

Sitting suspended.

Arrangement of Business

Announcement

4.15 pm

The Deputy Speaker (Lord Alderdice) (LD): My Lords, proceedings will now commence. Some Members are here in the Chamber, others participating virtually, but all Members are treated equally. For Members participating remotely, microphones will unmute shortly before they are to speak. Please accept any on-screen prompt to unmute. Microphones will be muted after each speech. If the capacity of the Chamber is exceeded, I will immediately adjourn the House. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. The usual rules and courtesies in debate apply.

Higher Education (Fee Limits and Student Support) (England) (Coronavirus) Regulations 2020

Motion to Approve

4.16 pm

Moved by Lord Parkinson of Whitley Bay

That the draft Regulations laid before the House on 4 June be approved.

Relevant document: 18th Report from the Secondary Legislation Scrutiny Committee

Lord Parkinson of Whitley Bay (Con): My Lords, we have all seen the devastating impact of Covid-19 around the world. Recovering from this will take time and Her Majesty's Government are already providing an unprecedented set of measures to support the people of this country along the way. One such beneficiary of the support is our world-renowned higher education sector. My right honourable friend the Secretary of State for Education announced a stabilisation package for the sector on 4 May. This included the introduction of temporary student number controls, which relate to the regulations that we are debating today. I thank the Secondary Legislation Scrutiny Committee of your Lordships' House for considering the draft regulations. I am pleased to see that one of its members, the noble Lord, Lord Liddle, is taking part in our proceedings.

To understand why these regulations are necessary, we must look at the potential financial consequences of the pandemic on higher education providers, their staff and, of course, their students. For instance, in the 2018-19 academic year, tuition fees from international students accounted for around £7 billion of the sector's income. Realising the risk that a sharp decline in international students might pose, many providers have already responded by attempting to recruit more domestic students than normally they would. Some issued a record number of unconditional offers to encourage students to study with them. While seeking to ensure their own financial stability is only natural, this strategy, if replicated widely, could have unfortunate consequences for the sector as a whole—providers and students alike.

[LORD PARKINSON OF WHITLEY BAY]

I shall first spell out the consequences for providers. There is already a finite pool of prospective students, made smaller by a 1.5% decrease in the number of 18 year-olds this year compared with last. In these exceptional circumstances, an unusually high number of offers made by a provider may attract more students than normal to that provider, but, therefore, away from others which would normally have recruited them, and which could not absorb the associated loss of income. Repeated across the whole sector, this could place some providers at risk of collapse. That would destabilise the sector, threaten staff livelihoods and, of course, leave many students without a provider in the middle of their education.

That leads me to the consequences for the students themselves. Different providers, rightly, have different entry standards. Every student is unique, with different academic abilities and needs. A positive student experience is a vital and fundamental part of university life. It is to everyone's benefit that there should be a range of providers, offering a range of different learning environments catering to different academic needs. The long-term consequences of the potential instability in the sector which we saw emerging earlier this year could far outweigh the short-term benefits to individual providers. It is for this reason, together with the need to avoid an unfair imbalance in public expenditure, that temporary number controls have been introduced, and that the associated regulations have been laid before your Lordships' House to consider.

I turn to the regulations themselves, which, so far as higher education providers in England are concerned, will reduce the maximum amount of tuition fees that providers can charge in the next academic year but one—the academic year 2021-22—if they recruit more students than their allocated number in the coming academic year, 2020-21. As far as higher education institutions in the devolved nations are concerned, the numbers apply to England-domiciled students who start a course in Scotland, Wales or Northern Ireland. If an institution exceeds its number in the academic year 2020-21, the maximum tuition fee loan amounts available to such students—and ultimately to the institutions—starting courses in the academic year 2021-22 are reduced to the same extent as fee limits in England.

These short-term measures are necessary: should a provider recruit a higher number of students, it will receive a greater share of taxpayer funding. This will create an imbalance in the system between providers. By taking students, and therefore funding, away from other providers, they increase the risks that those providers will fail and give rise to a potential call on public funds. That is an exposure for which the Government must account, so it is right that the Government, and the taxpayers that we serve, should be able to redress that funding imbalance in the following academic year.

Therefore, this is about the Government using the mechanism of the taxpayer-funded student loan system to ensure the stability of the sector. The regulations do this by reducing the sums available to a provider which chooses to exceed its number through the student finance system in the subsequent academic year. I recognise

the concerns that a reduction in the fees available to providers may itself place them under strain, but the scale of the reductions has been calculated in proportion to the extent by which a provider exceeds its number. Accordingly, there is a proportionate correlation between the amount of reduction and the additional income secured by the provider by recruiting in excess of its numbers.

I consider these regulations to be a crucial part of the steps that we need to take to ensure the stability of our much-valued higher education sector, and I commend them to the House. I beg to move.

4.22 pm

Amendment to the Motion

Moved by **Lord Bassam of Brighton**

At end, insert “but that this House regrets that the draft Regulations reduce the funding available to English students studying at higher education institutions in Scotland, Wales or Northern Ireland; and calls on Her Majesty's Government to provide emergency support for higher and further education institutions in order to help them respond to the COVID-19 pandemic”.

Lord Bassam of Brighton (Lab) [V]: My Lords, first, I thank all the noble Lords who intend to take part in the debate. The seriousness of it is undoubtedly underlined by the stellar cast list joining us virtually today. I shall listen with care and interest to all comments made, not least because of the precarious financial position that the HE sector finds itself in during this crisis.

As noble Lords will no doubt note, as the Minister did, higher education institutions generate more than £95 billion a year for the UK economy and support more than 940,000 full-time jobs. They develop highly skilled people, drive business productivity, fuel economic growth, provide essential workers and conduct high-impact research to address global challenges—including, of course, Covid-19.

Ultimately, they create opportunities at home and strengthen the UK's standing abroad. But as the Explanatory Memorandum states, coronavirus has placed significant financial strain on the higher education sector and poses a significant risk to those benefits. It is right that the Government take steps to mitigate this, but they need to be carefully thought through, consulted on and explained, and include a longer-term vision to help higher education institutions survive the next few months and thrive in the years to come.

As we have heard, this instrument is meant to include two measures. First, where an English provider has recruited more students than number controls allow, it reduces tuition fee limits for undergraduate courses in the following academic year. Universities UK has proposed a similar stability measure. However, the second measure is regrettable. It reduces the maximum tuition fee loan amount available to English students at institutions in Scotland, Wales and Northern Ireland for 2021-22 when number controls are not stuck to. So far, the Government have failed to provide a meaningful justification for the extension beyond England. We fear that any cap on English students attending non-English institutions will only add to the difficulty that

universities face, as well as straining the devolution settlement in the UK. Therefore, our opposition is reflected in my amendment.

A significant number of English students choose to study across the UK. It strengthens the bonds between our four nations, and HE institutions rely on this funding. In the last academic year, 40,000 English students went to study at Welsh providers, 27,000 at Scottish and 3,000 at Northern Irish institutions. At St Andrews and the University of Edinburgh, 45% of students were English; over 50% at Cardiff University came from across the border.

The Explanatory Memorandum states that the Government's rationale for their actions is about the fair use of public funds, but can the Minister explain how it can be fair that English students will not be able to study at university in the current way and that this cap falls on students through the amount of tuition loan available? It also deprives them of the university of their choice, of course.

As HE is devolved, I am glad to see that the Explanatory Memorandum notes

"discussions with the devolved administrations",

but the Welsh Education Minister, Kirsty Williams, said she was "deeply concerned" that the Government "have chosen to place a control on Welsh institutions rather than work with the Welsh Government to achieve a solution that is compatible with devolution."

However, the Explanatory Memorandum does not say that there have been similar discussions with non-English providers. The vice-chancellor of St Andrews stated:

"There's been no consultation about this with Scottish universities at all."

Can the Minister confirm how many Welsh, Scottish and Northern Ireland institutions the Government consulted before this instrument was published? Does the Minister value such discussions?

The Explanatory Memorandum also states that the financial impact of exceeding number controls

"will be proportionately greater for ... teaching-intensive ... and smaller providers".

How many providers does this relate to? Could jobs be lost as a result of this financial impact? Will smaller providers end up having to close courses and institutions? I greatly wonder whether the Government have properly pondered the law of unintended consequences.

The amendment also calls on the Government

"to provide emergency support for higher and further education institutions".

In May the Government brought forward £100 million for research and £2.6 billion of tuition fee payments, but no additional support. The University and College Union has found that the sector could lose about £2.5 billion next year in tuition fees alone, along with 30,000 university jobs. It is ironic that the University of Oxford and Imperial are leading the way in developing a vaccine to bring the pandemic to an end for the long term, while the Government's short-term support means that institutions such as Cardiff and Loughborough are actively planning job cuts to offset big budget shortfalls. In the Chancellor's Statement next week,

will the Government announce extra quality-related research funding, government grants and extra innovation funding, as Universities UK has called for?

I was concerned by the comments of the Universities Minister yesterday. Instead of making the case for higher education, she appeared to say that it is expensive and substandard, as well as questioning its role in social mobility. Will these views be strongly represented in the Government's Green Paper, due to be published this month?

What higher education needs now is emergency support from the Government to protect student interests, maintain research capacity, prevent institutions failing and ensure that universities are able to play a central role in the economic and social recovery following the crisis across all four nations in the UK. It does not need sideswipes at the sector, financial instability and measures that undermine student security. I beg to move.

4.29 pm

Lord Addington (LD): My Lords, this is one of those interesting documents that seems to have come out of the middle of nowhere, because four months ago nobody would have assumed we would be in this situation. The idea that you should stop universities that have better academic relations—based on either academic achievement or straightforward snob value—from hoovering up extra students seems quite reasonable. You should not be able to increase your numbers to the detriment of the rest of the sector.

There are one or two side issues here, and the noble Lord, Lord Bassam, has raised a few of them. I should declare an interest—albeit one that is decreasing as time goes on—in that I went to a Scottish university, Aberdeen. Aberdeen proudly boasted that it had two universities when England had two universities. The question is: if we are starting to affect these institutions in the north, how are we going to compensate them? They are still part of the United Kingdom, and the interchange of students between the two nations does not do any harm to the relationship between the two states in most cases, although I can think of one or two people in my past where I suggest that was not the case. We need some clarity from the Government about what they are doing on this issue.

The issue of unconditional offers is coming up here. They do not enjoy a tremendously good reputation. Some sort of minimum standard has often been considered in education, and this might be a good time to bring it in. Unconditional offers stop people working and sometimes mean that they are not prepared for going forward. If we are prepared to do something to address that issue, it might be one small crumb of good to come out of this very unpleasant situation.

4.31 pm

Lord Cormack (Con) [V]: My Lords, with two grandchildren completing courses at English universities but living in Scotland, I take a particularly personal interest in this issue. We have to look very carefully at the regulations, which give considerable power to the Government. I understand why they are being introduced; we are living, as so many people have said so often, in

[LORD CORMACK]
unprecedented times. In my 50 years in Parliament there has been no situation remotely like the present one. However, disasters can also bring opportunities, and I hope that over the next year there will be a complete determination to sustain our universities, which include some of the finest in the world. Some of them are quite new, such as Lincoln, where I sit on the court.

At the same time, the present situation should give us an opportunity to re-evaluate, reshape and define. We must get away from the mindset that says that young people who go to university are a success and those who do not have somehow failed. With vocational courses, apprenticeships and institutions such as the former polytechnics, we have to look at what we can do to try to ensure that each and every one of our young people leaving school goes to the right institution and studies the right course for him or her, so that afterwards that young person can play a full part in our society, a part that is underlined by the very concept of vocation, whether someone is studying a higher academic subject at university or is practising one of the crafts. There are great challenges before us and we must be very careful that we rise to them.

4.33 pm

Lord Singh of Wimbledon (CB) [V]: My Lords, investment in education is essential for the future of our country. I fully understand the economic impact of Covid-19 on the national purse and the rationale of limiting the amount spent on student loans by limiting student numbers. However, the over-rigid application of the proposed caps could adversely affect those from deprived backgrounds trying to get a foot on the ladder to economic and social advancement. I believe that those in this category should be excluded from calculations on the proposed caps.

I am inclined to accept that the funding of English-domiciled students is not strictly a devolved matter. However, not having seen any figures on projected savings, I wonder whether it is really worth the upset, and the financial upset, caused.

There is a line in an English hymn that states:

“New occasions teach new duties; Time makes ancient good uncouth;

They must upward still, and onward, who would keep abreast with Truth.”

The Covid pandemic is an opportunity to look again at our national priorities. While I would put health and social care near the top, should we really be cutting and cropping vital services such as education, while spending billions on battleships and the like to fight 19th and 20th-century wars?

4.35 pm

Lord Blunkett (Lab) [V]: I draw attention to my declaration of interest. I support entirely the points made by my noble friend Lord Bassam, but want to put on record that I am sick and tired of hearing those who have benefited from higher education, and whose children have gone through or wish to go through higher education, denigrating it and suggesting that other people’s children should not.

It is time that the Government understood the catastrophic hit being perpetrated on the higher education sector. Yes, Universities UK was concerned about the smaller and more vulnerable institutions—I get that—but we need a major marketing programme supported by the Government, both nationally and internationally, and to recognise that mass unemployment among young people in the coming year will require us to open up those opportunities still further, not as an alternative to apprenticeships or the opportunity to take in-service training in jobs when they are available, but realising that those opportunities will be limited. Foundation and access courses encouraging young people who are capable of doing so to go to university therefore make social, cultural and economic sense. And of course, for international students who are absolutely crucial to the cross-subsidy of research, it is important to turn fine words into reality.

As the noble Lord, Lord Parkinson, said, there has been an unprecedented response by the Government to our economic and health challenge but that has not been true of the investment in and help to higher education. If we do not get this right, we will face a dual disbenefit—first, the impact of the geopolitical events and uncertainties of the moment, and secondly, a lack of recruitment at home, which would be bad for young people and disastrous for the university sector.

4.37 pm

Baroness Benjamin (LD) [V]: My Lords, I want to draw attention to the difficulty that some children of migrant families brought up in the UK are facing, which has the potential to become another Windrush-style scandal. It is only when these children are planning to go into higher education and start to fill out their UCAS forms that they realise that they do not have the right documentation. Those over the age of 18 could face the threat of deportation. This is because they came to the UK as young children on their parents’ passport, and grew up and went to school here, but when they try to fulfil their dream of going to university, they realise they do not have the necessary papers.

They are not British citizens or refugees and do not have indefinite leave to remain, so before filling out their UCAS forms, they have to apply for limited leave to remain—an immigration status that allows them to legally stay in the UK for a period. However, this could mean a wait of up to three years to process. To make matters worse, applicants for student finance need to have had lawful status in the UK for at least three years before the start of the academic year when their course begins.

It is an impossible situation. They can apply for limited leave to remain, if they have lived in the UK for seven years before their 18th birthday, but even if this legal status application is successful, they cannot work, yet they need money to reapply for legal status every two and a half years for 10 years paying around £2,000 each time until they eventually become eligible to apply for indefinite leave to remain.

This Windrush-style scandal is causing much heartache, depression and anxiety. What are the Government doing to avoid this catastrophe unfolding and help these intelligent young people fulfil their dreams, which will benefit society in the long term?

4.40 pm

Lord Wei (Con) [V]: My Lords, I refer to my interests, as in the register. I totally understand why the Government feel that these measures are important and necessary during this crisis, though I have a number of questions. Making a decision of this nature, based on the finances available, is one way of looking at it but, equally, another question is: what can we do to enable the university sector to survive? I suppose the most fundamental question is: what will be best for these students? Many of them—both those going to university and those who cannot—will be scarred during this period by the lack of employment and other opportunities.

Perhaps more thought needs to be given in the coming months, as these measures filter through, to how to distinguish and accelerate the trends that we were already starting to see in previous years, in online and an expansion of vocational, and pivot the sector towards them. For example, fees and loans could be set both to reflect the realities of online learning and to incentivise the higher education institutions to expand their offerings, to international and local students, and partner with third parties to provide vocational courses—particularly given the large numbers of people in many of our worst-affected sectors and industries who may need retraining to move into future industries that will be less susceptible to Covid and other such structural disruption.

Essentially, my question to the Minister is: what thought has been put into creating incentives for universities to divert away just from foreign students and the local student pot into new areas? As many will now have gap years or not go to university full-time, is there a way to reflect the changing structure of courses that will evolve in the coming years?

4.42 pm

Baroness Warwick of Undercliffe (Lab) [V]: My Lords, this is a time of great uncertainty for universities. The main proposal in this SI, to introduce temporary student number controls, will add an important element of stability, and I support it.

My first point, however, is that whatever stability this produces will be completely undermined if students lose confidence in the quality of the experience they are likely to receive in the autumn term and decide to defer to 2021. Yes, the Government have talked about the benefits of current applicants enrolling at universities in September but, at the same time, the Prime Minister, Secretary of State and, this week, the Minister for Education, have made public statements critical of universities that will serve only to undermine this confidence—in particular, I fear, for students from deprived backgrounds. Of course universities have issues that they must deal with, but I hope the Minister will acknowledge that now is not the time for public lambasting of the sector.

My second point is on franchised courses between a university and an FE college or private provider, on which additional guidance has recently been issued. Franchised students count towards a university's student number count, even if they are not taught there and undertake most of their direct learning elsewhere. Both partners have to decide how to stay within their SNCs. This could potentially jeopardise valuable local

partnerships that are in the national interest and deliver the skills that local employers need, as well as improving student choice. I understand that it has also had an impact on student transfers. There seems to be a worrying trend that this change, mid-cycle, has had a disproportionate effect on widening participation of students. I hope that there will be some room for flexibility. Will the Minister agree to look at this with those most concerned?

Finally, I add my voice to those questioning the proposals for the devolved nations. They really do need to be thought about again.

4.44 pm

Lord Campbell of Pittenweem (LD) [V]: My Lords, I declare an interest as the chancellor of St Andrews University, and I welcome the observations of the noble Lord, Lord Bassam, as he introduced his amendment.

These proposals essentially amount to the imposition of a penalty upon the devolved Administrations. We have heard that there was no consultation. Higher education is a devolved subject. Why were the devolved Administrations not consulted? Essentially, what is happening here is that Scottish institutions are being punished by having a penalty imposed upon them due to problems caused by the virus in England.

There is no evidence that Scottish universities have been making predatory offers. The majority of offers made by Scottish universities were in early April this year, and, as some noble Lords will understand, offers made constitute a contract between the university making the offer and the applicant accepting it; subject always, of course, to the applicant achieving the necessary qualifications. That, in particular, makes the proposals unfair to those students who have accepted offers after the cut-off date of 2 June.

Finally, on a more general point, it is the strongly held conviction among the universities in Scotland that using student loans to impose policy on the devolved Administrations in this form undermines necessary efforts to widen access.

4.46 pm

Baroness Bennett of Manor Castle (GP) [V]: My Lords, first, I offer the Green group's support for the amendment in the name of the noble Lord, Lord Bassam, and I also wish to associate myself with the words of the noble Baroness, Lady Benjamin. "The next Windrush" is a phrase we sadly hear all too often, but the situation of young people who, through no fault of their own, suddenly find themselves unable to study, to progress, and to contribute to society in the way they wish to, is a tragedy. I hope we might get an answer today from the Government on some means to fix that.

On 7 January, I got a Written Answer from the noble Baroness, Lady Blackwood, to a Question about nursing, midwifery and associated health professional students, many of whom finished their courses early this year and went out into the NHS workforce to deal with the Covid situation. They are a year of students uniquely penalised by the lack of bursaries and fees: are the Government going to do something to help them? On 4 May, I received a Written Answer from the

[BARONESS BENNETT OF MANOR CASTLE]
noble Lord, Lord Bethell, about students in that cohort who are unable to go out into the workforce, for whatever reason. What is happening so that they can finish their courses, because, often, practical training has not been available to them?

Finally, when we are talking about student fees, surely this is the time to rethink the whole approach. Education is a public good and it should be paid for from general progressive taxation—taxation that is far more progressive than it is now. Think about the current circumstances, with Covid-19. As the Government have acknowledged, we are going to see significant economic disruption and job disruption. Many people will be looking to retrain and perhaps to do another course, or a second or a third course. If the weight of debt stops them doing that, that will be damaging to our society and damaging to them. We really need to reconsider the whole issue of student fees.

4.48 pm

Lord Blencathra (Con) [V]: My Lords, I am content with the draft regulations, which seem to me to be a sensible response in these Covid times, but I want to press my noble friend on a related fee issue and two other university topics.

First, I am appalled that many universities are ripping off students by refusing to refund part of their fees for non-existent teaching. Over the last six months, university lecturers were on strike for five weeks—more than 1 million students got no teaching whatever. Now, there is no teaching because of Covid-19, and still universities are running the equivalent of Ponzi schemes, like Bernard Madoff racketeers, taking money for a non-existent product while paying themselves huge dividends. I am sorry, but they deserve to be lambasted. Any commercial company which failed to deliver on a contracted service would have to pay compensation. I hope my noble friend can compel our universities to behave honourably.

Secondly, I see that the department is considering changing to post-results applications and university courses starting in January. This change is long overdue, and I commend it. It is nonsense to offer conditional places based on predicted results. I hope that the Government will push on with that excellent initiative as soon as possible.

Finally, I know my noble friend will not say so, but we have about 30 useless universities at the bottom end of the quality tables. They are taking fees from students for worthless courses which will not get them jobs, and the fees will never be repaid. We desperately need more technical colleges and more skills training, as the Prime Minister said on Tuesday. Will my noble friend look to convert these back to good polytechnics which could do good for the country and real good for young people, rather than them playing at being poor-quality universities?

4.50 pm

Lord Reid of Cardowan (Lab) [V]: My Lords, Regulation 4 reduces the loan amounts available to English students taking courses at institutions in Scotland, Northern Ireland and Wales. Of course, English students

at Scottish universities have to pay fees, while Scottish students and EU students do not. I quite understand the frustration in England at that situation, but I urge caution. As the public spending watchdog reported last year:

“Scotland’s universities face rising costs and funding cuts, and there is a growing gap in how well different institutions can cope”.

That report came before Covid and Brexit, so any move to reduce support for English students intending to study at Scottish universities, however understandable, would be a terrible mistake, especially at this time.

It is not just the financial consequences that I worry about. I also believe that there will be indirect political consequences. Anything that tends to undermine the unity of the United Kingdom, especially among our young people, would ultimately be a self-defeating exercise. I urge the Minister to have regard to the long-term political consequences of such a move before proceeding and to rethink Regulation 4.

4.51 pm

Lord Wallace of Tankerness (LD) [V]: My Lords, I endorse the remarks of the noble Lord, Lord Bassam, and my noble friend Lord Campbell of Pittenweem with regard to the devolution aspect of this matter.

I was somewhat nonplussed when I read the draft Explanatory Memorandum, which states:

“This entire instrument applies to England only ... The instrument does not have any minor or consequential effects outside England.”

One needs only to read the letters to the UK Universities Minister from her counterparts in Scotland and Wales to realise that the implications for Scotland and Wales, and no doubt Northern Ireland, are far from minor. How does the Minister justify what is in the Explanatory Memorandum?

I have a series of questions. Do the Government believe that, post pandemic, the UK Government, in co-operation with the devolved Administrations, should develop policies that sustain the principle of student mobility across the UK? The number controls announced on 4 May by the UK Government included no reference to Scottish institutions, nor were they expected by Universities UK or Universities Scotland. What happened between 4 May and the publication of these regulations? What specific allegations, if any, were made of predatory offer-making by Scottish institutions, and what specific discussions were held with individual Scottish HEIs and Universities Scotland? Is it the case that no sanctions will apply to students being funded privately rather than through the Student Loans Company? Is that what is meant by “levelling up”?

Does the Minister accept that Scottish universities will be disproportionately disadvantaged because the number to which the percentage is applied to control numbers is being applied to much lower actual numbers? Why are institutions in the devolved countries able to bid for only 50% of the additional places, with a more limited range of subjects? Given the concerns expressed by the noble Lord, Lord Reid of Cardowan, about the implications for the union, did the Minister for the Union express any view on these proposals and their formulation from the standpoint of wishing to strengthen the United Kingdom, or was Boris Johnson also duped into believing that the regulations applied to England only?

The Deputy Speaker (Lord Alderdice) (LD): We do not seem to have the noble Lord, Lord McColl, so I call the noble Baroness, Lady Quin.

4.53 pm

Baroness Quin (Lab) [V]: My Lords, earlier in my working life, I had responsibility for admissions to one of the colleges of Durham University. I well remember the stress involved in trying to ensure that we reached our student target but did not exceed it. That experience makes me feel for those in our universities today dealing with admissions on a much larger scale and in the unprecedented circumstances of Covid-19.

I have been in touch with universities in my part of the country about these regulations. While there is understanding of why they have been introduced, and understanding that these are temporary arrangements, there are some aspects of concern where clarification and reassurance are necessary.

For example, universities such as Newcastle have inadvertently—in such a volatile year for student recruitment—exceeded the student number controls before this measure was announced. Understandably, they do not wish to rescind offers to applicants who have faced a difficult time, with exams being cancelled, but have been judged to be qualified for the courses for which they have been accepted. I hope that the Government will avoid a punitive approach in such situations, where institutions have clearly acted in good faith and in the interest of students.

I support what has been said about concern about the effect on students from underrepresented backgrounds. My experience of some of our local universities, such as Sunderland, is not that they have offered useless courses but that they have provided life-changing opportunities for many people from BAME communities and from disadvantaged socioeconomic backgrounds.

Finally, I agree strongly with those who talked about the inadequate consultation, particularly with the devolved authorities. Those issues have been explored but I urge the Government to continue dialogue with the higher education sector in the implementation of these proposals, and to do a much better job on consultation than they have done so far.

4.56 pm

Lord Chidgey (LD) [V]: My Lords, in the context of this higher education SI on fee limits and student support, Michelle Donelan MP, the Universities Minister, said yesterday:

“For decades we have been recruiting too many young people on to courses that do nothing to improve their life chances or help with their career goals.”

Speaking yesterday at the NEON summit on widening access and mobility, she outlined a new approach to social mobility.

My interest in this is threefold. While I was the MP for Eastleigh, I served for a decade as a governor on the board of its further education college. At that time, when FE colleges were becoming incorporated bodies, almost by chance Eastleigh’s further education college shared a large site and abundant sports fields with a secondary school and a sixth-form college. We found that the colleges were duplicating some A-level

courses, which they sensibly streamlined. The secondary school opted to refocus on engineering studies, Eastleigh being an industrial town. The three establishments worked closely, almost seamlessly, together to provide the students the education and training opportunities that best met their aspirations.

My second and third interests are in the value of bringing flexibility into the provision of further and higher education and training. As a director in a leading consulting engineering practice, I learned that while first-class honours degree graduates might dazzle with their brilliance, it would take a little while for them to appreciate that they also had to contribute to justify their salary. HND graduates were generally older and would more often hit the ground running from the start. That is why I note the Minister’s statement yesterday that

“higher education should be open to all ... who are qualified by ability and attainment.”

True social mobility would put students, their needs and career ambitions first—be that in HE, FE or apprenticeships—and must be funded accordingly.

4.58 pm

Baroness Altmann (Con) [V]: I declare my interests as in the register, and welcome the Government’s attempts to protect higher education institutions and students. However, I have concerns about the unintended side-effects of these regulations on two issues.

First, there is the process of bids for the 10,000 additional places in excess of the SNC. Who is assessing condition B1 about course design, or condition B4 about qualifications holding value over time, given the radical changes to the economy and teaching methods that may result from the coronavirus? Can my noble friend say whether there is an appeals process for institutions which feel unfairly treated to raise timely concerns? Also, how do the Government assess the impact of using student loan data, which obviously leaves out those who apply late?

This leads me to my second concern. The Independent Higher Education organisation has brought an important issue to my attention today. A one-size-fits-all policy on student numbers may endanger the survival of smaller, specialist providers. In light of my noble friend’s introductory words, with which I agree, saying that we need a range of providers catering for individual needs and to ensure the stability of the sector, I fear that this SI could have a deleterious impact—particularly on students from widening participation categories, who tend to apply late and more often to the smaller higher education establishments.

The effect of introducing the SNC has apparently led larger university partners of smaller specialist colleges to reduce previously agreed numbers of subcontracted places by 20%, so many mature and BAME applicants, who are most likely not to have accepted offers promptly, have had offers withdrawn. Can my noble friend say whether the Government might consider exempting the smallest specialist higher education institutions from these controls: for example, only those with fewer than 1,500 students? They represent under 1% of the higher education sector but that would help stability and wider access.

5 pm

Lord Desai (Lab) [V]: My Lords, I find this regulation a little strange. We have faced a surprising pandemic, and some universities have tried to defend themselves against possible losses by recruiting more people than they are supposed to. As far as I can understand these complex things, the universities which have offered more places than they are supposed to will be punished, not this year but next year. That is the kind of Stalinist rationing I do not understand.

If universities are taking the initiative to defend themselves against the adverse effects of the virus, they should be rewarded, because they are looking ahead. At least next year, if you are going to punish them for this, please punish them mildly, spread the punishment over more than one year and, if possible, do not punish them at all, because they are doing good work and we need good-quality higher education. Therefore, this is the time not to be harsh on universities but to be kind to higher education, just as the Government are very kind to companies that are going bust and banks which are failing, and so on. If you are being kind to everyone, why not be kind to higher education as well?

5.02 pm

Baroness Falkner of Margravine (Non-Aff) [V]: My Lords, I welcome these regulations, because I well appreciate the difficulty that the higher education sector is in, as the noble Lord, Lord Desai, referred to a moment ago. I draw attention to my interests in the register.

I have a couple of concrete questions and concerns for the Minister. One is about the devolved Administrations and those universities we have heard several noble Lords talk about. I note that the Government are giving rescue funding for research and innovation; will the Minister be able to tell us whether that funding, which is dispersed through UKRI, will be available to all the universities in the devolved Administrations? That would ensure that while Scottish and Welsh universities may lose out from English student attendance, they will not go short on research funding. Will the Minister also be able to tell us whether they will be eligible for the long-term, low-interest loans that the Government are offering?

My second point is about students who are being assessed at the moment through the new assessment process due to Covid, and who are hoping to enter university. Will the numerical caps that the Government are putting into place exempt students from disadvantaged backgrounds and allow those students who have the credentials in terms of marks to be allowed to exceed the numbers if they are part of the widening participation plans—APPs—that universities offer? Those students, more than any others, need all the support they can get at this time of economic stress.

5.05 pm

Lord Wood of Anfield (Lab) [V]: My Lords, I shall focus on the specific issue of justice for individual student applicants under these rules. I totally understand the need that the Government see to avoid beggar-my-neighbour admissions activities by individual universities

that may harm the financial stability of other institutions, but I want to ask about two worrying issues that arise from these regulations.

First, as other noble Lords have pointed out, these rules will disproportionately affect widening participation of students. Why? Because these students, from poorer and more disadvantaged backgrounds, are considerably more likely—up to five times—to accept their offers between May and August or apply directly to higher education institutions during that time. As a result, almost all students still in the application process who have not yet accepted an offer are from these widening participation backgrounds.

As a result, where providers have had their student numbers set by the department, and where, as my noble friend Lady Quin observed, that control figure is less than existing acceptances and offers, a significant number of universities will need to recalibrate or withdraw existing offers from these particularly needy students to stay within the control limits. How do the Government propose to avert this highly undesirable and highly unjust outcome for some of our most needy students?

Secondly, how will these regulations interact with the provision announced a few days ago that students can choose to take A-level examinations in the autumn if they are unhappy with their assessed A-level grades obtained in the summer? If an A-level student intending to go to university in September decides on receipt of their assessed grades to take the autumn exam, they will presumably defer their entry into HE, but the number of students who do that is unknown and may be quite large. What happens to the student caps then? Are they revisited and adjusted to provide stability again? The combination of significant flexibility in the exam process and significant control in the university student numbers submission process do not fit together coherently.

5.07 pm

Lord Goddard of Stockport (LD) [V]: My Lords, I have no need to draw noble Lords' attention to my entry in the register of interests as I was not lucky enough to go to university in 1968. Fortunately, my father managed to get me an apprenticeship and that has served me well over the years. University is sometimes not the automatic answer.

The noble Lord, Lord Bassam, has clearly articulated the problem. He has given the facts and the figures regarding the implementation of these proposed measures. However, I will talk about the fairness of this—the unintended consequences of these measures. Is it fair to give the Government these sweeping powers over the next two or three years? Is it fair to limit student numbers when, as other speakers have said today, the unintended consequence will be that the poorest and the least qualified, with the fewest marks, will have least chance to get on that university ladder to get a better standard of education and improve their life chances.

The noble Lord, Lord Cormack, is completely correct: young people need to get the best opportunities. University is not for everybody and sometimes apprenticeships, as I can vouch for, work just as well. But we should not

cut off the legs of the poorest and least educated who have the chance to get to university. That is what worries me. The Government are set to reduce many students' once-in-a-lifetime chance. The Government should look back. As other noble Lords have said, we spend billions of pounds looking after other sectors. Surely the most important sector that we should look after is the education of our children. That is where the money should go, because the children, young people and students of all races and religions are the future of this country.

5.08 pm

Lord Holmes of Richmond (Non-Affl) [V]: My Lords, I thank my noble friend for introducing these regulations in the manner that he did, and I draw noble Lords' attention to my interests as set out in the register.

The United Kingdom has such phenomenal soft power. Undoubtedly, our higher education system is the brightest star in that soft power constellation. For obvious reasons, international student numbers will be decimated as a result of Covid-19, but they will come back at some stage. That is a great thing in terms of those who come over here and have a higher education experience in the UK. They stay, work, study further and contribute to this country, or go back to their own countries and are superb ambassadors for the United Kingdom.

These regulations make sense in the short term, but I want to ask my noble friend the Minister a number of questions. First, what consideration was given to the devolved nature of higher education and the impact that these regulations would have in that regard? Secondly, does the Minister agree that more could be done to better position apprenticeships in both a parallel and series way with higher education—so potentially, for some routes, apprenticeship and then into university, not just seeing an apprenticeship or a degree apprenticeship as a better route through? Thirdly, what impact does he believe these regulations will have on social mobility?

Finally, if he will indulge me, I have a question that goes slightly beyond the regulations. With the base rate currently at 10 basis points, what is the current interest rate being paid on student loans? Does the Minister believe that that rate is in any sense equitable, and what impact does he believe it will have on social mobility, widening participation and widening access to our fine higher education establishments in the United Kingdom?

5.11 pm

Lord Norton of Louth (Con) [V]: My Lords, I declare my interest as professor of government at the University of Hull.

I want to make three quick points. First, it is vital to stress the value of higher education to the United Kingdom, not just in delivering world-class research and teaching, but in its crucial economic benefits, both nationally in the export of higher education and locally with respect to jobs and bringing students into the local community. I welcome the packages so far announced by the Government, but they do not yet fully deliver in enabling HE to do what is needed, especially in response to the present crisis.

Secondly, the regulations reinforce other packages so far announced and, indeed, existing features of our HE system, in favouring certain big institutions. This is conceded, in effect, in the impact section of the Explanatory Memorandum with regard to teaching-intensive and smaller providers. The cap, as both the noble Baroness, Lady Altmann, and the noble Lord, Lord Wood, have stressed, is likely to have an adverse effect, especially on students from widening participation backgrounds who tend to apply late in the cycle. There is a case for excluding them from the limit.

Thirdly, the regulations need to be complemented by greater support for universities to deliver more flexible learning opportunities to enable people of all ages to upskill and retrain, which will be crucial for economic recovery in the months and years ahead. Addressing fees needs to be part of a wider comprehensive and immediate package, designed to enable the HE sector to deliver what we expect of it and adapt to the fundamental challenges we now face. Perhaps my noble friend the Minister can explain what plans the Government have to assist those HE providers and students likely to be disadvantaged by these regulations, as well as what more will be done to enable HE to meet these challenges.

5.13 pm

Lord McConnell of Glenscorrodale (Lab): My Lords, my entry in the register includes a number of education and young people-related interests, in particular as chancellor of the University of Stirling. I recall back in 1981-82 when the then university principal, Sir Kenneth Alexander, and I, as student president, launched a controversial proposal to lift the cap on student numbers—which at that time was imposed by the University Grants Committee on every department of every university in the country—allowing universities to attract students based on the attractiveness of their courses and the qualifications that they could then achieve.

While I recognise the need for stability at the moment, in this particular year, I would be grateful if the Minister would make clear that this is a temporary measure, that it will last for only one year, and that universities and students will again have that relationship in the future. I want to associate myself with the remarks of the noble Lord, Lord Addington, on the scandalous level of unconditional offers, of the noble Lord, Lord Wei, on innovation, and of my noble friend Lord Wood on access—which were particularly relevant in relation to individual students. I am also grateful to my noble friend Lord Bassam, for raising this issue.

University funding in Scotland is indeed devolved and the debate on it should take place in another place, but universities in Scotland are part of the UK system. Therefore, it is important that those universities are taken into consideration when the Government put in place a forward plan on research and on international students that will help the university sector to come out of this lockdown period.

Finally, I am very aware of the fact that, across the country, 17 and 18 year-olds have been very badly affected by this lockdown period in terms of their motivation, ambitions for the future and fears about the situation. Will the Government take into account

[LORD MCCONNELL OF GLENSCORRODALE]
the mental state of our teenagers at this time, following such a long period of lockdown in schools, and build it into the proposals they then put in place to try to reinvigorate not just our university sector, but our education system as a whole?

5.15 pm

Lord Bhatia (Non-Afl) [V]: My Lords, Covid-19 has impacted all sectors of the nation. Education is not an exception. There is a clear sense that fewer students will decide to opt for higher education this year and possibly next year. This could put severe strain on providers' finances.

To mitigate this, providers have changed their admission practices with mass use of unconditional offers, thereby increasing their recruitment of new students in 2020 and 2021. This could end up lowering education standards. While the providers will have a bigger intake of students, the question arises whether these students will suffer educationally. Choices will inevitably have to be made between good education and providers' finances. In my opinion, good education must trump finance. The Government therefore have to provide additional finances to universities and colleges. Unconditional offers could attract more students, but ruin their future.

There is also the question of overseas students, who pay higher fees to come to United Kingdom universities. These higher student fees form a big proportion of providers' overall finances. There has been considerable debate about visas for students who come from overseas. The Home Office must open up its visa system so that it is easier for overseas students to come to the UK for degree programmes. If the Government do not relax the visa system, overseas students will end up going to other countries, such as Canada, the USA and Australia. Since the Government have provided extra funding for businesses and for those who have lost their jobs, the education sector must also be given resources during the pandemic, above all to ensure that UK universities' education standards are not compromised.

5.18 pm

Baroness Kennedy of Cradley (Non-Afl) [V]: My Lords, as for many sectors, Covid-19 has created significant challenges for the higher education sector. It has taken an immediate reduction of income due to empty campuses and now faces the possibility of dramatic decreases in income in the next academic year, as student numbers, domestic and especially international, are expected to drop.

Therefore, it is right that the Government should put a plan in place to stabilise student numbers at English universities. In principle, the cap should be supported. However, the plans enacted by the statutory instrument have garnered some criticism, as highlighted by many noble Lords and comprehensively set out by my noble friend Lord Bassam of Brighton. I ask the Minister: how is this cap fair to universities in Scotland, Wales and Northern Ireland? For example, last year just under 3,000 students from England enrolled at a Scottish higher education institution, accounting for 10% of total enrolment. Students may, because of this, now be discouraged from studying at universities outside

England. Can he therefore outline what consultation has taken place with the devolved Administrations on this issue?

There have also been criticisms from some higher education experts that the cap is too loose and will still allow more prestigious institutions to Hoover up students from less prominent institutions. How will the Government ensure that this does not happen?

Finally, the criteria that the Government are using to allow institutions to apply for the additional places seem very restrictive. An institution would need to have a continuation rate of 90% or higher, or high-skilled employment, or a further study rate of at least 75% to access the places. This, coupled with the speech yesterday from the Universities Minister, leads me to my final question: have the Government considered the impact of student number controls on disadvantaged young people, especially during Covid-19?

5.20 pm

Lord Liddle (Lab): My Lords, I understand the logic of this instrument as a temporary, short-term measure; the noble Lord, Lord Parkinson, explained its logic with great clarity. I also share the concerns about devolution set out in the amendment of the noble Lord, Lord Bassam.

I speak as chair of Lancaster University and have that as one of my interests on the register. For Lancaster, the last decade has been a very good one. We have seen a 25% growth in student numbers, and we have expanded in areas that are the national priorities: engineering, the medical school, science—all have grown. This has, in part, been financed by our success in recruiting Chinese students. Clearly, there is a short-term issue with Covid-19, and longer-term issues with our relations with China, particularly now over Hong Kong.

We are devising our strategy for recovery from Covid-19. What are the planning assumptions we should make? Will the Minister give us an assurance that this is temporary, that we will be able to continue to recruit students in the years ahead? When will the Government clarify what the domestic fee level will be in those years ahead?

One of the reasons I like Lancaster a lot is that it combines excellence with equity, and I have great sympathy with what noble Lords, starting with the noble Lord, Lord Blunkett, have said, about the impact of this measure of control at a time that is going to see a crisis in unemployment, particularly youth unemployment. I know the Government want to increase apprenticeships, but there is a huge challenge there; the numbers are actually down. It is a tremendous shame that we are imposing an artificial limit on the recruitment of students from deprived backgrounds in this measure, and it must not continue.

5.22 pm

Baroness Uddin (Non-Afl) [V]: I declare my interest as an officer of the APPG on International Students, and I support the amendment of the noble Lord, Lord Bassam.

While I appreciate the underlying economic rationale for capping numbers and stopping EU students accessing student loan fees, as mentioned by my noble friend

Lady Benjamin, it is regrettable and will have a profound effect on our higher education and specialist providers. I fear that higher education will become the reserve of the elite, including international students who can afford high fees for elite institutions. Therefore, the proposals of student number control may detrimentally impact widening participation, as has been said by noble Lords, and may further damage our reputation.

Given that students received information only during lockdown, they and education institutions were unprepared for the last-minute surge in demand, which could not have been predicted. It took some universities over the threshold and made some students fearful they would face substantially larger fees with loan guarantees, should they wish to study in the UK. In the light of Covid-19 restrictions, and our own students not being expected to return to universities until next year, will the Government afford some flexibilities, allowing universities, including higher education specialist providers, to revise their numbers to accommodate the application surge, and allowing students to be accepted for January 2021, and not September 2020, so that they feel safer to return to the UK?

I hope that the Minister will accept that these measures might increase class divisions and reduce social mobility in our higher education institutions. I hope, too, that he will heed the wisdom of many noble Lords who have spoken and who are as concerned as I am about further exacerbating social and racial inequalities. I wholeheartedly echo the question from the noble Lord, Holmes, about the excessive interest charged on loans to home students.

5.25 pm

Baroness Garden of Frognal (LD): My Lords, these are slightly curious regulations, in that the arrangements are temporary and apply only to the academic year 2021-22 from 1 August 2020 onwards. Therefore, whatever is decided should not have long-term effects, unless of course it causes the financial collapse of any higher education institution. As the Minister has indicated, the financial failure of any university would have a severe impact on the students, staff, local community and regional economy.

Noble Lords have pretty well done this small instrument to death, so I shall try not to be repetitive, but I want to support the amendment moved by the noble Lord, Lord Bassam. It appears that these changes have been introduced without any consultation with universities in the devolved nations. It would seem only right to call upon the Government to make time for a proper consultation process with the devolved Governments and higher education institutions in Scotland, Wales and Northern Ireland. They have many English students who will be impacted by this legislation.

Picking up comments from the noble Baroness, Lady Altmann, I also draw attention to the importance of providing adequate support for small and specialist institutions, which not only would be disproportionately affected if they were to exceed their student number controls but are often more reliant on international students. Some of these institutions specialise in the creative arts, music, drama, art and other aspects of education, which provide enormous benefit to the

country in quality of life, and indeed to the economy, given that the creative industries are a great financial contributor. It would be a great loss to the country if they were to be financially disadvantaged.

There is also concern for EU students, as other noble Lords have indicated. They were informed last week that they cannot defer their study to next year and still keep access to student loan funding or capped fees. They need places this year, and we expect a surge in numbers, which the student number controls could not have predicted. The EU fees and funding announcement came after student number controls were established.

Penalising universities in this way could lead to worsening regional skills gaps and widening economic disparities. It could lead to damage to research capacity, innovation and research impact. There could also be an increase in cold spots in higher education, as access to higher education could be reduced. As we have already heard from other noble Lords, disadvantaged students could find themselves worse off and less able to select a university that best suits their learning needs. The points put forward by my noble friend Lady Benjamin about immigrant children deserve urgent attention. There is also concern that artificially managing student choice could lead to significant damage to the UK's global position as a world leader in research and education.

We note that the Government will have the discretion to allocate an additional 10,000 places, with 5,000 ring-fenced for nursing, midwifery or allied health courses to support the country's vital public services. Will those places be targeted at institutions having difficulty in filling their places or will they be in universities already fully subscribed?

I have a question that I would have asked the Minister the other day had I been able to get in. It is slightly off beam from the instrument but it is relevant to nursing, so I will ask it anyway. It picks up points from the noble Lord, Lord Cormack, my noble friends Lord Chidgey and Lord Goddard and the noble Lord, Lord Holmes. Nursing is less about academic achievement and more about practical, professional and personal skills. What consideration have the Government given to promoting nursing apprenticeships and other vocational routes into the profession? These used to provide many excellent and high-achieving nurses before degrees became the great god of qualifications. I declare an interest as a vice-president of City & Guilds. That might leave more ring-fenced places for those who genuinely need cerebral academic achievement for their work.

We note that any institution that exceeds the sum of its forecast for UK and EU-domiciled numbers must explain the reasons to the OfS in England or the HEFCW in Wales. We do not know what sorts of reasons would be acceptable to justify those admissions. Is there any guidance on this yet?

It seems reasonable to assert that universities should not exert undue pressure with "golden hellos" or gifts, nor with the use of unconditional offers, where students might end up on a degree course which is really not suitable for them.

[BARONESS GARDEN OF FROGNAL]

We can do nothing with statutory instruments apart from debate them, but I hope that the Minister is able to offer us some reassurances on the issues that have been raised around the House in this short but packed debate.

5.30 pm

Lord Parkinson of Whitley Bay: My Lords, as befits the higher education sector that it concerns, this debate has been a diverse but uniformly intelligent one. I thank all noble Lords who have taken part.

The noble Lord, Lord Bassam of Brighton, asked about consultation with institutions throughout the United Kingdom. I am very happy to confirm that my right honourable friend the Secretary of State and my honourable friend the Universities Minister have had a number of meetings with their counterparts, as have officials at the Department for Education with theirs, and have been consulting representatives of the sector, including Universities UK, which, as the name suggests, is UK-wide. He asked about the Chancellor's Statement next week. I am afraid that he will have to wait with bated breath for that, but regarding research, I draw his attention again to the research package that was announced at the weekend by the Government, and which was noted by the noble Baroness, Lady Falkner of Margravine, who asked whether that is UK-wide. I am happy to confirm that yes, institutions in all four nations can apply to it.

Many noble Lords asked questions concerning devolution, so it makes sense to start there. These included concerns that the number controls and fee loan reductions do not respect the devolved nature of higher education, that the risk to the sector is particularly acute in England—and that therefore there should be an English solution to an English problem—and that to apply these conditions to English-domiciled students at institutions elsewhere in the UK is to place the sector in those parts of the United Kingdom under unfair strain. It is not the purpose of these regulations to disregard or interfere in the important principle of devolution, but to ensure the stability, financial and otherwise, of higher education in England. Central government's mechanism for that is the student loans and tuition fees system. Student number controls for institutions in Scotland, Wales and Northern Ireland apply only to the number of English-domiciled entrants who will be supported with their tuition fees through Student Finance England.

The funding of English-domiciled students is not a devolved matter. It is right and fair that this policy should apply as consistently as possible wherever they are studying in the UK. I certainly agree with the noble Lord, Lord Bassam of Brighton, about the value of people studying throughout the United Kingdom in strengthening the bonds between our four nations. I note the amendment that he has tabled and acknowledge some of his concerns, but I must note for example that currently, Scottish providers can charge any amount they choose to an English student without the fee loan matching it—and choose not to. These eminent and, as the noble Lord, Lord Addington, pointed out, in many cases ancient institutions, place the welfare of their students and the attractiveness of studying in

Scotland at the forefront of their recruitment practices. I do not expect that these regulations will cause them to change those practices to the detriment of students who might otherwise choose to apply elsewhere. Institutions in the devolved nations will continue to be free to set their own fees, as they do now.

On the question raised by the noble and learned Lord, Lord Wallace of Tankerness, the UK Government determine the level of student finance available to English-domiciled students. This is not a case of encroaching on devolution but an example of respecting it, while taking the necessary steps to ensure the stability of the higher education sector and value for money for the taxpayer and, above all, to maintain freedom of choice and a positive experience for students.

A second area which a number of noble Lords touched on was the impact on disadvantaged students. This was mentioned by the noble Lords, Lord Singh of Wimbledon, Lord Liddle and Lord Wood of Anfield, and the noble Baronesses, Lady Garden of Frognal, Lady Kennedy of Cradley, Lady Uddin, and others. The Government want to ensure that university places are available to everyone who is qualified by ability and attainment to pursue them and who wish to do so. We expect that higher education providers will continue to support students from disadvantaged backgrounds to take their part in higher education, and officials at the Department for Education are working with the sector to identify what steps may be necessary to help them do so. I draw particular attention to the £23 million per month funding currently available to help people with hardship, including, as the noble Lord, Lord McConnell, rightly points out, mental health needs which might arise from the current circumstances.

Regarding other matters raised by noble Lords, my noble friends Lord Blencathra and Lord Cormack spoke about the quality of higher education that the Government expect. It is a condition of registration with the Office for Students that providers must deliver well-designed courses which provide a high-quality academic experience for all students. I draw their attention to my honourable friend the Universities Minister's speech yesterday, which the noble Lord, Lord Chidgey, mentioned, which sets out a bit further the Government's thinking on this.

I am very happy to confirm to the noble Baroness, Lady Quin, who asked about universities in our native north-east, that offers accepted before the notification date of 1 June 2020 will not be counted against a provider's or institution's number control. I think the noble Lord, Lord Wood of Anfield, asked about that as well.

My noble friend Lady Altmann asked a number of technical questions, and it might be better if I follow up on them in writing. She asked about appeals. Officials at the Department for Education will consider appeals on a case-by-case basis. She mentioned international students and their importance to the higher education sector, as did the noble Lord, Lord Bhatia, and many others. That is why we are simplifying the current requirements and the application processes for international students studying in the UK, significantly improving our global offering. The new graduate route which is due to open next summer is

just one example of this. Students contribute to net migration and will therefore continue to be counted within the net migration figures, just as the independent Migration Advisory Committee suggests they should be.

The noble Lord, Lord Chidgey, asked about further education. The Government have an ambitious programme to reform and level up the FE sector. That will be set out in our White Paper, but I can certainly point to the plans which were announced in the Budget to invest £1.5 billion in England from 2021-22 to upgrade the FE college estate.

My noble friend Lord Holmes of Richmond, the noble Lord, Lord Goddard of Stockport, and others asked about apprenticeships. I can confirm that apprenticeships will be excluded from student number controls.

The noble Baroness, Lady Warwick of Undercliffe, asked about franchising. I am aware that some providers have raised concerns about franchising arrangements, but student number controls allow providers to recruit more students than they did in the 2019-20 academic year. Every student who meets the entry requirements for their course should be able access higher education, including those from disadvantaged backgrounds.

The noble Baroness, Lady Benjamin, mentioned a particular group of students and the important issue of those who do not hold settled status. The long residency eligibility category ensures that people who do not hold settled status but who have spent a substantial period in the United Kingdom are able to access support in line with most other students. To qualify for support, these people must have been in the UK lawfully for at least three years. We consider that this strikes a fair balance, but we will certainly continue to keep a close eye on the very important issue that she raised.

In concluding, as I fear I must, I return to the challenges that the sector currently faces. We must all work together as we seek to recover and rebuild after Covid-19. These regulations will help us to do that and to achieve that important goal. It is our hope and expectation that they will play a crucial role in stabilising the sector. The Government recognise that the pandemic will have an unparalleled impact on all elements of the UK and, indeed, global economy and that the higher education sector is no exception.

We have been working closely with the sector to monitor the impact of Covid on international student numbers, including restrictions on travel, but we understand that it poses significant challenges. That is why the Government have committed to ensuring that existing rules and regulations, including visa regulations, are as flexible as possible for international students in the current circumstances. Higher education providers have also confirmed that they will be flexible in accommodating applicants' circumstances wherever possible—for instance, if people are unable to travel to the UK in time for the start of the academic year.

I hope that noble Lords will be encouraged by what the regulations signify: that the Government care about the HE sector and the range of opportunities available for all who use it; that we care not just about larger, more profitable providers but about smaller and specialist institutions that, as my noble friend Lord Norton of

Louth rightly pointed out, so creatively cater to the needs of their students, and wish to see those providers survive; and that we care above all about students. Students are the lifeblood of our higher education sector, and that they should have a positive experience of higher education is of the highest importance, now as much as ever. The Government must play a part in that by maintaining a stable higher education sector for the benefit of providers, students and taxpayers alike. I am happy to confirm that student number controls are a temporary measure in place for one year only, and the regulations before your Lordships today are the mechanism by which we can do this. I therefore recommend them to the House.

5.40 pm

Lord Bassam of Brighton [V]: My Lords, I shall not detain the House for very much longer. I make it clear from the outset that is not my intention to press my amendment to a Division; I think that would be unfortunate and send the wrong sort of message.

The regulations have received something of a withering attack from across the breadth of the House—and deservedly so. I suspect that the Government will have to come back and think again about their package, certainly in part. We on the Labour Benches want to see a secure higher education sector, and we are somewhat alarmed by the comments made yesterday by the Universities Minister, Michelle Donelan. I am grateful that the noble Lord, Lord Parkinson, describes our universities as world-renowned because that is exactly what they are, and we should do nothing that disturbs that or undermines their power and economic value, particularly as we begin to recover from the impact of the Covid epidemic.

This has been a very useful debate that has set out some important benchmarks and lines for us to consider in future. My principal concern is to ensure that we do not imperil the wider participation of students from a whole range of backgrounds, not least those from poorer backgrounds. I suspect that the higher education sector will have to respond in greater numbers to the demands that are made, and that we will have to have a further debate on this subject in the near future. That said, I beg leave to withdraw the amendment.

Amendment to the Motion withdrawn.

Motion agreed.

5.43 pm

Sitting suspended.

Arrangement of Business

Announcement

6 pm

The Deputy Speaker (Lord Alderdice) (LD): My Lords, some Members are here in the Chamber, others participating virtually, but all Members are treated equally. For Members participating remotely, microphones will unmute shortly before they are to speak. Please accept any on-screen prompt to unmute. Microphones will be muted after each speech. If the capacity of the Chamber is exceeded, I will immediately adjourn the House. I ask noble Lords to be patient if there are any

[LORD ALDERDICE]

short delays between physical and remote participants. The usual rules and courtesies in debate apply. Please ensure that questions and answers are short.

We now come to questions on the Statement on the Hong Kong national security legislation. It has been agreed in the usual channels to dispense with the reading of the Statement itself, and we will proceed immediately to questions from the Opposition Front Bench.

Hong Kong National Security Legislation Statement

The following Statement was made on Wednesday 1 July in the House of Commons.

“With permission, Mr Speaker, I would like to make a Statement regarding the latest developments on Hong Kong.

As feared when I addressed the House on 2 June, yesterday the Standing Committee of the National People’s Congress in Beijing adopted a wide-ranging national security law for Hong Kong. This is a grave and deeply disturbing step.

We have carefully assessed the legislation. In particular, we have considered its impact on the rights, freedoms and, critically, the high degree of autonomy bestowed on Hong Kong under China’s Basic Law for Hong Kong and under the joint declaration, which, as the House will know, is the treaty agreed between China and the UK in 1984.

Today I have the depressing but necessary duty to report to the House that the enactment of this legislation, imposed by the authorities in Beijing on the people of Hong Kong, constitutes a clear and serious breach of the joint declaration. Let me explain to the House the grounds for this sobering conclusion.

First, the legislation violates the high degree of autonomy over executive and legislative powers and the independent judicial authority provided for in paragraph 3 of the joint declaration. The imposition of this legislation by the Government in Beijing, rather than it being left to Hong Kong’s own institutions to adopt it, is also, it should be noted, in direct conflict with article 34 of China’s own Basic Law for Hong Kong, which affirms that Hong Kong should bring forward its own national security legislation. In fact, the Basic Law elaborates on that, and allows Beijing to impose laws directly only in a very limited number of cases, such as for the purposes of defence and foreign affairs, or in the exceptional event of the National People’s Congress declaring a state of war or a state of emergency. None of those exceptions applies here, nor has the National People’s Congress sought to justify the law on any such ground.

Secondly, the national security legislation contains a slew of measures that directly threaten the freedoms and rights protected by the joint declaration. The House will be particularly concerned by the potentially wide-ranging ability of the mainland authorities to take jurisdiction over certain cases without any independent oversight, and to try those cases in the Chinese courts. That measure violates paragraphs 3(3)

and 3(5) of the joint declaration, and directly threatens the rights set out in the United Nations International Covenant on Civil and Political Rights, which, under the joint declaration, are to be protected in Hong Kong. That in particular represents a flagrant assault on freedom of speech and the right to peaceful protest for the people of Hong Kong.

Thirdly, the legislation provides that Hong Kong’s Chief Executive, rather than its Chief Justice, will appoint judges to hear national security cases—a move that clearly risks undermining the independence of Hong Kong’s judiciary, which is, again, protected by the joint declaration in paragraph 3(3).

Fourthly, the legislation provides for the establishment in Hong Kong by the Chinese Government of a new office for safeguarding national security, run by and reporting to the mainland authorities. That is particularly worrying, because that office is given wide-ranging powers, directly intruding on the responsibility of the Hong Kong authorities to maintain public order. Again, that is directly in breach of the joint declaration—this time, paragraph 3(11). The authorities in Hong Kong have already started to enforce the legislation; there are reports of arrests by the police, and official notices warning the people of Hong Kong against waving flags or chanting.

In sum, this legislation has been enacted in clear and serious breach of the joint declaration. China has broken its promise to the people of Hong Kong under its own laws, and has breached its international obligations to the United Kingdom under the joint declaration. Having committed to applying the UN’s International Covenant on Civil and Political Rights to the people of Hong Kong, China has now written into law wide-ranging exemptions that cannot credibly be reconciled with its international obligations, or its responsibilities as a leading member of the international community.

We want a positive relationship with China. We recognise its growth, its stature, and the powerful role it can play in the world. It is precisely because we respect China as a leading member of the international community that we expect the Chinese Government to meet their international obligations and live up to their international responsibilities. They have failed to do so with respect to Hong Kong by enacting legislation that violates its autonomy and threatens the strangulation of its freedoms. It is a sad day for the people of Hong Kong—one that can only undermine international trust in the Chinese Government’s willingness to keep their word and live up to their promises.

For our part, the Prime Minister and the Government are crystal clear: the United Kingdom will keep its word and live up to our responsibilities to the people of Hong Kong. After further detailed discussions with my right honourable friend the Home Secretary, I can now confirm that we will proceed to honour our commitment to change the arrangements for those holding British national (overseas) status. We have also worked with Ministers across Whitehall and have now developed proposals for a bespoke immigration route for BNOs and their dependants. We will grant BNOs five years’ limited leave to remain, with a right to work or study. After these five years, they will be able to apply for settled status, and after a further

12 months with settled status, they will be able to apply for citizenship. This is a special, bespoke set of arrangements developed for the unique circumstances we face and in the light of our historic commitment to the people of Hong Kong.

All those with BNO status will be eligible, as will their family dependants who are usually resident in Hong Kong, and the Home Office will put in place a simple, streamlined application process. I can reassure honourable Members that there will be no quotas on numbers. I pay tribute to the Home Secretary and her excellent team at the Home Office for their work in helping to prepare for a moment that, let us face it, we all dearly hoped would not arrive. She will set out further details of our approach in due course.

In addition to changing the arrangements for BNOs, the UK will continue to work with our international partners to consider what further action we should responsibly take next. I can tell the House that yesterday in the UN Human Rights Council, the UK made a formal joint statement expressing our deep concern about the human rights situation in both Hong Kong and Xinjiang. Twenty-six other nations joined that statement. It is the first time a formal statement has been made at the Human Rights Council on this issue, and it was delivered through our diplomatic leadership. We will continue to work with our partners in the G7 and the EU and across the region.

I say again: we want a positive relationship with China, but we will not look the other way when it comes to Hong Kong and we will not duck our historic responsibilities to its people. We will continue to bring together our international partners, to stand up for the people of Hong Kong, to call out the violations of their freedoms, and to hold China to its international obligations, freely assumed under international law. I commend this Statement to the House.”

6.01 pm

Lord Collins of Highbury (Lab): My Lords, we support the Foreign Secretary’s view that a constructive relationship with China remains essential. From climate change to post-pandemic economic recovery, not a single global challenge can be tackled without such engagement.

However, we also need a hard-headed realism and to use targeted measures, in close partnership with our allies, to deter further aggression. If China is able to act with impunity in Hong Kong or the South China Sea, Taiwan could be next. The commitments made by Beijing in the joint declaration in 1984 have been ripped apart by the Chinese Government, and the international community must now step up to hold them to account.

I welcome the Statement. The Government have taken a step forward with the announcement of new rights for BNO passport holders and a statement at the United Nations, but this is no substitute for ongoing and sustained international leadership.

The Government must ensure that the offer to BNO passport holders does not discriminate and is not limited to the wealthiest residents. Will salary thresholds apply as part of the scheme for BNO passport holders? Has the FCO made any formal assessment of the numbers involved?

The oppressive crackdown on Hong Kong protesters expressing their human rights and freedoms requires an immediate response. Unfortunately, with the Magnitsky legislation still waiting in the wings, the Government are unable to target individuals most culpable for the situation we are witnessing. I ask the Minister again: do we have a date before Recess when the regulations will be laid? Will any of the initial designations relate to the situation in Hong Kong?

The UK must work with our allies at the UN and elsewhere to pressure China and the Hong Kong Administration to end their encroachment on Hong Kong’s freedoms. The Foreign Secretary told the Commons yesterday that he is

“open to the idea of a UN ... envoy”—[*Official Report, Commons, 1/7/20; col. 345*]

on Hong Kong. We have enormous influence at the UN and a historical allegiance to the people of Hong Kong. We cannot simply wait for another member state to step up to the plate, so can the Minister confirm whether the Foreign Secretary has given any further consideration to spearheading a campaign for a UN envoy?

The G7 must also stand together as an unequivocal voice for democracy and universal suffrage. Australia and others in the group have made their voices heard but some members have remained almost silent. Can the Minister confirm whether there are any plans for further joint action by the G7 following the statement published in June?

The application of the national security law was expected. The brutal response to objecting protesters was, sadly, predictable too. The situation may escalate, and it is crucial that the Foreign Office is fully equipped to respond. To this end, what assessment has the Minister made of the suggestion by seven former Foreign Secretaries for the UK to lead the formation of an international contact group to monitor the situation on the ground and co-ordinate action?

Finally, in recognition of the large number of UK citizens in Hong Kong, I hope that the Minister will offer a few reassurances about their safety; for example, will the FCO update its travel advice following the Canadian Government’s new warning? What channels of communication in the pandemic situation—we have raised this before—will the FCO utilise with UK citizens in Hong Kong and should that advice be updated? Are the Government in communication with any UK journalists on the ground in relation to their safety, considering the use of force against members of the press that we have seen. For too long we have had no strategy in relation to China at home or abroad. I hope the Minister will give us a commitment today that this marks the start of a very different era.

Baroness Northover (LD) [V]: My Lords, I thank the Minister for presenting this Statement. Hong Kong is in a terrible situation. The Government are right that the new security law constitutes a clear and serious breach of the joint declaration. We have obligations to assist, as a cosignatory to the joint declaration—a treaty lodged at the UN. Already, there have been arrests in Hong Kong, and we see peaceful activists withdrawing from political comment, in fear.

[BARONESS NORTHOVER]

In 1997, Hong Kong represented about one-third of China's GDP. Now that is only 3%. We may see a thriving territory—the gateway to China—but China's rise, and therefore the relative decline in Hong Kong's significance, shows loss of leverage. I therefore commend the Government for their actions, given China's economic and political dominance. But that makes it even more essential that international law is respected.

I welcome the proposals to grant BNOs and their dependants the right to live here, and to work or study, with a path to citizenship. However, this still leaves behind many young people who have been at the heart of protests and are therefore particularly at risk. Will the Government extend their offer to all Hong Kongers? What steps will the Government take to ensure that BNOs can leave Hong Kong to take up the Government's offer if they feel the need to do so? Will the UK provide them consular protection? What liaison has there been with Carrie Lam's office to ensure that those arrested will be immediately released, given that she emphasises that the new law does not crack down on freedom of expression? What steps are the Government taking to ensure that Hong Kongers in the UK or British citizens and British-based businesses will not be targeted? What is happening in relation to the proposed UN special envoy for Hong Kong to monitor human rights there? Are we looking at the Magnitsky sanctions in relation to human rights abuses there?

Does the Minister know if British judges on the Hong Kong Court of Final Appeal feel that they can continue, and what might be the future for Taiwan? I am very glad to hear in the Statement of the report of the UN Council on Human Rights about the situation both in Hong Kong and Zhenjiang. Reports of the treatment of the Uighurs are horrifying. Can he say whether full consideration has yet been given to the China tribunal's conclusions about forced organ harvesting? I note that the countries which supported us in that statement to the Human Rights Council are largely European, but notably not all EU countries, together with Australia, New Zealand and Canada. There are no Asian, African or Latin American countries, unless you count Belize in Central America and one Micronesian island. There is no widespread support from the Commonwealth, which clearly is not going to replace the EU as a supportive bloc for us and the rules-based order. Does he worry about those omissions, bearing in mind the heavy Chinese engagement in many regions of the world?

This is a dangerous time for Hong Kong and I am very glad that we are offering the refuge that we are, although that loss to the territory further damages Hong Kong itself. But wider than that, China's actions are immensely worrying for future global relations and the rules-based order. There are indeed so many issues that must be faced together, including, of course, climate change.

The Minister of State, Foreign and Commonwealth Office and Department for International Development (Lord Ahmad of Wimbledon) (Con): My Lords, I thank the noble Lord, Lord Collins, and the noble Baroness, Lady Northover, for their support for my right honourable friend the Foreign Secretary's Statement. As my right honourable friend has said previously, we delivered on

what we hoped we would not have to deliver, as a consequence of the decision taken to impose this new law on the people of Hong Kong. As both the noble Lord and the noble Baroness acknowledged, this is a breach, and my right honourable friend the Prime Minister and the Foreign Secretary have both been clear, during Prime Minister's Questions and the Statement yesterday in the other place, that this does represent a breach of the "one country, two systems" agreement, which has been signed. As the noble Baroness, Lady Northover, reminded us, it has status because it has been deposited within the context and the confines of the United Nations. Moreover, it is also a breach of China's own Basic Law for Hong Kong, as it contravenes the scope of Article 23.

I turn now to some of the specific questions, points and observations made by the noble Lord and the noble Baroness. I say first to the noble Lord, Lord Collins—I know that the noble Baroness, Lady Northover, agrees with this, as do we all—that China has an important role to play in our current international system and in the context of the United Nations. Further, as I have acknowledged from this Dispatch Box, it is also playing an important role in meeting the challenge of the Covid-19 pandemic. It has assisted many countries in procuring, for example, ventilators and PPE equipment. We acknowledge that, and I know that that view is shared by the noble Lord and the noble Baroness.

The noble Lord, Lord Collins, alluded to the importance of addressing climate change. China will be hosting an important conference next year, as will we at COP 26. It is important that we work together, because while the focus of the world has rightly been on the Covid-19 pandemic, one should not forget for a moment the challenges posed by climate change. Addressing these issues without China's direct engagement will not result in the success from a global perspective that we all seek. However, I repeat what I have said previously: we are clear-eyed in our Statement, and regarding our relationship with China. China is a key partner for us in many areas. However, as this issue, on which we disagree very strongly, has illustrated, we carry a special responsibility when it comes to Hong Kong, as yesterday's announcement again confirmed.

The noble Lord, Lord Collins, asked who will be eligible under the announcement that has been made. As I mentioned in your Lordships' House a few days ago, we estimate that some 2.9 million people will be eligible. That includes those who currently have BNO status, those who would qualify for BNO status if they applied for it and, of course, their dependants. That will be applied universally.

The noble Baroness, Lady Northover, asked about other young people. Looking at the media reports and current reporting, it was deeply concerning that only yesterday, as soon as the law came into effect, a number of individuals were detained under its provisions. We have already relayed these concerns: yesterday the Chinese ambassador to the UK was summoned to the Foreign Office and met the PUS, and we asked specifically about China's intent in terms of the implementation of the new law, particularly under certain key sections. We will continue to keep that very closely monitored

and under review. Of course, if people seek to apply for asylum in the United Kingdom, their applications will continue to be looked at on their merits.

I speak as a Minister but also in a role which both noble Lords know that I take very seriously—that of a Human Rights Minister. In our country's history we have long been supportive of those who have spoken out against oppression around the world. That should be the case today—and I am proud to say that it is—and it should be the case in the future as well.

The noble Lord, Lord Collins, and the noble Baroness, Lady Northover, both touched on the important issue of the Magnitsky global human rights regime and sanctions regime. I wish I could provide a specific answer to the noble Lord, Lord Collins, but I reassure him once again that we are looking to introduce the new regime very shortly. There are procedures and timings to go through but, as I have said to the House, it will certainly be before the Summer Recess and, as a Sanctions Minister, I have been closely involved in progress in this respect. I pay tribute to my right honourable friend the Foreign Secretary, who I know has taken a very personal interest in this particular issue and is seeking to bring it forward at the earliest opportunity.

The noble Baroness and the noble Lord asked about work within the UN. As a Human Rights Minister, I was directly involved in working with the 27 countries, including the United Kingdom, which signed and supported the statement that our ambassador delivered at the UN Human Rights Council. It covered—as the noble Baroness rightly acknowledged—not only the situation in Hong Kong but the appalling situation suffered in particular by the Uighurs in Xinjiang. We will continue to raise that issue with partners.

The noble Baroness asked about key partners. I have just come from a virtual meeting of the UN Security Council, which looked specifically at the importance of peace and securing peace in the context of the Covid crisis. The meeting was chaired by our German partners, and I was pleased to attend on behalf of the United Kingdom. We continue to work with our European partners, as well as others, in support of human rights, the rule of law, standing up for obligations and media freedom—again, a point mentioned by noble Lords.

The noble Baroness rightly mentioned her concerns about working through the context of the Commonwealth and other alliances. We continue to do so and need to do more; I fully acknowledge that. We need to make a very strong case on the premise of human rights and continue to make the case for upholding and strengthening the international rules-based system.

Coming back to my original point about the relationship with China today, China has, and is playing, an important role on the world stage. It also has international obligations on the world stage. We will continue to remind China of those obligations and to work together where our interests are aligned positively, in areas such as Covid-19 and climate change. However, this will not prevent us raising our deep concerns about the human rights situation in mainland China and, of course, the recent announcement made by the Chinese authorities on the new law for Hong Kong.

We therefore again appeal to the Chinese authorities to reconsider their approach, but in the interim we have now embarked on a particular route, and my right honourable friend the Home Secretary will be coming forward with further details of the announcements and operation of the new scheme. I am sure both noble Lords have seen the details of what we have announced thus far, and that will ultimately lead to a pathway to citizenship.

The noble Baroness, Lady Northover, also asked about British judges. That is an important point because, under this law, the appointment of those judges has switched. It has gone from the Chief Justice to the Chief Executive. We believe that that upholds neither the principles of China's basic Hong Kong law nor the spirit and details of the agreements that we have signed, including the joint declaration. That is therefore a worrying development; we will look at it closely because other announcements have been made as part of it, including on setting up local committees to look at the enforcement of the law. Again, we believe that that goes directly against both elements of the joint agreement and China's Basic Law for Hong Kong.

I assure the noble Baroness and the noble Lord that we will continue to work actively on the world stage. They asked about the UN rapporteur. In that regard, let me assure them that my right honourable friend has very much led from the front on this issue. I pay tribute to his efforts, particularly at the G7. As I said, we have worked closely on securing support with 26 other countries that, like us, are on the Human Rights Council. As my right honourable friend the Foreign Secretary said, if we need to explore further diplomatic routes, we will continue to do so.

The Deputy Speaker (Lord Alderdice) (LD): We now come to the 20 minutes allocated for Back-Bench questions. I ask that questions and answers be brief so that I can call the maximum number of speakers.

6.21 pm

Baroness Anelay of St Johns (Con) [V]: My Lords, what analysis have the Government made of the implications of Article 38 of the new law for all of us in the UK? It appears to imply that if a non-Hong Kong resident travels to Hong Kong, either as a tourist or on business, they could face prosecution there for things that they had said or done legally in the UK.

Lord Ahmad of Wimbledon: My Lords, my noble friend is right to raise this issue, which was part of the Permanent Under-Secretary's discussions with the Chinese ambassador. Does this apply just to those with non-resident status in Hong Kong, or does it apply not just to those people who have travelled elsewhere in the world but to everyone? That has not been made clear and we will continue to seek that clarification. We outlined those concerns in our meeting with the Chinese ambassador yesterday.

Lord Carrington (CB) [V]: My Lords, in announcing the decision on BNO passports, what consideration has been given to the likely Chinese reaction? I believe that there is a provision in an annexe to the joint declaration stating that BNOs will not have the right of abode in the UK. What happens if China retaliates

[LORD CARRINGTON]

by removing some of the Hong Kong rights of BNOs on the basis that they can no longer be considered citizens of Hong Kong? This is scarcely a comfort to those who wish to continue to work and live in Hong Kong.

Lord Ahmad of Wimbledon: My Lords, what has happened through the announcement by the Chinese is a breach of the joint declaration.

The noble Lord is correct to say that the BNO status made provisions specifically for those who would stay resident in Hong Kong. Within that, special provisions were granted that would allow them to visit the UK without visa access, but the joint declaration has been breached. We have always retained that we have an obligation to those with BNO status and those who are eligible for that status. We are now carrying out measures and have made announcements to that effect to support them. For those who wish to come to the UK, there is a pathway to citizenship. They must go through due process, meaning that, after their arrival, they will be given leave to remain. Importantly, they will have the right to remain and work in the United Kingdom. After the five-year period, they will be allowed to embark on a route to citizenship. That is the right thing to do; it is within our obligations to the people of Hong Kong.

As to what the Chinese reaction will be to that, we implore them to recognise that Hong Kong has a special status. It has served the Chinese and the global community well. We should seek to retain the freedoms and liberties that it has enjoyed since the signing of that agreement.

Baroness Goudie (Lab) [V]: My Lords, I thank the Foreign Secretary for his Statement yesterday. There have been two deeply disturbing and related developments in Hong Kong in the past few days. One has been the police brutality against pro-democracy protesters. The United Kingdom must lead an international inquiry into that police brutality, as the pepper spray and the arrests have a chilling effect on democracy. The second adverse development is the adoption of the so-called national security legislation under which the arrests were made. This is a breach of the joint declaration. It is an assault on peaceful protest and human rights. There is to be a sinister national security office, run from the mainland; the independence of the judiciary is undermined; and the chief executive is not the chief justice but will select the judges for the cases alleged to concern national security. This is deeply worrying.

Lord Ahmad of Wimbledon: My Lords, I agree with the noble Baroness. I have covered many of the points she has raised, and it will suffice to say for the record that I agree with many of her concerns. Let me assure her that we are raising this with partners, looking at how we can collaborate and concentrate support, and bilaterally with the Chinese Administration directly.

Lord Jones of Cheltenham (LD) [V]: My Lords, I was in Hong Kong in 1989 when the Tiananmen Square massacre happened, and I saw panic everywhere. Why do we not, with our international partners, offer residency to all Hong Kongers?

Lord Ahmad of Wimbledon: My Lords, as part of the agreement we signed, special status was granted through the BNO route. We have made an offer respecting, regarding and upholding our obligation to them. However, there are many people who love Hong Kong and will want to remain there. That is why it is important that we continue, in parallel, to implore the Chinese authorities to create the conditions so that all Hong Kongers who wish to, irrespective of whether they qualify for BNO, can remain and prosper in Hong Kong.

Baroness Helic (Con) [V]: My Lords, I thank my noble friend for his answers so far. History teaches us that when you have two autocratic regimes, as we now have in China and Russia, the only way for there to be some balance in the world is for western democratic nations to join together. Will my noble friend tell the House what concrete steps his department has taken to bring this kind of coalition about?

Lord Ahmad of Wimbledon: My noble friend is quite right to raise this issue. We continue to work through the UN Security Council, where, as she may know, this issue was specifically discussed in May. As I have already alluded to, we have discussed and agreed a statement this week in the context of the UN, through its Human Rights Council. There is also the statement and support that we have received from the G7. It is important that democracies come together. We will continue to work in this regard to ensure that the UK fulfils its obligations to those in Hong Kong, while respecting that we still believe that the agreement signed should remain in force for the period intended, which was 50 years.

Lord Craig of Radley (CB) [V]: My Lords, does this welcome BNO announcement include the 64 Hong Kong Military Service Corps veterans who applied for right of abode in March, and who, with other corps veterans, have had applications under active consideration in the Home Office for over five and a half years, without a decision? Does the Minister agree that these loyal veterans who served in Her Majesty's Armed Forces deserve priority approval now, and that their wish for a full British citizen's passport, which other corps veterans received before 1997, should be met?

Lord Ahmad of Wimbledon: My Lords, I agree with the noble and gallant Lord about the importance of this. I am sure I speak for all noble Lords in paying tribute to those who have served our country and fought for it so bravely. Since the last time we discussed this matter, I have asked for a specific update from the Home Office; I will write to him specifically on the 64 corps members he has mentioned. On the wider issue of prioritisation, as I said earlier, BNO status is granted to all those who qualify, which is 2.9 million, irrespective of their status—the issue of salaries was raised previously—or what they may do. This is open to everyone, and that process will be announced in detail by my right honourable friend the Home Secretary.

Baroness Warwick of Undercliffe (Lab) [V]: My Lords, the Statement is clear that it will not be possible for the UK alone to persuade the Chinese Government to respect their international commitments—a much

broader coalition is needed. The Minister said something about the next steps for the work being done with the UN, the EU and other partners to achieve co-ordinated pressure on China: will he say something more about the timeframe? The Statement emphasises that a constructive relationship with China remains essential. China is the UK's third most important collaborative research partner; it ranks ninth as a destination for UK students studying full degrees abroad; and a quarter of our international students are from China. Does the Minister agree that in standing up, as we are and we must, for the freedoms of Hong Kong, we must take care also that we do not stoke Sinophobia in the UK?

Lord Ahmad of Wimbledon: I totally agree with the noble Baroness's concern. It is important that we value the incredible contribution of all our communities to the United Kingdom's progress and prosperity, and the British Chinese community is reflective of that ambition and contribution. On the issue of further work within the international arena, as I already alluded to, we are exploring what more can be done. We have achieved a great deal in the time. The noble Lord, Lord Collins, talked about a strategy. I believe, having looked at this brief very closely, that, domestically and internationally, we have had a strategy in place, and we will continue to apply that pressure. The diplomatic channel remains open with China and we will continue to work with China bilaterally to raise these issues as well.

Baroness Smith of Newnham (LD) [V]: My Lords, the offer to BNO passport holders and citizens is welcome, but for those who do not have passports—about nine in 10 of those who are eligible—what mechanism is in place for the Government to recognise them if they come and seek to take up residence in the United Kingdom?

Lord Ahmad of Wimbledon: My Lords, I believe I have already addressed this issue. The route, or the programme which has been announced, is specifically for those who currently hold or qualify for BNO status and their family dependants. As to others, each case will be looked at on its merits. If someone comes to the United Kingdom, from wherever they may be in the world, and seeks sanctuary or asylum in the United Kingdom, that case will be looked at on its merits.

Lord Balfre (Con) [V]: My Lords, I notice that the terms for people from Hong Kong are considerably better than those we are affording to EU citizens, many of whom have lived here for years. Will there be any salary threshold applied to new migrants who wish to come here, and will we treat them more favourably than EU citizens who are already here?

Lord Ahmad of Wimbledon: My Lords, I am sure my noble friend will recognise that the situation faced by those who are eligible for BNO status or have BNO status—or, indeed, Hong Kongers more generally—is markedly different from the situation faced by EU citizens, and therefore it is right that we have a specific scheme, as we said we would, for BNOs.

Lord Truscott (Ind Lab) [V]: My Lords, will the Minister convey to the Chinese authorities that, while they may unilaterally repudiate the Sino-British joint declaration, which has the force of an international treaty, the result will be that no one will ever take the Chinese at their word again, whether over Huawei or anything else?

Lord Ahmad of Wimbledon: My Lords, I assure the noble Lord that we have reminded China of that obligation. As I said, China has an important role on the world stage and needs to recognise that, if it breaks its word, it may not have the trust of the international community in future treaties, obligations and agreements that have been signed. That is a matter for China to consider very carefully.

Lord West of Spithead (Lab) [V]: My Lords, I welcome the Government's Statement but we must tread very carefully. There is no doubt that events have seriously damaged the current economy of Hong Kong and its future prospects. China is building up and strengthening other financial centres to outshine Hong Kong and, although the PRC had hoped that making the Hong Kong system a success would attract Taiwan, it now does not seem to care about that. China needs to be confronted by a united and cohesive group of nations if there is to be any hope of persuading her to be a respectable member of the world community and possibly even to listen on matters concerning civil rights.

China's recent behaviour on the international stage is a cause for concern; indeed, Australia is so concerned that it has just increased defence spending dramatically. Urgent action is needed. Does the Minister agree that we should, for example, encourage the largest possible number of nations to recognise Taiwan; set up a new south-east Asia treaty organisation on the sort of scale that we did with NATO in 1949 to confront the Soviet Union; and work with our allies, possibly through UN auspices, to review all trading links with China, ensuring that she acts legally in terms of market access, compliance with UNCLOS, the use of cyberspace and so on?

Lord Ahmad of Wimbledon: My Lords, there were several proposals there. Specifically on Taiwan, our position has not changed. We believe that the autonomy Taiwan enjoys needs to be protected, but equally it is for those on both sides of the Taiwan Strait to reach an agreement. On the noble Lord's wider issues, we recognise, as I said at the start, that China has an important role to play on the world stage. Now is the time for China to show that it wishes to do so, but we will always make the case on human rights internally in China as well as standing up for those in Hong Kong.

Baroness Ludford (LD) [V]: My Lords, I too want to ask about Taiwan. It is anticipated that many Hong Kong residents, including those with BNO status, might wish to go to Taiwan. What further support and indeed recognition are the Government contemplating offering to the state and Government of Taiwan, whether to support them specifically in accommodating Hong Kong residents or more generally?

Lord Ahmad of Wimbledon: I believe I have answered what the Government's position is. I add that when it comes to important issues such as Covid-19 we therefore support Taiwan's participation in international organisations where it can contribute to the global good. Nationhood is not a prerequisite for that, and a good example is its participation in the World Health Organization.

Lord Robathan (Con) [V]: My Lords, I commend the Minister in particular and the Government in general for their resolute stand and action on this hugely difficult issue. The message needs to get to the people of China, beyond the Government, that the Chinese Government are breaking international agreements and behaving badly; there is nothing Sinophobic in saying that. I suggest to my noble friend that we look at either restricting or ending visas for the tourists, students and businesspeople who come here. That may cost our universities and tourism some money but it is necessary to send a message to the Chinese people, particularly the growing middle class in China, that their Government are behaving incredibly badly.

Lord Ahmad of Wimbledon: China, Chinese culture, Chinese people and Chinese business have played an important role globally and will continue to do so. Our challenge is not with the Chinese people but with the Administration in Beijing, and we will continue to make that case very forcefully. China continues to make important contributions. We have always welcomed Chinese students to the UK, and I believe that that has been a positive thing for both countries.

Lord Mackenzie of Framwellgate (Non-Affl) [V]: My Lords, I thank the Minister for presenting the Statement. As the Chinese Communist Party breaches international law by putting an end to freedom and democracy in Hong Kong, together with its harvesting of human organs from political prisoners and the sterilising of Uighur Muslim women in China, will the Minister give a further assurance to the House of serious consequences for the leaders of the Chinese Communist Party, perhaps eventually by using the Magnitsky legislation? Does this not put the final seal on the involvement of Huawei in the development of 5G mobile technology in the UK?

Lord Ahmad of Wimbledon: My Lords, I assure the noble Lord that we will continue on all fronts to look at the human rights situation in China with respect to the points that he has raised. I have seen directly

through diplomatic engagement that China does take notice of the international statements that we make through the UN system and the concerns that we raise bilaterally, and we will continue to do so. On the Huawei issue specifically, I know that colleagues in the digital department will respond in due course, but our position has always been clear: we want to protect our networks, and appropriate security measures are in place to do just that.

Lord Hain (Lab) [V]: My Lords, given that the Minister has confirmed that its oppressive actions over Hong Kong are in direct breach of international law, will the Government now join our European Union allies in bringing China before the International Court of Justice?

Lord Ahmad of Wimbledon: We are working with international partners but, as the noble Lord will be aware, the ICJ requires the agreement of both parties, and in this case I am not sure that the Chinese authorities would agree to an ICJ intervention.

Lord Cormack (Con) [V]: Will Her Majesty's Government urgently convene an international conference of democracies to seek to persuade the Chinese that they will never be part of the civilised community of nations if they treat their own people abominably and abrogate international treaties into which they willingly entered?

Lord Ahmad of Wimbledon: My Lords, in my view, we already have the vehicles for that kind of direct engagement with China, not just through democracies but through the UN system. We will pursue those avenues. On the wider issue of human rights and the obligations of any Government, wherever they are in the world, how you treat your own citizens is an important test to determine how you behave internationally. The concerns we have had about the Uighur community in particular, as well as about other minority communities in China, are well documented. We will continue to raise those concerns through international fora, including the Human Rights Council.

Finance Bill

First Reading

The Bill was brought from the Commons, endorsed as a money Bill, and read a first time.

House adjourned at 6.42 pm.

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