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PARLIAMENTARY DEBATES  
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# HOUSE OF LORDS

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<b>Abbreviation</b>	<b>Party/Group</b>
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

Friday 10 July 2020

11 am

*The House met in a Hybrid Sitting.*

*Prayers—read by the Lord Bishop of Carlisle.*

## Arrangement of Business

*Announcement*

11.07 am

**The Deputy Speaker (Lord Duncan of Springbank) (Con):** My Lords, the hybrid sitting of the House will now begin. Some Members are here in the Chamber, respecting social distancing, others are participating remotely, but all Members will be 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. Please be patient if there are any short delays switching between physical and remote participants. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

## Port Examination Codes of Practice and National Security Determinations Guidance Regulations 2020

*Motion to Approve*

11.08 am

*Moved by Baroness Williams of Trafford*

That the draft Regulations laid before the House on 8 June be approved.

*Relevant document: 19th Report from the Secondary Legislation Scrutiny Committee*

**The Minister of State, Home Office (Baroness Williams of Trafford) (Con):** My Lords, this instrument gives effect to the draft codes of practice and guidance relating to important changes to counterterrorism port examination and biometric retention powers made by the Counter-Terrorism and Border Security Act 2019, as well as new counter-hostile state activity port examination powers under that Act. It will bring into force a revised code of practice regarding functions carried out under Schedules 7 and 8 to the Terrorism Act 2000; a code of practice regarding functions carried out under Schedule 3 to the Counter-Terrorism and Border Security Act 2019; and revised guidance issued under the Protection of Freedoms Act 2012 concerning the retention of biometric data for national security purposes. I shall outline what these documents are and their significance to the operation of these important powers.

I turn first to the draft codes of practice for the port examination powers. Counterterrorism officers who currently use Schedule 7 port examination powers must do so in accordance with the relevant code of practice. While the code largely reflects the primary legislation, it also includes further procedural guidance for those exercising the powers and additional safeguards for those subject to them.

In passing the 2019 Act, the House approved amendments to the Schedule 7 powers that have necessitated changes to the code. It now reflects new provisions to pause the detention clock where a detained person requires medical treatment during the examination; to prohibit oral answers given by an examinee in response to questioning under compulsion being used as evidence in a criminal trial; and to require an examinee in detention to choose a different solicitor where there are concerns with their chosen solicitor.

A similar code was produced for the Schedule 3 powers. Noble Lords will recall considering an early draft alongside the Bill in Committee. It differs from the Schedule 7 code in two respects: first, to reflect that Schedule 3 is targeted at detecting those engaged in hostile activity, as opposed to terrorism; and secondly, to provide additional detail relating to new property seizure and retention powers, exclusive to Schedule 3, that require an examining officer to seek the authorisation of the Investigatory Powers Commissioner to retain and use a person's property, or copies of that property.

Following passage of the 2019 Act, both codes were subject to public consultation. In response, we have strengthened safeguards for confidential material, making it clear that such material should not be accessed by front-line officers without prior judicial authorisation. We have extended these safeguards to cover material which may disclose a source of journalistic information. We have also provided further clarity on the practical operation of the new Schedule 3 retention powers. I trust that these improvements are welcome, especially to the noble Lords, Lord Rosser and Lord Kennedy, and the noble Baroness, Lady Jones of Moulsecoomb, who spoke persuasively about the need for additional safeguards in the codes. This instrument also brings into force updated guidance issued under the Protection of Freedoms Act 2012 on the making or renewing of national security determinations. NSDs allow the biometrics—that is, fingerprints and DNA profiles—of non-convicted individuals of national security interest to be retained after initial statutory retention periods have expired.

Revisions to the guidance reflect changes made by the 2019 Act and recommendations from the independent Biometrics Commissioner. The measures are intended to strengthen and support the police use of biometrics in counterterrorism investigations. The changes being made also protect civil liberties and ensure that the process remains subject to independent oversight. The changes include increasing the maximum length of an NSD from two to five years. Operational experience has shown that the previous two-year limit is too short in many cases. Those involved in terrorism will often pose a much more enduring threat than this. This extended period will strike a better balance between allowing the police to prioritise their resource and retaining appropriate safeguards and checks.

NSDs are an important national security capability. Biometric material retained using NSDs has led in the past year to the identification of individuals thought to have travelled to take part in the conflict in Syria and Iraq, provided evidence of potential terrorist offences and been matched to potential visa and asylum applications, resulting in individuals being refused entry to the UK. Following passage of the 2019 Act,

[BARONESS WILLIAMS OF TRAFFORD]

we have undertaken significant consultation with key stakeholders when revising the biometrics guidance, including with the police, the devolved Administrations, the Lord Advocate and the Biometrics Commissioner.

I urge noble Lords to consider the draft codes and revised guidance favourably. It is clear that the UK faces a sustained threat from hostile state activity, and our citizens continue to be subject to heinous acts of terrorism by those intent on harming and dividing us. The provisions within this statutory instrument will support the police in their efforts to keep us safe from these threats. I commend the regulations to the House.

11.14 am

**Lord Blunkett (Lab) [V]:** My Lords, I congratulate the Minister on demystifying a complex area and welcome the changes made in this statutory instrument, particularly the updating of Schedules 7 and 8 of the 2000 Act and their relationship to Section 3 of the 2019 Act. However, I want to concentrate not so much on the safeguards that my colleagues have previously raised but on the importance of the revised NSD guidance and extending the retention of biometric materials from two to five years.

The 2012 Act was a reaction to the campaign of those who rightly concentrated on civil liberties but who failed to understand how vital retaining biometric data is in safeguarding our well-being. Given that we are talking about state-sponsored terror, and in light of the examples the Minister gave concerning the Syrian conflict, this is about the protection of the nation, so updating those measures and closing the loophole in the 2014 Act must be welcomed.

It does not matter how good the updating of the NSD guidance and the processes are if we are not covering all the entry points into the country. We are talking about ports, many of which are not covered in a way that would make this border relevant. Can the Minister say something about that?

11.16 am

**Baroness Ludford (LD) [V]:** My Lords, the Schedule 7 power is enormously controversial in conferring extensive powers to stop, examine and search persons at ports without any need for evidence or reasonable suspicion. A 2012 review and the work of successive Independent Reviewers of Terrorism Legislation, including the noble Lord, Lord Carlile of Berriew, who is speaking today, and his successor, the noble Lord, Lord Anderson of Ipswich, has led to the introduction of some reforms.

The new code introduces further welcome improvements to the training of officers and the rights of persons stopped. One of these, which reflects fears of a threat to journalism such as that highlighted in the David Miranda case in 2013, is the ban on compelling a person to disclose the identity of a source of journalistic information without judicial authorisation, although that can be after the event.

Race, ethnicity and religion are barred as criteria for selection,

“except to the extent that they are used in association with considerations that relate to the threat from terrorism”,

which is a troubling criterion. There are fears that Schedule 7 stops are based on religious and racial profiling. Can the Government publish statistics on the religious affiliation of those stopped under Schedule 7, to address the accusation that it is being used predominantly and deliberately against the Muslim community?

I realise that Schedule 3 powers are not terrorism-related, but it is unfortunate that, while the Independent Reviewer of Terrorism Legislation oversees Schedule 7, it is the Investigatory Powers Commissioner who oversees Schedule 3. Is there scope for co-ordinating the reviewing? That would be helpful.

Lastly, the conditions for retention of biometrics under an NSD are too wide. The revised guidance says that chief officers should consider making an NSD for less than the maximum period of five years if they are not satisfied that retention for the full period would be necessary and proportionate. A cynic would doubt how often that will happen. Will the Government report back on the relevant statistics?

11.19 am

**Baroness Altmann (Con) [V]:** My Lords, I warmly welcome my noble friend's words and the measures in this statutory instrument. I certainly support the changes to the Section 7 powers which were introduced in the 2019 Act. It is vital that we ensure that our citizens are protected against hostile activity. Retaining biometric data for five years rather than two years seems the minimum of what we need to do. I have a number of questions relating to this to ask my noble friend. If she does not have the answers now, perhaps she will write to me.

First, how many officers do we have engaged in this activity, how many ports are covered and how many are not covered? Secondly, what are the implications of leaving the EU and the EU security co-operation arrangements should we have no deal at the end of this year? Will my noble friend give the House an idea of how many immigration, customs and policing officers have undergone the training that is required under paragraph 56 of Schedule 3 to the 2019 Act, which requires ongoing training and new procedures for those officers? How are we doing in ensuring adequate training? Finally, what provision is there for the consideration of germ warfare by hostile states, as was potentially involved in the Novichok incident in Salisbury?

11.21 am

**Lord Mann (Non-Aff) [V]:** My Lords, I congratulate the Minister on her work and success in bringing this forward. To assist with balance in the debate, I shall challenge her on the decision on NSDs being extended from two years to five years.

In my view, five years is insufficient; 15 years would be a far more rational timescale. The idea that this impinges on civil liberties to an extent that is problematic for society is a nonsensical argument when one considers the amount of data that Facebook, Google and other internet companies have on all of us with electronic devices. I would feel more comfortable if it were a 15-year period, rather than a cut-off at five years. Perhaps the Minister would like to comment on why it is only an additional three years. Indeed, I would be

much happier if we were to bring in a biometric ID card, which I think would be hugely popular among the population of this country because of its positive security and other implications.

My other question to the Minister relates to staffing, particularly with the possibility of a no-deal Brexit and the potential for a level of diversion of staff and staff attention at that time. Are we sure that we have enough staff working at our ports? My fear is that we do not and that we are not sufficiently well resourced. Will the Minister make the case strongly to the Treasury that a larger budget is required, in the knowledge that many in Parliament would support that larger budget to secure our borders?

11.23 am

**Lord Harris of Haringey (Lab):** My Lords, I draw attention to my interests as set out in the register. The Government have responded to concerns raised in your Lordships' House about the safeguards accorded to journalists in protecting their sources. That is why we have these revised codes, balancing the protection of the country against the legitimate rights of journalists. That is all very welcome, but I return to the question that I have raised before in your Lordships' House: how will this work in practice?

I should say at the outset that I believe in the importance of a free press that holds those in authority to account and acts in the public interest—but that does not mean that everything that all journalists do is automatically honourable. I am aware of instances where journalists have knowingly and illegally received information that is rightly secret and have gone ahead with publication, while knowing how damaging that is to the nation's security.

However, I have a more fundamental question for the Minister. How does an officer at our ports know that someone is a journalist? What constitutes a journalist, so that they may be subject to the extra protections of paragraphs 42 and 52 of the Schedule 7 code? How can prior independent or judicial authorisation be obtained when the officer stopping an individual does not know that they are about to claim to be a journalist? If the individual stopped declares that he or she is a journalist, what defines that person as a bona fide journalist?

We can now all be citizen journalists. We can all blog, post on YouTube and tweet, and I accept that some very important material has rightly been put into the public domain through such routes. But what makes a citizen journalist? Could it be just one blog post or one tweet, or merely the intent to post? Does this mean that anyone stopped at the border can self-define as a citizen journalist and refuse to hand over material? How can we prevent the abuse of these protections for legitimate journalists by individuals with malign intent?

11.25 am

**Lord Purvis of Tweed (LD):** My Lords, I think the whole House agreed with the Minister when she said in her opening remarks that the country is facing a sustained threat of hostile activity from states. I want

to ask two questions about the practicalities of enforcing some elements of the guidance which have been referred to by other noble Lords. One question refers to what I will term "intelligence ports of entry", as regards us knowing the likelihood of people who are presenting themselves as hostile to the UK when they come to the UK. My other question is about physical ports of entry and the capabilities that we will have at them after 1 January 2021.

With regard to intelligence ports of entry, throughout the guidance and the legislation is the assumption that we will use intelligence-led security information from our officers at the ports of entry. I want to ask a question that the former Prime Minister asked the current Prime Minister on 3 June. She asked whether, "the UK will have access to the quantity and quality of data that it currently has through Prüm, passenger name records, the European Criminal Records Information System and SIS—Schengen Information System—II, none of which, I believe, should require the European Court of Justice jurisdiction in the UK?"—[*Official Report*, Commons 3/6/20; col. 846.]

The Prime Minister was not able to give that reassurance. Given that no-deal planning and contingency arrangements have been dropped because of the Government's assumption that we would have a security treaty with the European Union, what mechanisms will be in place to ensure that we can still rely on that data and that these officers can use that intelligence when people come to the UK?

My second question relates to paragraph 6 of the Schedule 3 guidance with regard to the examination of goods. The International Trade Secretary, Liz Truss, wrote to the Chancellor and the Minister for the Cabinet Office, Michael Gove, that a failure to make sure that all ports are ready to carry out the full range of checks from 1 January next year will mean that we are vulnerable not only to smugglers but to those with hostile interest. We already know that there has been a deferral of six months for full security checks at our ports of entry. Can the Minister assure us that there will not be a delay in these crucial elements at our ports?

11.28 am

**Lord Blencathra (Con) [V]:** My Lords, like the noble Lord, Lord Blunkett, I congratulate the Minister on demystifying highly complex regulations, and I congratulate the noble Lord, Lord Mann, on his sheer guts and chutzpah in challenging every liberal nostrum.

I am content with the proposed extension to five years on national security grounds, provided the material is properly destroyed if there are no grounds for suspecting people of terrorist activity. I am happy that people who are convicted of crimes should have their DNA and biometric material kept for evermore, but I do not see the need, or the moral legitimacy, of keeping for three years the biometric material of innocent people or of those who have been charged with an offence not related to terrorism—an ordinary crime. Three years is a great improvement, brought in by the coalition Government in 2012, on the completely open-ended system there was before, when the police, for no good reason and simply because they could, kept DNA and biometric data on innocent people. It is for Parliament to make that decision, not the police acting unilaterally.

[LORD BLENCATHRA]

When I was Police Minister way back in the 1990s, I vigorously defended the police, but it is with deep regret that I say that I do not trust them any more on a range of things, and that really upsets me. So I am not confident that the police are fully complying with the legal requirement to destroy all biometric data after three years. I would be grateful if the Minister will assure me—if not today, perhaps on some other occasion—that that is happening, that checks are being carried out, and that DNA and biometric data are not being retained by the police for longer than three years.

11.29 am

**Lord Carlile of Berriew (CB) [V]:** My Lords, I am grateful to the Minister for her openly consultative approach to these provisions and for the changes that have been made. I think that we have something that should unite most of the House.

These are important new codes of practice, and they are an improvement on their drafts. Codes of practice were almost unheard of when I was on the Police and Criminal Evidence Bill Committee in 1984. They have become a very important part of policing and of the scrutiny of policing, and rightly so. They have given much more confidence as to how significant powers are exercised. Schedule 7, which I have often seen exercised in practice in ports, is a very effective tool as part of the weaponry against terrorism. It produces significant intelligence that can be used across the board in this area.

It is also very helpful that these codes are not only comprehensive but comprehensible to the police officers and others who are trained to use them. I have sampled the training in the past and have found it to be very good.

I support the noble Lord, Lord Harris, on a point that he raised about the definition of a journalist. It is all too easy for people to self-define as journalists, and that is something that we would like to avoid.

It is very important that disclosure of confidential information is being protected so carefully in these provisions, although of course we need to be confident that it is not overprotected. I ask the Minister to confirm that the crime exception remains in force and that information that national security requires should be revealed will be revealed and used in the future.

11.32 am

**Lord Naseby (Con):** My Lords, this is an absolutely vital piece of legislation. I agree with the noble Lord, Lord Mann, about the maximum duration of retention from two to five years, and in fact I ringed that when the question came up. I am not at all sure that five years is sufficient. Perhaps my noble friend can tell us why five years as opposed to a longer term has been chosen.

I also want to raise the question of ports. I raised this matter previously in relation to airports. Northampton has a modest airport outside the town, and at the height of terrorism no checks were made there. However, there is now a sort of observation post. Therefore, in relation to UK ports that are not permanently staffed, I wonder whether there should be a degree of observation and a means of communication.

Regarding paragraph 6.2 of the Explanatory Memorandum and the subject of staff, are we up to full complement? Are there regional differences? Are we confident that there is now diversity, and is the necessary skill set there? Those are important issues in today's world but they might not have come up previously.

Under paragraph 7.6 of the Explanatory Memorandum, I am also slightly mystified as to why oral evidence cannot always be given. Oral evidence should presumably be recorded in today's world. Also, I am not clear why, under Schedule 7, a different lawyer should be used at that point.

I also have some questions about the consultation, referred to in paragraph 10.2 of the Explanatory Memorandum. I do not know how many people were consulted and it would be interesting to know, but eight responses do not seem to be very many. Then there is the question of training and, finally, the withdrawal review. I wonder whether the review should not be more regular than is indicated in paragraph 14.1.

11.34 am

**Lord Kennedy of Southwark (Lab Co-op) [V]:** My Lords, I thank the noble Baroness for presenting to the House these regulations, which flow from our debates last year when we considered the Counter-Terrorism and Border Security Bill. Then, the House made a number of important changes to the legislation. I am content with what is before us but I have a few comments and questions which I hope that she will be able to respond to.

I endorse the comments of my noble friend Lord Blunkett about the retention of biometric data. This is important, as we are talking about the protection of our whole country from acts of terrorism and, as he said, state-sponsored terrorism.

A number of noble Lords have drawn attention to the fact that a number of ports might not have officers stationed at them to undertake the supervision of people arriving in the UK. I want to expand that to airports and small airfields. Are we confident that we are properly protected?

My noble friend Lord Harris of Haringey and the noble Lord, Lord Carlile, raised the important point of the risk to our security of people claiming to be journalists and saying that the material they have on them is protected from being searched. I want to protect real journalists from having their material searched, but this cannot be a means for those who want to do us harm to get into the country. Therefore, can the noble Baroness set out what protections we have? I have a Twitter account, have written a few blogs and have even had the odd article published, but I would never claim to be a journalist.

11.36 am

**Baroness Anelay of St Johns (Con) [V]:** My Lords, I support these regulations, which at first blush are indeed technical, but they are an important part of the powers by which the Government can maintain strong security policies to protect all of us from terrorists and hostile state actors alike. The attempted assassination of Sergei and Yulia Skripal shows how such murderers

can operate without any regard for the lives of others who take part in the investigation of the crime or those who suffer poisoning as a consequence of the reckless disposal of the killers' evidence.

My question to the Minister therefore relates to the Home Office document *Examining Officers and Review Officers under Schedule 3 to the Counter-Terrorism and Border Security Act 2019—Draft Code of Practice*, which, as my noble friend the Minister said in opening, relates to hostile activity. Section 3, at page 13, sets out very clearly the proposed “Welfare considerations during examination”—the welfare, that is, of the suspects. It is right that those matters are prescribed carefully.

However, can my noble friend give me assurances that welfare procedures are in place for those carrying out the examination, who could be exposed to harmful chemical agents? What precautions are taken to prevent harm to the examining officials and others in the vicinity? Who carries out the training of those who engage in what is potentially life-threatening work? I look forward to her response.

11.38 am

**Lord German (LD) [V]:** My Lords, I hope that the Government will publish the statistics on the use of these regulations, particularly on the religious affiliation of those stopped under Schedule 7, so that Parliament can be assured that accusations based on religious and racial profiling do not occur. I hope that the Minister will be able to give us that reassurance.

Like many other noble Lords, I am concerned about the points of entry, and I want to ask specifically about free ports. The British Government have said that they want the first to be opened in the UK by 2021. Meanwhile, the European Commission has said that free ports' special regulatory status has aided the financing of terrorism, money laundering and organised crime. There are 82 free ports in the European Union, so the EU has a great deal of experience in dealing with them. It is clamping down on them because they pose a security risk due to the high incidence of corruption, tax evasion and criminal activities such as people smuggling, corruption and money laundering.

Can the Minister reassure the House about the steps that the Government are taking to regulate the UK's proposed free ports, and can she say whether these regulations will apply fully in such free ports to ensure that the EU experience does not happen here?

My second question relates to the codes of practice and training. The codes lay out the training and accreditation regime for police and officials exercising the powers, and they refer to nationally approved programmes and the compulsory nature of these training programmes and their accreditation. Since these codes of practice have legal effect only from the passing of these regulations, can the Minister outline the preparatory work that has been undertaken to ensure a seamless transition to the new training and accreditation regime? How long will it take to get the new schemes up and running, and are we right to assume that the officials and police who currently exercise the powers outlined will be able to continue in their roles while awaiting the new training and accreditation scheme to be embedded?

11.40 am

**Lord Holmes of Richmond (Non-Afl) [V]:** My Lords, I thank my noble friend the Minister for the clear and comprehensive manner in which she introduced the regulations, as is always her style; she has a great knack of making the complex comprehensible. Like other noble Lords, I will comment on the retention of biometrics. Can my noble friend say how much of a compromise position the five-year mark was, and how strong the evidence and arguments were for having a longer period—potentially, as the noble Lord, Lord Mann, suggested, 15 years?

Secondly, on the question of ports and the UK border, I think it would be fair to say that, in many ways, we do not have a porous border but a partial border. Can the Minister tell us what number of ports of all types are currently, to all intents and purposes, unpersonned in this respect? What percentage of the overall number of ports is this, and how many different levels of coverage are there from, say, an unpersonned port all the way through to what one might expect at the highest level at, say, London's Heathrow Airport?

As a number of noble Lords have commented, if the Minister's department were to make the case for greater coverage at all ports, I think that would get a good deal of support from all parties across Parliament.

11.42 am

**Lord Balfe (Con) [V]:** My Lords, I too extend my congratulations to the Minister on attracting 24 speakers to her debate on a Friday morning and on presenting it so clearly. I want to make three points. The first is on biometric data. I agree strongly with the noble Lord, Lord Mann, but I would like to come at this from another angle. There seems to be a tendency to think that keeping biometric data is somehow wrong. I put forward the case that having a national register of biometric data might actually be a good thing, and that we should possibly extend it to having a national DNA database. This is the technology of the future—the technology that succeeds fingerprinting. The thing is not to let the police look after it but to have it in the hands of an independent agency—an independent, accountable agency, which is publicly responsible for the data so that we do not leave it to the whims of the police at all.

My second point, which occurs in the document, is about allowing the police to keep us safe. We all agree with that. Most people would agree that some of the recent things that have happened with regard particularly to race have done the police's reputation no good at all. It is in everybody's interest to get proper training so that the application of these powers is seen to be fair to all sections of society.

My third and final point is that we say we are strengthening UK defences against hostile state activity, but I would like to know what more is perceived as needed—and what, anyway, is a hostile act and how can an examining officer identify one?

11.44 am

**Baroness Wheatcroft (Non-Afl) [V]:** My Lords, the Government have to be supported in their efforts to protect the public against both terrorism and acts of

[BARONESS WHEATCROFT]

hostile states—and we know that they succeed in protecting us far more often than they fail. In the context of hostile states, I do hope that the report of the Intelligence and Security Committee into Russia and its involvement here might be made public sooner rather than later.

I support the noble Lord, Lord Balfe, in his call for a national database of biometrics. I see nothing sacrosanct about biometric data and I think that a national library of this data, protected by an independent body, would be useful. I welcome this SI and the changes that have been made to take account of some of the reservations expressed in the House. The provisions relating to the treatment of confidential information seem to go as far as they practically can in protecting journalism. I accept the qualms of the noble Lord, Lord Harris, regarding the use of journalism as a cloak beneath which to hide malign practices; I believe that, while a free press is crucial, national security has to come first.

My fear over these regulations is whether we actually have the resource to implement them fully and effectively. As other noble Lords have mentioned, not all ports are covered. I echo the questions asked by the noble Baroness, Lady Altmann, regarding the effects of our departure from EU security arrangements. As these regulations apply to UK ports and the Northern Ireland border area, can the Minister tell the House how the Northern Ireland border area is to be protected?

11.47 am

**Lord Kirkhope of Harrogate (Con) [V]:** My Lords, I speak as a former Home Office Minister responsible for UK borders. In general, of course, I support any measure that helps us to fight terrorism and major criminality and denies opportunities to threaten our citizens. This is a piece of secondary legislation providing codes of practice for our officials. I was one of those who was involved in the drafting of many EU directives in the field, and we ensured that certain principles were always enshrined in the retention of data, including biometric data. In the GDPR, for instance, retention of data should be for no longer than is necessary. That principle, together with the generally accepted requirements for holding and using data of necessity and proportionality, has been the basis of all EU and UK measures for some years. I hope that my noble friend concurs with those principles.

I note the new guidance on obtaining national security determinations which is, of course, subject to safeguards and guidance under the Protection of Freedoms Act 2012, but I still have concerns. Under the PNR directive, for which I was directly responsible, data held should be deleted after five years and depersonalised after six months. We have evidence that, on that basis alone, many attacks on our own country have been deterred. In pursuing these new timescales for retaining data and preparing new guidance, is my noble friend the Minister taking into account the comparable provisions, limits and protections which are enshrined in EU directives, to which we are still party? Is she confident that this measure will not impede the necessary co-operation and real-time operability with our European neighbours

once the transition period ends, nor provide an unnecessary complication in our current negotiations for a comprehensive security agreement with the EU?

I am sure my noble friend will agree that we certainly should not be introducing measures or standards which further distance us in areas where future joint efforts with our immediate neighbours to defeat and deter terrorism and major criminality are so vital to UK interests.

**The Deputy Speaker (Lord Duncan of Springbank) (Con):** I call the noble Lord, Lord Snape. No? Then I call the noble Lord, Lord Chidgey.

11.49 am

**Lord Chidgey (LD) [V]:** My Lords, terrorism is a cross-border problem requiring international co-operation between law enforcement agencies. Freedom and security can go hand in hand, but the first duty of government is the security of the people. That means providing both the human resources for policing and the associated physical resources needed, everywhere they are needed—whichever port or airport it might be.

The noble Lord, Lord Blunkett, made the point that he welcomed the introduction of NSD guidelines and the retention of biometric data being re-examined, but there are concerns over the increased length of national security determinations under the SI from two to five years. We need reassurances that this data will be stored correctly and securely, and used only for the purposes intended. I am hoping the Minister might be able to give some guidance on the assurances that are proposed.

There is evidence of potential abuse of power. Statistics from surveys in 2014 on Operation Insight found that 88% of a sample of those stopped under Schedule 7 were Muslim. Of the 419,000 people stopped under Schedule 7 since 2009, just 30 have been convicted. Despite stopping over 11,000 people in the year to March 2019, only three convictions were secured; that is a conviction rate 0.007%. This is hardly encouraging, particularly as convictions can be secured for, for example, failure to disclose passwords, even on the basis of client confidentiality, or refusal to answer questions. This is a bit rich coming from a Government who systematically use the excuse of commercial confidentiality not to reveal data and have raised the avoidance of answering both Oral and Written Questions from Members to an art form. Finally, this raises serious questions about the utility as well as the purpose of Schedule 7 in revealing actions associated with the planning of acts of terrorism.

11.51 am

**Lord Bourne of Aberystwyth (Con) [V]:** My Lords, I thank my noble friend for the very clear exposition of these regulations and the case that she made out. The importance of these regulations is self-evident in relation to the prevention of brutal, murderous terrorism and chilling hostile state activity, such as we saw against Sergei and Yulia Skripal in Salisbury in 2018, with the serious repercussions and death that that activity caused.



Therefore, I welcome the updating and revision of the powers outlined in the regulations. It is right that we should have appropriate safeguards such as those for journalistic sources, but I join others in having concerns about the self-definition of journalism and hope that there are ways that we can ensure that this does not extend to that.

I also join others in asking about the retention of biometric material for five years. Two years certainly seems too short a period, and I am not sure that 15 years is necessarily right, but the question has to be asked and it demands a closer examination of why a five-year period was picked. I join others in wondering about a DNA bank, but that is perhaps a discussion for another day.

I also join others in asking about whether this covers all points of entry. I can quite see that the Minister will not want to give a list of those points of entry which are not covered—I can see that that would not be wise—but if she is able to say something general in this regard, it would be reassuring, particularly given the issue about Northern Ireland’s position at the end of the year. If she is able to say something on that, either today or in writing, if she wants a more detailed look at the matter, that would be very useful.

I have no doubt that these regulations are appropriate and I strongly support them.

11.53 am

**Baroness Jones of Moulsecoomb (GP) [V]:** My Lords, I also thank the Minister for her very clear opening comments and her kind remarks about my previous involvement in this issue, in trying to protect civil liberties. I was quite surprised to agree with the noble Lord, Lord Blencathra—that always upsets both of us—when he stated that he did not trust the police. I have a similar problem because the Met Police logged me as a domestic extremist and watched me for more than 10 years when I was an elected member of the London Assembly and Deputy Mayor of London. It is hard to trust the police; I do not mean as individuals—I have often worked with them—but as a group.

As the mother of a journalist, I had thought that we had put to bed this question of how we would recognise journalists and the fact that a free press is incredibly important for any country. What we see in repressive countries is that they have no free press.

I say to the noble Lord, Lord Balfé, that an independent host for biometrics is a good idea. At the moment, we have had six months without any oversight for the security services. The Intelligence and Security Committee was dissolved in December and we still do not have one. As a nation, we find it difficult to watch our security services and make sure that they are operating in our best interests and not against the interests of human rights and civil liberties.

Having said all that, the code of practice is quite chilling; it is almost dystopian in its repressiveness. If I had more time, I would read it out, because if you read it, some of the words leap out as being quite horrifying. People have to give away all their information, including their passcodes for electronic devices. They have no right to refuse having their biometrics taken. Overall, I am still extremely upset about it.

11.55 am

**Lord Snape (Lab) [V]:** My Lords, I apologise: we lost our internet connection earlier. I hope noble Lords will forgive me if I repeat anything said earlier.

I welcome these powers, but have a practical question on their application. Schedule 3 of the code of practice includes

“additional powers to allow an examining officer to retain and copy a person’s property (including confidential material)”.

Repeating a point made by my noble friend Lord Harris, I am at a loss to understand how, if someone claims to be a journalist, an officer could exercise these statutory duties in the way outlined by the code of practice. After all, according to the Explanatory Memorandum from the Home Office, journalistic protection requires all confidential material to be handled with care, to minimise the risk of it being seen by a front-line officer. Again, there is probably a simple explanation for this, but I cannot understand it. If a front-line officer is forbidden from seeing confidential information, how do we know that such information exists in the first place?

I have another fairly simple question for the Minister. The Minister for Security, James Brokenshire, wrote to Yvette Cooper, chair of the Home Affairs Committee, on 8 June. Has the Minister or the department received a response to that letter, setting out the Home Affairs Committee’s view on this statutory instrument? If so, will she share it with us today?

11.57 am

**Baroness Hamwee (LD) [V]:** My Lords, as is the case with most statutory instruments, we had a substantive and, in this case, substantial debate on the primary legislation, which is not up for discussion. However, as the SI brings into force codes of practice lower in the hierarchy, it is worth reminding ourselves of their status.

The fact that they are codes, are written down and are subject to consultation is very significant, as the noble Lord, Lord Carlile, has said. They are also subject to parliamentary approval, but they do not have the scrutiny which can lead to amendment. They are the practical application of the powers of the state. As the noble Lord, Lord Anderson of Ipswich, said during the passage of the Bill,

“the Bill will confer a bristling armoury of powers on ports police”.—[*Official Report*, 17/12/18; col. 1762.]

The current Independent Reviewer of Terrorism Legislation raised points on the draft codes about reflecting the language of the law, points which the Government rightly took, because the rule of law requires law.

I will use this opportunity—I have not managed to find another—to mention the recent report of Her Majesty’s Chief Inspector of Prisons on short-term holding facilities at the border. I have to say that “facilities” is something of a euphemism. There were some shocking findings, including that

“a pregnant woman was detained for over 27 hours; the detention log evidenced little meaningful engagement with her”

and:

“Detainees’ ... ability to make telephone calls was at best restricted, and at worst prohibited.”

[BARONESS HAMWEE]

Border Force staff said that they felt “forgotten”, and that there was no guidance or sharing of best practice. Can the Minister tell the House how the Government are responding to the finding of inadequate leadership?

Actions at the border must not raise any concerns about any sort of discrimination, a point to which a number of noble Lords have referred. I raised this recently when the EU Security and Justice Sub-Committee, of which I am a member, questioned the Security Minister, James Brokenshire, about access to data—a very important tool of border security—post Brexit. A number of noble Lords including the noble Baronesses, Lady Altmann and Lady Wheatcroft, and the noble Lord, Lord Purvis, referred to this. I asked him about stopping a disproportionate number of individuals whose ethnicity and dress were, to put it bluntly, not those of a white person who is not Muslim. He said “Ah—you’ve not seen the new code”. Now that I have, can the Minister point me to the answer? Is it through training, which must be kept under constant review, and accreditation? Will training, for instance, cover unconscious bias as well as, I assume, keeping and analysing data? This is a current issue but has always been a current issue, as my noble friend Lord German indicated.

During the passage of the Bill, we received a lot of briefing on the detail of the procedures: the length of time that someone could be detained, access to a named lawyer and so on. The Government’s response to the consultation on the codes on this point refers to the examining officer’s discretion and says that the detainee is told of this discretion. However, it is the criteria for the exercise of the discretion which are important and should be transparent.

As noble Lords have also mentioned, we have received a lot of briefing discussing journalism and journalistic sources—a contentious and difficult area. We are told that the Government are now considering whether to amend the definition of “confidential material” to make it clear that it includes material identifying a source of journalistic information. Can the Minister tell the House when we can expect to see this? Perhaps it will be in the current counterterrorism and sentencing Bill.

We scrutinise legislation; I am glad that we also have systems to scrutinise how things work in practice. However, applying the findings from those is essential because, as I know all noble Lords agree, trust in the means used by the state to keep us safe, but which reflect our values, is essential.

12.02 pm

**Lord Rosser (Lab) [V]:** I too thank the Minister for her explanation of the content and purpose of these regulations. When they were considered in the Commons two days ago the debate attracted two speakers, both of whom were required to be there, and was dealt with in 13 minutes. Clearly, life is harder for a Lords Minister than a Commons Minister.

These regulations address issues concerning our national security and the safety of our citizens. They bring into effect an amended code of practice for the counterterrorism port examination powers under the Terrorism Act 2000, a code of practice for the new hostile state activity port examination powers under

the Counter-Terrorism and Border Security Act 2019 and amended guidance under the Protection of Freedoms Act 2012 relating to biometric retention provisions, as amended by the 2019 Act. The codes of practice have been the subject of public consultation.

Under the Terrorism Act 2000, a counterterrorism port and border officer can stop, question, search and detain a person at a UK port or the Northern Ireland border area to determine whether they are or have been involved in terrorism. The 2019 Act created similar powers to support law enforcement bodies in detecting and disrupting hostile state actors involved in, among other things, espionage, sabotage, assassination and subversion. The guidance under the Protection of Freedoms Act 2012 provides direction to law enforcement authorities about making or renewing a national security determination which allows for the retention and use of biometric material, fingerprints and DNA profiles for national security purposes.

The codes and guidance which these regulations bring into effect instruct and guide port and border officers in the procedural exercise of the powers to which I have referred, including rights and duties as well as safeguards for those who are subject to them. Only accredited officers will be able to exercise these powers, which must be done in accordance with the relevant code of practice. There will also be independent oversight of the use and application of the powers: by the Independent Reviewer of Terrorism Legislation in relation to Terrorism Act 2000 powers, and by the Investigatory Powers Commissioner in relation to the 2019 Act powers. It is vital that these oversight protections are strong and effective, since the measures to which the codes of practice and guidelines we are discussing relate apply to individuals who have not, or have not yet, been convicted of any crime.

The attempted assassination of Sergei and Yulia Skripal in March 2018 in Salisbury, the related death of Dawn Sturgess and the evolving nature of risks and security threats highlight the need to reinforce and improve our lines of defence and fill the gaps in our legislation that come to light. The 2019 Act and these draft regulations, including the codes of practice, seek to do that. The issues that are the subject of the guidance and the code of practice related to the 2019 Act were debated at some length during the passage of the then Bill. Two key changes were made to the Bill, which are reflected in the code of practice: the right to confidential legal advice with safeguards, and securing a tighter definition of what constitutes hostile activity.

It was right that the Government undertook a consultation on the codes of practice. As a result of it, extra safeguards have been added to the code of practice relating to the 2019 Act to protect journalists and journalistic material. I know that the Minister referred to this, but can she reiterate precisely which additional safeguards were added following the consultation, as well as responding to the points raised by my noble friend Lord Harris of Haringey and others?

That same code of practice specifies that an examining officer does not need “grounds for suspecting” that someone is engaged in hostile activity to stop them, but then also says that such stops must not be arbitrary

and must be informed by the threat of hostile activity. The Government argued during Bill Committee that this was necessary because the security services sometimes have key information, but not enough to reach a reasonable suspicion threshold. Will the reason for a stop be recorded and, if so, where and by whom? If recorded, to whom would that information then be available? Would it be available on request and at any time to the Investigatory Powers Commissioner?

The code of practice for the 2019 Act also makes it clear that stopping someone based purely on a protected characteristic is not acceptable. There are concerns with any stop and search power that it will disproportionately impact BAME people. Will the Investigatory Powers Commissioner have access to information and statistics on how this power under the Act is used, and who is stopped?

In this code of practice, most of the reasons listed for the retention of an article or copy of an article are explicitly linked to preventing hostile activity under the 2019 Act. However, it also allows an article to be retained, or copied and retained, where the examining officer believes it may be needed for a decision to deport under the Immigration Act 1971. Can the Minister say how this provision will operate and whether the examining officer will be expected to proactively ascertain whether the article might be needed for a decision to deport?

Finally, the Biometrics Commissioner recommended that data be deleted within a reasonable period of time in circumstances where an individual has been arrested but not convicted of a non-terrorism offence. The guidance states that a reasonable period is up to six months. Can the Minister say what evidence led to that timeframe being provided for in the guidance, and whether it was proposed or suggested by the commissioner?

Our national security is of utmost importance to us all and, in that context, we support the action the Government are taking but await with interest the Minister's response to the many points raised and questions asked. We also express our appreciation of the work of the counterterrorism and border officers at our ports, who are often our first line of defence against those of malign intent—state-sponsored or otherwise.

12.09 pm

**Baroness Williams of Trafford:** I first thank all noble Lords who have made some very constructive points in this debate, and I fully concur with the noble Lord, Lord Rosser, about the quality of debate and scrutiny in your Lordships' House. I knew I would not beat the 15 minutes in the Commons and that the questions would be somewhat more forensic.

The noble Lord, Lord Blunkett, was very supportive of the extension from two to five years. There probably was a difference of opinion within your Lordships' House: some noble Lords wondered if five years was enough and others thought it was too long. In terms of the five-year limit, we are proposing to increase the length of a single NSD to five years; however, they can be renewed as many times as necessary to protect national security. A number of noble Lords questioned whether it was arbitrary. It was based on operational feedback and we think it strikes a better balance

between allowing the police to prioritise their resources and retaining the safeguard of regular reviews. It is supported by the Biometrics Commissioner.

Another point was about some ports not being covered. Port monitoring is, of course, quite often intelligence-led. If we literally covered our entire border with officers, we would still have people getting through without the intelligence that is so crucial to being able to stop people and to question them. We have approximately 1,200 officers at the ports and the powers—I say just to clarify—are used by the police and not immigration and customs. Police use a very flexible model rather than a permanent presence at ports. They use regional hubs and they flex officers to meet demand at those ports.

The noble Baronesses, Lady Ludford and Lady Hamwee, were talking about ethnicity being used to stop people. I make it absolutely clear that it is actually unlawful to stop somebody because of their ethnicity. I am literally trying to cover every noble Lord's question. My noble friends Lady Altmann and Lord Kirkhope and the noble Baroness, Lady Wheatcroft, asked about Brexit and Northern Ireland as it relates to these provisions. The political declaration provides the basis for a comprehensive and balanced future security partnership, which is in the mutual interest of the UK and the EU. I stress that these powers will not be used as an immigration control or indeed to interfere with the right to travel between jurisdictions. Their application to the border mirrors Schedule 7 to the Terrorism Act 2000, an analogous power for CT purposes that has been in operation for 20 years, and we have not seen wide-scale use of these powers in the border area. Noble Lords will also know that negotiations are ongoing and, of course, I would not pre-empt the outcome. However, the security of our borders and citizens is of the utmost importance.

My noble friend Lady Altmann talked about the training for officers, as did the noble Lord, Lord German, and my noble friend Lady Anelay talked about helping to safeguard people who might be handling dangerous subjects—I mean substances, but subjects even. The training and the accreditation is the responsibility of the College of Policing, but it goes without saying that these officers are highly trained, and the College of Policing and the new Schedule 3 powers will not be used until officers are trained and accredited.

In terms of the safety of front-line officers who put their lives at risk—of course, this is an absolute priority—these policing officers are experienced in dealing with a range of threats. There are strict procedures in place to mitigate the harm to officers and all officers will be trained in those procedures.

I move to the point that the noble Lord, Lord Rosser, made about transparency and oversight. As is the case for Schedule 7 powers, the Schedule 3 powers will be subject to the oversight of the Investigatory Powers Commissioner, who will be required to submit an annual report to the Home Secretary, which will be published and laid before Parliament. The commissioner may also make a report on any issue at any time. To support these functions, all examination records and data will be made available to the reviewer and to the commissioner. The Home Office also publishes a wealth of statistical information relating to counterterrorism legislation, including to the Schedule 7 powers.

[BARONESS WILLIAMS OF TRAFFORD]

To answer the point of the noble Baronesses, Lady Ludford and Lady Hamwee, I say that we do not intend to publish statistics about religion, so we are not intending to add to the burden of front-line officers, but further consideration will be given to the possibility of releasing figures for the Schedule 3 powers. That decision will be made once data is available to conduct a proper national security assessment of such information, and we anticipate this being at the time of the commissioner's first report.

I turn to the important point about both abuse by people saying that they are journalists and the protection of genuine journalistic material. The noble Lord, Lord Harris of Haringey—so nice to see him and to be speaking to a human being—and the noble Lords, Lord Carlile and Lord Snape, asked about this. Officers will, of course, take steps to verify a person's credentials, and that is why we have powers to seek judicial authorisation to access such material if there is a need. It is also why we have provided a means for independent legal counsel to assist examining officers in determining which items of material are protected and which are examinable.

On the other side of the coin are safeguards for protected materials and journalistic sources. Debates on this issue throughout the passage of the Bill highlighted the unique practical challenges in safeguarding such genuine material in the context of a time-bound court examination, while ensuring that the powers remain effective against terrorists and hostile state actors. For example, it would severely impact the utility of the powers if a person's claim of carrying protected material was enough, on its own, to deny access to that property, or to any property comprising unprotected material. That also relates to the other point.

In answer to the question from the noble Lord, Lord Rosser, I can say that, after consideration of feedback received from groups representing the media, we believe that we have identified a constructive solution to address these practical concerns while preserving the confidentiality of genuine material. We have amended the codes to make it explicitly clear that front-line officers must not retain, copy or examine material that is believed to be protected. However, we have also allowed for the temporary retention of property containing protected material, or copies of that property, but only where a process can be undertaken to identify and separate this from examinable material. The process is subject to strict requirements to minimise the risk that protected material is seen by the examining officer, or any other officer involved in the examination. For example, as I said in answer to the noble Lord, Lord Harris of Haringey, independent counsel must be engaged for the purpose of identifying which items of material the officers are authorised to examine. Any protected material must then be returned to the property owner and copies destroyed. This process has been modelled on the Serious Fraud Office operational procedure upheld by the High Court. In addition, we have extended the safeguards for protected material, under either power, to include material which could disclose a source of journalistic information. I hope that noble Lords will

agree that these changes are a pragmatic response to an important technical concern which was raised in the consultation feedback.

My noble friend Lord Naseby commented that there were not many responses to the consultation. I always see that as a good thing: in other words, it was not contentious. The noble Baroness, Lady Hamwee, referred to the HMIC report. The regulations do not apply to immigration detention, so this is not applicable to that report, although I am sure there will be plenty of opportunity—as we have had—to discuss it.

*Motion agreed.*

*12.22 pm*

*Sitting suspended.*

## Arrangement of Business

### *Announcement*

*12.30 pm*

**The Deputy Speaker (Lord Faulkner of Worcester) (Lab):** My Lords, the hybrid sitting of the House will now resume. Some Members are here in the Chamber, respecting social distancing, and others are participating remotely, but all Members will be 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. Please be patient if there are any short delays switching between physical and remote participants. Please keep questions and answers short.

## Saudi Arabia: Arms Sales

### *Private Notice Question*

*Asked by Lord Stevenson of Balmacara*

*12.31 pm*

To ask Her Majesty's Government whether they will reverse their decision to resume granting export licences for arms sales to Saudi Arabia.

**The Minister of State, Department for Business, Energy and Industrial Strategy and Department for International Trade (Lord Grimstone of Boscobel) (Con):** My Lords, the short answer to that Question is no. The Government were required by the court judgment to retake their licensing decisions; they have now done so in a way that reflects the judgment. The Government take their export responsibilities seriously and assess all export licences in accordance with strict licensing criteria. We will not issue any export licences where to do so would be inconsistent with these criteria.

**Lord Stevenson of Balmacara (Lab) [V]:** My Lords, we have a brilliant arms industry in the United Kingdom, and I have no problem with arms sales to other countries, as long as they are properly controlled under the precautionary principle. But the underlying issue raised by the Government's decision is that they need to decide what kind of global nation they intend the UK to be: a champion of fair and decent values or an apologist for human rights abusers.

Announcing the decision to resume arms sales to Saudi Arabia for use in Yemen on the day after 20 Saudi officials were placed on the FCO sanction list for the killing of Jamal Khashoggi—in part for criticising

Saudi conduct in Yemen—is an extraordinary stretch, even for this Government, who seem to pride themselves on holding two or more contradictory positions at the same time. Can the Minister explain how the revised methodology can possibly allow the Government to describe a five-year, Saudi-led assault on Yemen, using British planes, technical support and equipment, which has seen thousands of civilians killed in schools, hospitals, funeral halls and market places, and left some 20 million civilians needing humanitarian assistance just to survive, as a set of “isolated incidents”?

**Lord Grimstone of Boscobel:** First of all, I utterly condemn the reprehensible killing of Mr Khashoggi. The UK and Saudi Arabia have a long-standing bilateral relationship based on a number of pillars, including trade, defence, security, energy and shared concern about regional issues. Saudi Arabia is a major political and economic power in the Middle East, and its position as home to the cities of Makkah and Medina give it unmatched convening power in the Arab world. We regularly raise our human rights concerns with the Saudi authorities, using a range of ministerial and other diplomatic channels.

**Lord Browne of Ladyton (Lab) [V]:** My Lords, I agree with Save the Children that this decision is indefensible. The Government say that they want to be a global force for good but, the very next day, decide that killing and injuring thousands of children does not constitute “a pattern of harm”. Proper scrutiny of this decision requires access to the unique methodology and data that the Secretary of State referred to in her statement. Can the Minister explain the methodology? Will Parliament be given access to it, or will Parliament and the defenceless children of Yemen have to wait until our courts compel its production—as they will?

**Lord Grimstone of Boscobel:** The assessment of whether an incident created a possible breach or serious violation of international humanitarian law is a complex matter. In order to review that, we were required to draw on all available sources of information, including some that were—I am sure noble Lords will understand this—necessarily confidential and sensitive. We are therefore not able to go into the details of individual assessments.

**Baroness Sheehan (LD) [V]:** My Lords, the bombing of weddings, funerals and hospitals in Yemen clearly constitutes a pattern of very bloody violations by Saudi Arabia. For Liz Truss to say that it is okay to resume arms sales because these were “isolated incidents” is tantamount to saying that one can be “a little bit pregnant”. Earlier this week, 20 Saudi nationals close to the Saudi regime were designated under the Magnitsky regulations for the heinous murder of Jamal Khashoggi. How can we be a force for good when we sell arms to a country with a sustained record of human rights abuses?

**Lord Grimstone of Boscobel:** We indeed have assessed that there were a small number of incidents that have been treated, for the purposes of the analysis, as violations of IHL. However, these were isolated incidents

that did not display any particular pattern, and our analysis shows that Saudi Arabia has a genuine intent and the capacity to comply with IHL in the specific commitments that it has made.

**Lord Polak (Con) [V]:** My Lords, we are all rightly deeply concerned about the horrendous violence in Yemen, and I am grateful that my noble friend the Minister has just confirmed that he will continue to raise issues of human rights. We should, however, also reflect on the whole map of the region, with destabilisation from Afghanistan to the Mediterranean by the Iranian regime’s support for terrorists and militia. Can my noble friend explain why there was such a long delay in taking this particular decision?

**Lord Grimstone of Boscobel:** I think my noble friend will understand that this is of course a complex matter. It was very important that, this time, we got it right. Developing a revised methodology and applying the enhanced IHL analysis to recorded allegations across the conflict is not a straightforward task. It was vital that the Government got this right first time, with a comprehensive assessment process that was strictly in accordance with the legal approach identified by the Court of Appeal.

**Lord Craig of Radley (CB) [V]:** My Lords, this sensitive issue has been very thoroughly examined. Can the Minister confirm that airborne precision weapons are in the order? Does he agree that, correctly targeted, the inherent accuracy of such weapons makes their use in air attacks less likely to cause unintended collateral damage or, more importantly, large numbers of non-combatant casualties?

**Lord Grimstone of Boscobel:** The noble and gallant Lord makes a good point. As I have said previously, we have examined all the incidents and are satisfied that these were isolated incidents that did not display any particular pattern. Our analysis shows that Saudi Arabia has a genuine intent and the capacity to comply with IHL.

**Lord West of Spithead (Lab) [V]:** My Lords, there are a number of Royal Air Force officers and ex-officers—British ex-pats—in Saudi Arabia in the various programmes involving aircraft. Last year, when this was discussed in the House, it was said that one of the benefits of having them there if we were selling arms was that they could give advice about targeting and so on. Can the Minister say whether any Royal Air Force officers, or indeed ex-pats, are involved at all in the targeting process within Saudi Arabia?

**Lord Grimstone of Boscobel:** I do not believe that they are, but in order to give the noble Lord a completely accurate answer to his question, I will write to him.

**Baroness Smith of Newnham (LD) [V]:** My Lords, your Lordships’ International Relations and Defence Committee, of which I am a member, produced reports on the Middle East in 2017 and Yemen in 2019, in which we raised concerns about the Saudi-led coalition’s misuse of weaponry leading to the loss of civilian life. In particular, we noted that assurances by Saudi-led

[BARONESS SMITH OF NEWNHAM]

reviews are not enough and not an adequate way of implementing our obligations of risk-based assessment set out in the Arms Trade Treaty. Does the Minister agree, and will he clarify what assessment has been made, beyond what the Saudis have told the Government?

**Lord Grimstone of Boscobel:** The assessments we make are very much our own assessments, led by specialist people who are expert in these matters. We draw on information from a number of sources, including but not confined to the Saudis, and a whole range of material is considered in coming to our view of what the appropriate assessment of a particular incident should be.

**Baroness Helic (Con) [V]:** My Lords, for five years Yemeni civilians have been killed in attacks on schools, hospitals and marketplaces, mainly by Saudi-led air strikes. The Government have concluded that there were only an isolated number of incidents in which such air strikes violated international human rights law. Will my noble friend tell the House exactly how many air strikes that refers to? If he cannot give an exact figure today, will he undertake to write with that information?

**Lord Grimstone of Boscobel:** As I have said previously, the assessments draw on a number of sources, some of which are necessarily confidential and sensitive. However, I have heard the question clearly and I will write to my noble friend with the information she is seeking.

**Lord Carrington (CB) [V]:** My Lords, I declare my interests in Saudi Arabia as set out in the register. Saudi Arabia is an important ally as well as an important market for UK exporters. However, as far as our exporters are concerned, the real issue at present is not new business but payment. The Saudi Government's decreased oil income and rising Covid expense is evidenced by seriously late payment. What advice is being given to UK exporters on this market? Will the Minister also comment on Saudi arms import priorities in the current circumstances?

**Lord Grimstone of Boscobel:** The noble Lord raises a matter I am personally very familiar with, having myself experienced as a businessman the Saudis' propensity not to pay on time. I fear that the only quick advice I can give him, slightly lightheartedly, is persistence with them. I normally find that persistence pays off. More seriously, our embassy in Riyadh is always willing to help British exporters in this situation and to make representations to the appropriate Saudi authorities.

**The Lord Bishop of Carlisle [V]:** My Lords, on the Bishops' Benches we welcome the unanimous decision by the United Nations Security Council to endorse a global ceasefire in the context of the Covid pandemic. Does the Minister accept that, in light of the horrific situation in Yemen, already mentioned several times, the Government's decision to resume selling arms to Saudi Arabia risks fatally undermining the implementation—[*Inaudible.*]

**Lord Grimstone of Boscobel:** Both personally and as a Minister I remain deeply concerned about the human rights situation in Yemen. I think it is important

that we continue to work with all parties to find a political solution to the conflict. This will help create the conditions for the legitimate Government to improve their capacity to protect human rights. Yemen is a human rights priority country for the UK.

**Lord Judd (Lab) [V]:** My Lords, the Government have gained considerable credit recently for toughening up sanctions and for their willingness to apply those sanctions in the context of human rights abuses. Do the Government understand that real credit will be established—otherwise cynicism, bitterness and dissolution will take its place—only if they apply themselves with equal vigour to the protection of countless ordinary people who are being subjected to suppression and oppression in Saudi Arabia and Yemen?

**Lord Grimstone of Boscobel:** First, I acknowledge the noble Lord's obvious deeply felt concern about this matter. The UK and Saudi have a long-standing bilateral relationship based on a number of pillars, including trade, defence, security, energy and shared concern about regional issues. Matters are changing in Saudi Arabia. We have seen progress on social reforms under Saudi Vision 2030. For example, the Saudi economy was the most improved for women's economic opportunities, according to the recent World Bank report, *Women, Business and the Law*—so things are happening there and I think it is right for us to encourage that process of change in Saudi Arabia.

**The Deputy Speaker (Lord Faulkner of Worcester) (Lab):** My Lords, I am afraid that the time for this Question has now elapsed. I apologise to the noble Baronesses, Lady Coussins and Lady Warsi, for not being able to call them.

12.47 pm

*Sitting suspended.*

## Arrangement of Business

### *Announcement*

1 pm

**The Deputy Speaker (Lord Bates) (Con):** My Lords, the hybrid sitting of the House will now resume. Some Members are here in the Chamber, respecting social distancing, and others are participating remotely, but all Members will be 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. Please be patient if there are any short delays in switching between physical and remote participants. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

## Terrorism Act 2000 (Video Recording with Sound of Interviews and Associated Code of Practice) (Northern Ireland) Order 2020

### *Motion to Approve*

1.02 pm

*Moved by Viscount Younger of Leckie*

That the draft Order laid before the House on 8 June be approved.

**Viscount Younger of Leckie (Con):** My Lords, this order puts into practice a revised code of practice governing the recording with sound of interviews of persons detained at a police station in Northern Ireland under Section 41 of, or Schedule 7 to, the Terrorism Act 2000. A copy of the draft revised code of practice was laid before Parliament on 8 June 2020.

The purpose of this code of practice is to provide protection to both the person being interviewed and the officers conducting the interview. I start by thanking the Police Service of Northern Ireland for the vital work that it carries out on a daily basis to keep communities across Northern Ireland safe. The threat level from Northern Ireland-related terrorism remains “severe”. Despite this, ongoing work by police and MI5 means that most people in Northern Ireland are not directly affected by the “severe” terrorist threat.

However, I assure noble Lords that these proposed revisions will not change the way interviews are conducted in any way and, instead, relate to how interviews are recorded and how the recordings are stored. The changes will allow the Police Service of Northern Ireland to start using digital recording technology in line with the practice commonly adopted in England, Wales and Scotland. The changes to this code of practice will impact how the interviews are recorded and how the recordings are stored. They will apply only to interviews that take place after the updated code of practice has been brought into force. I will now outline the main revisions.

First, the code has been amended to allow the Police Service of Northern Ireland to use modern digital recording technology. Your Lordships may not believe it, but the current Police Service of Northern Ireland recording capability for Terrorism Act interviews is by cassette tape, a now rather archaic method which emerged back in the 1960s. It is an understatement to say that this equipment is difficult to source due to the rise of digital technology, and that is why it is important to maximise this opportunity to allow updated recording media or a secure digital network to be used instead, thereby bringing Northern Ireland into line with technology used in the rest of the UK. It is worth noting that the Police Service of Northern Ireland already possesses the necessary technology and utilises it for other, non-Terrorism Act, interviews.

The order had a smooth passage in the other place last week and, to allay any concerns about secure storage, the Minister provided assurance that section 1.8(b) of the updated code confirms that recordings will be stored on a secure file server which is accredited by the national accreditor for police information systems, in accordance with the UK Government security classification policy.

The safe storage of these interviews is enabled through both a hardware and software-based solution rather than being IT Cloud-based. Through this new technology, interviews could be conducted on either fixed or portable interview recording devices—for example, a laptop—then uploaded and stored in a central system. This central system is protected and managed through a partnership of Police Service Northern Ireland’s internal security team and a specialist third party.

The second revision I will outline for your Lordships is that the code of practice has been amended to closely shadow the equivalent code of practice for Great Britain. While this means some changes to language and format, the purpose and key content of the code remain the same. It is worth noting that the draft code does not exactly replicate the code in Great Britain, reflecting the devolution of policing and justice functions in Northern Ireland and consequent differences in approach adopted in different jurisdictions.

I draw noble Lords’ attention to the fact that the code for Great Britain, for example, contains references to post-charge questioning provisions as set out in the Counter-Terrorism Act 2008, but this proposed code does not. This is because the 2008 Act stipulates that, before its provisions on post-charge questioning can be commenced, police and criminal evidence—PACE—codes must be amended to reflect how post-charge questioning should be dealt with and recorded. While the Home Office amended the PACE codes for Great Britain in 2012, in Northern Ireland this function falls to the devolved Northern Ireland Department of Justice. To date, this has not been done and it has therefore not been possible to commence post-charge questioning provisions under the Terrorism Act.

I reassure noble Lords across the House that the Government ran a 12-week public consultation on the proposed amendments to the code of practice. This consultation engaged local politicians, the judiciary, eminent legal and security bodies and academia. It may be indicative of the non-contentious, minor and technical nature of these amendments that the majority of those engaged in consultation were rather silent. We received six responses, all of which were supportive. Three of those respondents suggested other minor amendments to the code; these were duly considered, and most were accepted. The full details of these suggestions were published in our consultation response document, which some noble Lords may have read.

One of the respondees was the Police Service of Northern Ireland, which suggested adding remote monitoring to the code. Remote monitoring is routinely used in the Serious Crime Suite in Musgrave Police Station in Northern Ireland. Remote monitoring uses technology to enable the senior investigating officer, interview co-ordinator or any other person who has justification, to monitor the interview process from another room. As remote monitoring is routinely used in Terrorism Act interviews, the PSNI recommended including it in the code of practice.

I hope that noble Lords will agree that, while these revisions are technical and minor, they are important. They align the code of practice used in Northern Ireland with the code used in the rest of the UK, they allow the Police Service of Northern Ireland to utilise digital recording technology in terrorism interviews, and they future-proof the code. Accordingly, I beg to move.

*1.08 pm*

**Lord Hain (Lab):** My Lords I thank the noble Viscount, Lord Younger, for his reassuring explanation and for his courtesy as a Minister, and I am more than happy to support this order.

[LORD HAIN]

In your Lordships' House on Wednesday, I raised again the issue of the refusal—not the failure but the refusal—of the Northern Ireland Executive to fulfil their legal and moral obligations to implement the 2019 legislation to provide for modest payments for those terribly injured through no fault of their own during the Troubles in Northern Ireland.

Two years ago, some of these victims came to Westminster with the WAVE Injured Group because for 10 years they had got little more than tea and sympathy from Stormont. One made a particular impression on me. Paddy Cassidy was 28 when 50 years ago, a random gun attack by loyalist terrorists near his north Belfast home left him with severe spinal injuries. He spent a year in a wheelchair and later could walk only with the aid of calipers and crutches. When I met him he was in constant pain, and it was clear that coming from Belfast to London was a huge and draining effort for him. The fear that more than one of the WAVE Injured Group expressed to me on that occasion was that some of them would die before the pension they had been campaigning for for years came through. On Monday 22 June, exactly that happened to Paddy Cassidy. The Northern Ireland (Executive Formation etc) Act 2019, enacted by this Parliament and initiated in this House, required claims to be assessed and payments to be made from 29 May. Paddy Cassidy died a month later.

It is now getting towards two months' delay. How many more among the hundreds of terribly injured victims eligible will also have to die before the Secretary of State sorts this out with the First and Deputy First Ministers and the law is implemented? I will keep asking until justice prevails. We owe it to Patricia, Paddy's widow, to his sons Edward and Michael and to his daughter Patricia. We owe it to the memory of Paddy Cassidy. May he rest in peace.

1.10 pm

**Lord Thomas of Gresford (LD) [V]:** My Lords, I express my support for the campaign of the noble Lord, Lord Hain, but I will not follow him on the particulars that he has just given.

The introduction many years ago of video recordings of police interviews was a welcome step forward. There used to be many a wrangle about the validity of the written confession of an accused. I recall a case in Hong Kong, where my client contested a signed written confession on the basis that the detective chief inspector had stamped on his hand until he signed whatever had been written out for him. When I expressed some doubt, he drew my attention to a photocopy of the confession. His signature after the caution at the beginning was in firm characters, but the characters with which he signed at the end were so shaky as to be almost illegible. The court threw the alleged confession out.

Video recordings that were subsequently introduced of the "harshing" of prisoners in Iraq during interviews have led to the Ministry of Defence paying out millions to claimants, and the MoD has given undertakings that none of these video recordings will ever be destroyed, so that the significance can be appreciated. Video recordings protect not only the accused from brutality

and fakery, they also protect the police interviewer from trumped-up allegations. I am sure that that has led to a great diminution in these practices.

These regulations cover two important aspects: tampering and security. The first issue is dealt with by ensuring immediate access by the accused to a copy of the digital recording. This is well covered in the code of practice.

The second issue arises in the event that no charges are brought. Is the recording of an interview to remain for ever, if not in the cloud then on the secure system described by the Minister? Is there a time limit? When will it be destroyed or deleted? Paragraph 7.15 of the draft code of practice requires digital files to be stored in read-only format on non-removable storage devices to ensure their integrity; for example, on hard disk drives. Access is restricted under paragraph 7.16 to those who have been given specific permission to access them, or for

"specified purposes when this is necessary."

That is completely vague. Access for the purposes of a prosecution is given only as an example, not as an exhaustive definition. Who specifies the purposes and what is the ambit or the limitation of those purposes?

1.13 pm

**Baroness Ritchie of Downpatrick (Non-Aff) [V]:** My Lords, I thank the noble Viscount, Lord Younger of Leckie, for his detailed explanation of this statutory instrument, which I fully support. For the avoidance of doubt, I have always believed that terrorism, whether in the 1970s, 1980s or 1990s, when I was growing up in Northern Ireland, is never right and is never justified. Every death, every bombing, every maiming and every mutilation was totally wrong and unjustified.

I would like to underpin what has just been said by the noble Lord, Lord Hain, about the victims' pension scheme; like I did, he also referred to this two days ago, during another debate on a statutory instrument for Northern Ireland. This issue needs to be resolved by the Northern Ireland Executive. If they are incapable of coming to an agreement on the issue, the British Government will have to take it into their own hands, to ensure that those people who suffered immeasurable pain, injury and grief have the pension that they deserve.

The other issue I want to raise is this. I hope that relations will settle down in the Northern Ireland Executive so that we can start to see the full implementation of the Good Friday agreement, to develop a shared island of Ireland and to build relationships between Ireland and Britain. That is vitally important.

I have two questions relating to the statutory instrument. Can the Minister confirm whether the provisions of this statutory order have been enacted, given that due to the election in December last year there has been a time lapse?

The second issue is one that has been raised by the Northern Ireland Human Rights Commission, which submitted a response to the then Secretary of State, Julian Smith, on the issue of the interpreter. Not only was the interpreter tasked to deal with people who may have had speech impediments, there was also a need for one for people with limited ability in English, so that they could be perfectly understood.



Lest we be in any doubt, this type of digital recording is an important step towards the prevention of coercion and ill-treatment by the police. I am therefore content to support the provisions. However, I make a final plea to the Northern Ireland Executive to sort out the pensions issue and get back to working properly, thus showing that they are a joint office.

1.17 pm

**Lord Kilclooney (CB):** My Lords, first, I declare an interest as set out in the register of interests. Perhaps I may say how strongly I support what has just been said by the noble Baroness, Lady Ritchie, about the condemnation of paramilitary terrorism in Northern Ireland. That is consistent with her position when she was the leader of the SDLP, and it is consistent today with most members of the SDLP in Northern Ireland, although sadly there are one or two exceptions. However, I am glad to say that the current leader of the SDLP, Mr Colum Eastwood MP, has roundly condemned any member of the party who is making excuses for paramilitary activity in Northern Ireland.

This statutory instrument arises from UK legislation, and replaces video recording with digital recording. As the Minister has said, it is a revised code of practice. I thank him for his presentation of the instrument, which will bring Northern Ireland into line with the rest of the United Kingdom.

However, several issues have occurred to me, the first of which is a constitutional one. Policing in Northern Ireland is once again a devolved matter. As the Minister has said, we have a Minister of Justice in the Northern Ireland Assembly and we have the Police Service of Northern Ireland. I would have thought that a procedure such as this would normally be dealt with by the Minister of Justice in Northern Ireland, but I assume that the reason it is being taken through this House—perhaps the Minister can clarify this—is that the original legislation was passed when the Northern Ireland Assembly was not in Session. It was therefore British legislation, and that is why this instrument is being taken through this House, rather than through the Northern Ireland Assembly.

The second point I want to mention is about the consultation procedure. We have nearly 2 million people in Northern Ireland. As everyone knows, policing is a very controversial and sensitive issue in Northern Ireland, yet out of those 2 million people, only six responded to the consultation. That truly is not a great example of the procedure. Indeed, it turns out that one of the six was the Police Service of Northern Ireland itself, so there were only five respondents. One would be interested to know who those five others are.

It seems the form of consultation in Northern Ireland was not adequate. I think the people in Northern Ireland did not really know that this consultation was taking place. It was probably done by a short notice online, which is never noticed in Northern Ireland. It should have been advertised in the press so that 2 million people could have seen it. For example, there are newspapers such as the *Irish News*, a nationalist paper in Belfast selling 29,000, and a cross-community paper called the *Belfast Telegraph* selling 27,000. There is a nationalist group called the Ulster Herald Group

in the west of Ulster selling 27,000, the *News Letter* in Belfast, a unionist paper selling 14,000, and the Alpha Newspaper Group selling 40,000 right across Northern Ireland.

It seems that some people in government—not just on the exercise we are discussing today—are almost going out of their way to avoid the people of Northern Ireland being consulted by just having short entries online and not advertising in the press any more. In what way was this consultation exercised? Was it simply online or was it in the press?

In so far as historical statements are concerned, this will take a lot of money as some of them refer to events of 40 or 50 years ago. Who will provide the finance for these historical statements? Will it be Westminster or the Stormont Exchequer?

1.21 pm

**Lord Garnier (Con) [V]:** My Lords, hiding behind this ostensibly anodyne order, which has been so clearly explained by my noble friend the Minister, are some complicated and highly sensitive questions about our criminal justice system—questions about how we deal with terrorism and terrorism suspects; about the relationship between the police and the accused; about the gathering of evidence by the police and other agencies; about the presentation of evidence in court and open justice; and more generally about public confidence in our law enforcement agencies and the courts. All these questions are prompted whenever one has to manage the justice process that takes a suspected terrorist from arrest through detention to trial.

Although this order specifically relates to Northern Ireland, it makes a small but necessary change relating to the interviewing of suspects detained under Section 41 of and Schedule 7 to the Terrorism Act 2000. One might think that making provision for the use by the PSNI of digital recording technology now and for the remote monitoring of interviews in future was simple enough—and on one level it is, but interviewing terrorism suspects is not at all simple in so many regards.

That we are dealing with this on a Friday should not mislead us as to its importance. This order is connected to PACE, the Police and Criminal Evidence Act 1984, and to Code H. Code H is one of eight separate codes governing the way in which suspects in custody are to be interviewed by the police. PACE brought about a major improvement in the way people in custody are treated by the police and the law enforcement agencies after the Birmingham Six scandal. Code H is an 80-page document and has often been revised to reflect necessary changes in good practice.

Giving false accounts of police interviews, if not routine, was far too common before PACE. Now it is far less likely to happen. We can be far more confident that those found guilty of terrorism offences will have been convicted on evidence fairly and lawfully obtained by the police. We can tell whether statements made by the convicted person in interview were in fact made and recorded fairly and lawfully. They can be checked against the video and the sound recording.

This order will allow us to be assured that Northern Ireland and the rest of the United Kingdom will now be on an equal footing as regards the recording of

[LORD GARNIER]

interviews of terrorism suspects in police stations. Despite appearances, this is an enormously important measure and can only increase confidence in our criminal justice system. It is much to be welcomed.

1.24 pm

**Lord Browne of Belmont (DUP) [V]:** My Lords, I welcome the statutory instrument before us today, which will bring Northern Ireland more closely in line with the existing legislative framework elsewhere in the United Kingdom. In particular I welcome the fact that the code is being changed to allow the Police Service of Northern Ireland to comprehensively update and streamline its current system by incorporating recent advances in digital technology.

The current model is clearly outdated. Video and audio evidence go hand in hand with accountability and transparency, both of which are key elements in increasing public confidence in front-line policing. With the ongoing use of body-worn camera footage in certain other cases, the PSNI already has in place the ability to significantly improve the quality and transparency of investigations. The police service therefore already possesses some of the relevant and necessary technology for aiding its investigations, but to date it has been able to utilise this technology only ever for non-Terrorism Act interviews. As a result, the police have been unable to use the full gamut of investigation tools at their disposal when responding to the spike in shootings, attacks and other paramilitary activity in Northern Ireland that we have regrettably witnessed in recent months.

I also welcome the inclusion in this statutory instrument of the PSNI recommendation relating to remote monitoring by a senior investigating officer in Terrorism Act investigations. Again, this brings Northern Ireland in line with the rest of the union. All these crucial changes are to be welcomed, as they not only strengthen the credibility of investigations but will protect police officers from potentially vexatious claims. Can the Minister confirm whether there is a timeline for the training of officers to prevent potential litigation?

Key among the changes will be the maintenance and secure storage of future interviews and of older-format versions of historical interviews. The introduction of a more secure digital network will provide for the comprehensive sorting of all interviews, recording files on a secure server. During this process we must be mindful of protecting and ensuring the integrity of pre-existing recordings when digitising older formats, particularly in the case of Troubles-related terrorist activities. Can the Minister confirm whether discussions have taken place with the Northern Ireland Executive and the PSNI in relation to the cost implications of these changes? Will the Treasury assist and provide resources for their implementation? I am pleased to support this statutory instrument.

1.27 pm

**Lord Wei (Con) [V]:** My Lords, I too thank my noble friend the Minister for his clear explanation of this instrument and broadly welcome it. Frankly, it is a bit of a shame that the police in Northern Ireland have

had to rely on VHS tapes and outdated technology. It also saddens me that this matter could not have been dealt with more from within Northern Ireland, for all the reasons that other Members have spoken about.

I will focus primarily on the technological side, an area I declare certain interests in more broadly. Having sat in on a case at the Old Bailey in which the poor use of technology—or the lack of the right evidence gathered in the right way using technology—led to the collapse of a drug-dealing case, I am well aware of the challenges that can arise from both the poor use and misuse of technology.

I have some questions for the Minister, first—to echo a previous speaker—on the training that will be provided on all this, both in the interview room and afterwards. On the use of the data, I am keen to know the ethical guidelines being adhered to. We now know that as crime and terrorism become more technologically advanced, there are increasing risks around hacking and the failure of encryption, which may be only a few years away because of the computing power that is now available and soon will be available. That will potentially lead to fake evidence being created, evidence being stolen or doctored or, possibly worse, profiles being generated of suspects that track their movement in the room or their facial expressions and emotions. That could be used for positive policing but could also be against people's rights. What guidelines are being adhered to? The previous speaker mentioned vagaries around the use of the data, which for various terrorism-prevention reasons could be used along some of the lines I have described.

The security of the data is also very important, and I would like to ask a final question—if the Minister does not have time to answer, a letter would be fine—around the use of blockchain and ledger technologies to watermark the videos, so that they could not be doctored because each would have a unique online identity. It is time we moved not just from VHS to recording in digital form, but actually kept pace with technology a step further. I would like to hear the Minister's thoughts on this.

1.31 pm

**Lord Adonis (Lab) [V]:** My Lords, the content of this order is important, in that the application of modern technology to the conduct of police interviews is part of the criminal justice system. This is, of course, uncontroversial; no one is going to criticise the use of digital technology in this context. However, reading the order and the background to it, what leapt out at me was the point that the noble Viscount made at the outset, which is that it should be 2020 when we are making this change. That struck me as odd when I first looked at the order; he thought it was almost amusing that we were talking about the conduct of interviews by tape from the 1960s and 1970s. The notes on the background of this order raise a point of some concern. Paragraph 7.2 of the policy background says:

“The equivalent Code of Practice for video recording with sound for police in England and Wales and Scotland was updated in 2012. The current Code of Practice for Northern Ireland came into operation in 2003”.

So there were nine years between those two, and a further eight years since 2012, where there have been failures to update these provisions in respect of Northern Ireland.

The two points that come out of this clearly are, first, that that is obviously unacceptable. How did we in Parliament and the Northern Ireland Office continue for eight years after the equivalent updating of the code in England, Wales and Scotland, and 17 years after the original code came into practice, in respect of technology that has been available for that whole period? That is obviously unsatisfactory and could lead—and maybe has led—to miscarriages of justice, because old-fashioned tape corrupts and deteriorates in a way that modern digital recordings, with the storage we have talked about, do not.

It raises a second concern, which I wonder if the noble Viscount could address: are there other areas of police practice in Northern Ireland which are similarly antiquated by reason of the regulations that govern them? The noble and learned Lord, Lord Garnier, referred to all the codes relating to the conduct of interviews and investigations since the Birmingham Six. I hope the noble Viscount can address, by summing up or writing to us, whether other areas of police practice and regulation are governed by codes of practice and procedure more antiquated than those that apply in England and Wales, simply by failure to modernise the law. It is our duty as parliamentarians to ask that question, and the Government's to give us a clear explanation of whether there are such areas. If there are, the obvious follow-up question is: should they not be modernised too, and a great deal more quickly than this order?

1.34 pm

**Lord Campbell of Pittenweem (LD) [V]:** My Lords, anyone with any experience of practising criminal law knows that many trials depend on allegations of what has taken place in the police station, and the extent to which so-called confessions can be regarded as inadmissible on the basis that they have been unfairly obtained. Clearly, in the realm of terrorism, it is all the more acute that we should be satisfied that provisions for responding to questioning and things of that kind can be properly vouched for by improved technologies. To that extent, I do not think anyone could be other than supportive of this order.

But what leapt out to me, if I may use a phrase used by the noble Lord, Lord Adonis, was that the Justice Committee of the Assembly was perhaps unable or unwilling to agree to the provisions that would allow post-charge questioning under Sections 22 and 23 of the Counter-Terrorism Act 2008. It is all the more surprising, therefore, that none of its members felt it necessary to make an objection. Why that is the case, I do not want to speculate, but it is an interesting feature of this matter.

There cannot be any doubt that we are overruling the devolution of responsibility for crime, justice and policing to the Assembly. In these circumstances, we have to be satisfied that there is good reason for doing so. I believe there is, but perhaps the Minister wants to say a little of what the justification from Her Majesty's Government is.

I confess I am always—nervous is too strong—apprehensive about future-proofing, given that it may cause issues that ought to be the subject of discussion to not face that kind of scrutiny. If any issue arises in

future-proofing on which the Justice Committee of the Assembly cannot reach a view or to which it is opposed, will we, by passing this instrument, have prevented it from doing so? If so, that is a consequence further than what is observed on the face of this instrument.

1.37 pm

**Lord Morrow (DUP) [V]:** My Lords, at the outset, I would like to comment in relation to what the noble Lord, Lord Hain, said regarding the pension for victims. He implied that the Executive were holding payment up, which is true to a degree but does not tell the whole story. All the parties in Northern Ireland, with the exception of Sinn Féin, agree that that pension should be paid, and my party certainly agrees with that position. But Sinn Féin, which has a veto on these issues, is refusing to move on it. I hope that the Government will do what Sinn Féin is refusing to do.

I and my party support this SI. While the amendments are of a technical nature, they set out a basic principle for the video recording, with sound, of interviews with persons detained at a police station. It brings Northern Ireland closely in line with what exists in the rest of the United Kingdom; the existing code of practice has not been updated since 2003, as has been mentioned. Much has changed since, including technology.

However, there are some concerns about interpreters, which I hope that the Minister will be in a position to address. According to the Northern Ireland Human Rights Commission:

“Access to interpreting services should be made available on a case by case basis where an officer deems an individual's ... English is not sufficiently strong.”

The wording leaves the issue of providing an interpreter to an officer's judgment on an individual's comprehension of English. This, I fear, has the potential for multiple judicial reviews and challenges to the admissibility of any evidence deducted from an interview on the basis that an interpreter was not provided. How is a police officer to assess the level of any individual's grasp of English, and what are the parameters for gauging an individual's strength in using English? A better approach would be to require an interpreter for those not born or resident in an English-speaking country, with the exception perhaps of some regions in the Irish Republic, and to empower police to establish in which language and medium a detained person corresponds in his daily life.

I also fear that the requirement to provide interpreters during sensitive interviews will create a number of practical problems, such as security vetting. Counterterrorism interviews often cover sensitive issues being put to suspects. Interpreters leaving an interview carry with them an understanding of the knowledge that the police have in any given case. This creates an opportunity for unvetted interpreters to pass information to associates outside the interview room during a live investigation. In many cases, it is virtually impossible to accurately vet interpreters, since often they have arrived in the UK as refugees or from countries that have no form of vetting process.

I ask the Minister: what are the vetting requirements for interpreters to gain access to an interview of a terrorist suspect? Does he agree that they should be required to have security clearance as standard? Vetting

[LORD MORROW]  
should be a legal requirement for an interpreter to be given access to the interview of a terrorist suspect. I look forward to hearing what the Minister has to say, either today or perhaps in writing.

1.41 pm

**Lord Robathan (Con) [V]:** My Lords, this is of course a very sensible updating of regulations because of technology. It must be admitted that not all interviews or questionings of terrorist suspects in the past have been appropriate or legal. I think that we can all accept that. Those of us who believe in the rule of law must therefore think that this is a good measure, and it has the support of the House.

I wish to make only one point. My concern is that we should not in general give way to any pressure from terrorist sympathisers. I worked in the Northern Ireland Office some six years ago now. I saw that the PSNI was often forced by regulations, and indeed by the law, to operate with such caution that terrorists had a great advantage over the security forces. Not all politicians and organisations support the maintenance of law and order in Northern Ireland as we see it. When I was there some were pushing—yes, legally—to further hamper the PSNI.

I was delighted to hear the comments of the noble Baroness, Lady Ritchie. I never doubted her opposition to all terrorism, but not all loyalist, unionist, republican and nationalist organisations or political parties take the same view. I absolutely support this change, but I hope the Government will always bear this point in mind in any further changes to the law.

1.42 pm

**Lord Carlile of Berriew (CB) [V]:** My Lords, I start by making a general statement based on a lot of observation in Northern Ireland. The House should recognise the enormous progress that has been made by the Police Service of Northern Ireland and its clear understanding of the ethical matrix in which it absolutely must operate.

I also think that we should pay tribute to the judiciary in Northern Ireland. If one reads the judgments in the relatively small number of non-jury trials that take place in Northern Ireland, one can see that the quality of scrutiny, as well as of the judgments given, shows the judiciary to be absolutely up-to-date on the issues that have rightly been raised by noble Lords in the debate. For example, an issue was raised a few moments ago about possibly dishonest interpreters. It is absolutely clear—it barely needs saying to those of us who practised in the criminal courts—that an interpreter who is revealed in any way to be dishonest or not translating properly will be warned very clearly by the court. His or her interpretation will be replaced with somebody else's and they might well face criminal prosecution.

Next, I support what the noble and learned Lord, Lord Garnier, and the noble Lord, Lord Campbell of Pittenweem, said with such clarity. I will not repeat what they said. The noble Lord, Lord Browne of Belmont, referred to body-worn video, which is a very important development in police forces throughout the United Kingdom. It has meant that the public, as we have

seen recently, have been able to see what really happened during an incident. The police have been protected, in many cases, by body-worn video showing that allegations made against them might well have been false. It covers everybody and provides greater safety and assurance.

I have a concern that body-worn video might provide a solution to. I ask the noble Viscount, who opened the debate so clearly, to deal with this, either today or in writing. The definition of an “interview” is sometimes not hugely clear. Sometimes what is judged to be an interview takes place outside a police station because of necessity and the exigencies of events. Can we be assured that, when such events take place, they will always be on body-worn video? If they are not, the police must understand that the likelihood of that evidence being admitted is low.

1.45 pm

**Lord Empey (UUP):** My Lords, I will make a few points. The Explanatory Note to the instrument says that

“the Secretary of State has designated under paragraph 1(1) of Schedule 8 to the Act ... a place where a person may be detained under section 41.”

Can my noble friend the Minister give any examples of where locations other than a police station have been designated? If it is not possible for him to answer me now, it would be perfectly fine for him to do so in writing.

My second point has been referred to by a number of Members. We talk about secure servers and encrypted interviews. I suggest that virtually nothing in this world is secure in cyberspace if people can get into the US Department of Defense's weapon systems. We find that Governments do not seem to be very good at looking after people's records, because they are sometimes found dumped by the side of a motorway or on a roundabout. Governments do not have good records in keeping material pertaining to individuals safe and secure. Where terrorists, who are very inventive, sometimes have an inside track it will be important to ensure that a high priority is placed on the security of these interviews, given that they will be held in remote locations. Whatever people say, I am not convinced that cyberspace is totally safe.

I cannot leave the debate without referring to what the noble Lord, Lord Hain, the noble Baroness, Lady Ritchie, and others have mentioned, which is the plight that the victims of terrorism find themselves in with the Northern Ireland Executive's refusal to pay them their pensions, which this Parliament voted to ensure that they would receive. Will my noble friend ensure that his right honourable friend in the other place is aware that we have had a bad week in Northern Ireland as far as the Executive is concerned? We started off with the funeral of IRA godfather Mr Storey, which led to great tensions that are still ongoing.

Pensions are another potentially destabilising issue as far as the Executive is concerned. Please do not say that you have not been warned. It is important that this issue is settled. If it is not settled within the next very short space of time, the Minister's right honourable friend in the other place should take over responsibility for implementing victims' pensions. If it is left to fester,

it will only further destabilise the Executive. Bear in mind that it has been re-established in the middle of the Covid crisis, so putting these additional strains on it would be irresponsible. I urge my noble friend to take that on board.

1.49 pm

**Lord Holmes of Richmond (Non-Afl) [V]:** My Lords, I pay tribute to my noble friend the Minister for the manner in which he introduced this instrument, with his customary courtesy and clarity. I also take this opportunity to give my thanks and complete support to all those women and men in the security services: those in the west country and those based in town. They do their work invisibly—understandably so—but they are true heroes and heroines who keep us safe at all times. They deserve all our support and enduring thanks.

I support the order. On one level, it is very straightforward and clear, but I associate myself with the comments of my noble and learned friend Lord Garnier, and indeed those of my friend through sport, the noble Lord, Lord Campbell of Pittenweem. They go to the heart of a number of issues essential to the whole criminal justice process. In light of this change, have the Government done a piece of work, not just in the Northern Ireland context but across government, to understand other situations where cassette tapes, fax machines and other largely redundant, obsolete and—certainly from a security perspective—woefully inadequate sub-technology is still in use? I think it would be an incredibly important piece of work and I would be happy to help.

Finally, I associate myself with the comments of my noble friend Lord Wei. There is so much technology which needs to be deployed and could be helpful in this particular use case, not least distributed ledger technology. I gently guide the Minister to a report that I wrote in 2017 and updated in 2018, *Distributed Ledger Technologies for Public Good*. This kind of thing—albeit not exactly this—was one of the use cases set out there. It has such huge potential to transform the state, and the relationship between citizen and state, in a new, transformed, digital, smart social contract. I would welcome any comments the Minister might like to make on those issues.

1.52 pm

**Lord Caine (Con):** My Lords, I associate myself with the words of the noble Lord, Lord Hain, and others, regarding victims. As my noble friend the Minister made clear in his opening remarks, there should be nothing controversial about this order. It does, however, provide an opportunity to make a few comments about the security situation in Northern Ireland.

Back in May 2010, the coalition Government inherited a deteriorating security picture. The previous year, the threat level had been raised from substantial to severe and three people had been murdered. In 2010 itself, there were 40 attacks relating to national security. Today, that number is significantly lower, and the reduction has not happened by accident. In the main, it has been down to the sterling efforts of the Police Service of Northern Ireland and the security services, working very closely with colleagues in An Garda Síochána in the Republic of Ireland. I should say that

one of the great pleasures for anybody serving in Northern Ireland is dealing with such dedicated professionals, who continue to do such a fantastic job in extraordinarily difficult circumstances. They deserve our gratitude and fullest possible support.

Successive Governments since 2010 have also played a key role. In 2011, I was pleased to help persuade colleagues to commit some £230 million in additional security funding for the PSNI, followed by a further £160 million in 2016. Without doubt, this has significantly boosted the ability of the PSNI to tackle Northern Ireland-related terrorism. This ongoing support remains absolutely vital because, regrettably, the threat level from dissident republicans remains severe, meaning that an attack is likely. While small in number and lacking any significant public support—and, I should stress, with zero legitimacy—these groups retain lethal intent and capability. Only good policing and intelligence has prevented a far greater loss of life.

Between June 2019 and May 2020, 96 arrests were made under Section 41 of the Terrorism Act 2000. In the same period, 26 firearms, 0.88 kilograms of explosives and 800 rounds of ammunition were found by the police—so the need for the utmost vigilance remains as these groups have clearly not, to borrow a phrase, “gone away”. Combating them and protecting the people of Northern Ireland from terrorism must remain a top priority for any Government. In the 2010 strategic defence and security review, it was made a tier 1 priority, and I hope this will be maintained when the current review finally sees the light of day. With those concluding words, I warmly support the order.

1.55 pm

**Lord Addington (LD):** My Lords, as is quite normal when you are fairly far down the list, anything you thought you had to say of any originality seems to have been taken away and done better by those in front of you. My remarks will be even briefer than I originally intended. What drew me towards this was the use of digital technology to record stuff. It was not so much the fact that you have an accurate record of what is going on but how people with limited capacity to read and write English can interact with it through technology. I remind the House of my declared interests in this field.

However, if you have this information, you must know how to get people to interact with it. Voice operation, text-to-voice and voice-to-text technology is out there and fairly readily available. I hope that having a digital format will mean that the person involved in the case will be able to see and refer back to what they have said, as will those outside. It is quite simple: the written page for many people is a nice, comforting, familiar format, but, for many people out there, it is not. In the criminal justice system, lower levels of literacy are a recognised fact. I am not sure about the terrorism sector, but I would be very surprised if elements of this, at least, were not applicable. If used properly, it will help you get the right answer and organise your defences, and will make the person at the centre of any criminal proceedings slightly more aware of what is going on and what is being done to them. I hope that this would be an advantage. I believe the noble Lord, Lord Holmes, also referred to this.

[LORD ADDINGTON]

The only other thing that comes up is: what you about slang, which changes very quickly? Youth groups tend to change it; it is language they use for a bit and then they dump it. I have a friend who is a JP—although not serving in Northern Ireland—and several years younger than me. She found herself listening to a case where a series of references went out. She and her colleagues were sure it was about sex, but they were not quite sure what bit of sex. Eventually they had to ask and were told. She described the experience as feeling like the person in those old sketches—the judge who said, “Who are the Beatles? I hear they are a popular beat combo.”

We should make sure we have a reference to this as we go backwards and forwards, because it might be important, not just here but somewhere else. Where we have a verbal record, we should note that verbal language changes fast. Can we make sure that we record that?

1.57 pm

**Lord Wood of Anfield (Lab) [V]:** My Lords, I too thank the Minister for the clear and collegiate way in which he introduced this proposal. I am happy to support the order. I shall not repeat the questions that noble Lords have already asked, but I want to ask two further brief questions for clarification.

First, as the Minister said, the proposed code of practice shadows the code for England and Wales, and for Scotland, but it is different in one important respect. Unlike the other codes, this one for Northern Ireland contains no reference to post-charge questioning. This is because under the 2008 Act, PACE codes need to be amended first to reflect how post-charge questioning should be dealt with, which is now the responsibility of the Northern Ireland Assembly and Executive.

As someone who had the privilege of serving as a Northern Ireland adviser to Gordon Brown when he was Prime Minister and was involved in so-called “phase 2” of the devolution of policing and justice, I was disappointed to see that the necessary changes to PACE code H have not been agreed by the Northern Ireland Justice Committee. Do we have any idea of timescales and can we all urge the Justice Committee to do this as soon as possible?

Secondly, I have a related question about the preservation of existing evidence: will it remain technically viable? The need to switch to digital recording technology raises the question of what steps are being taken to preserve long-standing evidence on pre-digital formats. I know from my time in government that there is a significant challenge for legacy investigations—some of which can stretch back over many decades—in ensuring that existing records do not decay and degrade. The Police Service of Northern Ireland has estimated that digitisation of this catalogue of evidence could cost many millions of pounds. Can the Minister assure us—for the sake of existing legacy investigations and for those that may be necessary in the future—that the Government will fund this vital preservation work? Can he also assure us that this commitment to evidence preservation will extend to the Stormont House oral history archive, which is a key historical, community and national public resource in documenting the Troubles?

2 pm

**Lord McCrea of Magherafelt and Cookstown (DUP) [V]:** My Lords, I pay tribute to the sterling efforts of the officers of the PSNI in serving the community, and wholeheartedly acknowledge the plight of the innocent victims of terrorism, and indeed, the promised payment.

However, I was disappointed that the noble Lords, Lord Hain and Lord Empey, and the noble Baroness, Lady Ritchie, did not point the finger at Sinn Féin, the party that is blocking the implementation of this payment. I join other noble Lords in welcoming this statutory instrument and acknowledge that Northern Ireland is updating an antiquated system. It served its purpose in its time but now, with the use of modern digital recording technology, we are moving forward in the interests of transparency and investigative integrity. In many areas of policing, the Police Service of Northern Ireland has a reputation for the highest standards of professionalism; here, it is catching up with advances in technology that are already operational in the rest of the United Kingdom.

The advancement proposed in the short statutory instrument encapsulates the modern future-proof system for recording interviews, yet we must be ever mindful that the evidential integrity of existing records is preserved in such a way that it is technically viable and maintains prosecutorial value. We are informed that the advancement in digital technology across the rest of the United Kingdom has proved invaluable in the cause of criminal justice, and when operational in Northern Ireland, it will prove to be an effective tool in the fight against crime. I must confess that my first interest is the protection of the innocent, not the criminal, but I acknowledge that to do that, we must have credible evidence and a process that is beyond reproach. However, I hope that the operation of this statutory instrument will not create new means of installing due process; that already causes frustration within the community and must not be the outworking of this change.

Northern Ireland’s Department of Justice should re-examine the current approach regarding post-charge questioning of terror suspects, which is already operational in Great Britain. The Counter-Terrorism Act 2008

“allows a district judge (magistrate’s court) to authorise questioning of a person in Northern Ireland about an offence, for which they have been charged or after they have been officially informed that they may be prosecuted, by a constable where the offence is a terrorism offence (as defined in section 27) or where it appears to the judge that the offence has a terrorist connection (as defined in section 93).”

It is important that the investigative merits of this approach are examined in Northern Ireland.

What are the cost implications for the PSNI of bringing in this new technology, and will our government investment provide the necessary resources? It is essential that the budget already allocated is not put in danger or diverted from the protection of the community, but rather, put into front-line services. I give my support to this statutory instrument.

**The Deputy Speaker (Lord Russell of Liverpool) (CB):** Lord Bruce of Bennachie? We will move on to Lord Murphy of Torfaen and come back to Lord Bruce afterwards.

2.03 pm

**Lord Murphy of Torfaen (Lab) [V]:** My Lords, this has been a very good and useful debate. The Opposition absolutely and completely support the Government in this statutory instrument. We must remind ourselves that it comes under the Terrorism Act 2000. I completely agree with the noble Lord, Lord Caine, that the threat from republican dissidents and rogue loyalists still very much exists. We have only to think of the murder of Lyra McKee to emphasise that. Also, it has been an opportunity for noble Lords, particularly those from Northern Ireland, to refer to the scandalous situation whereby the Northern Ireland Executive are not in a position to pay the pensions to victims. I applaud my noble friend Lord Hain for his remarks on that.

I pay tribute to the security agencies, the judiciary, as the noble Lord, Lord Carlile, has said, the PSNI and, above all, the overwhelming number of people in Northern Ireland from every community who completely reject violence and all that goes with it. We need to modernise the tools for tackling terrorism, including digitalising the recordings of interviews, but I agree with my noble friend Lord Adonis. We should not be using video cassettes in 2020. There must be a reason why this has taken so long. Nevertheless, we are changing it now; obviously, we agree with that change.

The Minister referred to the consultation, which I think has been good. The response has not been great, but those who did respond—the PSNI, the Independent Reviewer of Terrorism Legislation, the Northern Ireland Human Rights Commission—raised some very important issues which have been addressed, such as the awareness of suspects of their rights under caution. A number of your Lordships also raised the question of interpreters; that is really an issue of resources, ensuring that there is sufficient money so that interpreters can be employed.

My noble friend Lord Wood made an extremely good point about retaining the old video cassettes, which go back nearly four decades, while we are still looking at legacy investigations, including those recommended by the Government in their most recent proposals. He also mentioned the oral history archive, which was agreed in the Stormont House agreement. The preservation of those cassettes could cost a great deal of money but would be necessary if these legacy investigations continue.

However, whatever the issues that have been raised, this order very much deserves your Lordships' support. I fully support it.

2.07 pm

**Lord Bruce of Bennachie (LD) [V]:** My Lords, I apologise; I was unmuted but your Lordships could not hear me.

This debate has demonstrated the value of this Chamber. We have had expertise on all aspects from all around the House—legal expertise, political expertise and technical information. Compared with the debate in the other place, which I think took just a few minutes, we have covered all the parameters and raised a lot of important issues which I know the Minister will want to address. I thank him for his courteous and clear introduction to the debate.

A number of issues have been raised. I will refer first to the concern over the lack of progress on the victims pension scheme, referred to by the noble Lord,

Lord Hain, and others. As the noble Lord, Lord Empey, said, this has the potential to be destabilising. What people in Northern Ireland want, particularly the victims, is not a record of blame or finger-pointing but action to unblock and release this logjam. The warning of the noble Lord, Lord Empey, should be heeded: the British Government should not be an obstacle to ensuring that what has been promised by this Chamber, more than any other source, is delivered.

On the recording of evidence and interviews, it is astonishing that Northern Ireland is so far behind in technical innovation. We all support this order as necessary, but very late in the game. Another issue that must be addressed is the updating of PACE, which, as my noble friend Lord Campbell pointed out, has to some extent been deadlocked in the Northern Ireland Executive and Assembly. As a result, one aspect of effective investigation is blocked for the police and security services in Northern Ireland.

To follow up on the concerns raised about data security, in some ways you could argue that old-fashioned, physically located data that is not accessible through the cloud or hacking is more secure than digital data. The Minister will recognise that there is a need to ensure that the digital data is comprehensively protected and to address whether old data in non-digital formats will be valid or will need to be updated and possibly digitalised in future.

Concern was raised about whether interpreters could be a problem, or a source of misinformation or disruption of justice. I also highlight the need to include sign language interpreters. My noble friend Lord Addington made the point that, for many people, speech is more valuable than the written word. That is absolutely true and shows the value of recording video and sound evidence. However, for the small, but relevant, number of people who are profoundly deaf, access to good-quality interpreters is really important. This is, in any case, normally required in a judicial situation by the European Convention on Human Rights. I would be grateful if the Minister could clarify the position on this.

The consultation was light on responses. Can the Minister indicate that he is satisfied that it was broadly enough based? The acceptance of remote monitoring was one of the positive developments as a result of the consultation. It is fair to point out that the people who did respond were those one would have expected—in other words, those directly engaged with it, rather than the wider public. The overall situation in Northern Ireland is that we have apparently waited eight years, or possibly 17—whichever way you look at it—for technology to catch up with the rest of the United Kingdom. In that context, this is clearly overdue.

Terrorism in Northern Ireland has haunted that community for more than a generation. The House will welcome, with no surprise, the total denunciation by the noble Baroness, Lady Ritchie, of terrorism in all its forms and from all sources. This is echoed right across the House. We have to recognise that, while the situation in Northern Ireland is much improved, the pressures that have existed in the past are still building. The Executive has been out of action for three years and, since its re-establishment, clearly still has fundamental tensions within it. There is difficulty in bridging gaps,

[LORD BRUCE OF BENNACHIE]

moving forward and recognising the need for joint working and co-operation. It is still disappointing to see finger pointing between the two extremes getting in the way of resolving problems and moving forward. This order is not only necessary and valuable, but an important step forward. I think the Minister will acknowledge that this House has debated this with a great deal more thoroughness than the other Chamber and has raised a lot of issues that need to be addressed. I am sure the Minister will wish to do this.

2.13 pm

**Viscount Younger of Leckie:** My Lords, I am pleased that this order has been broadly welcomed by the House today, with speeches from my noble and learned friend Lord Garnier, the noble Lords, Lord Adonis, Lord Morrow and Lord Wood, and many other noble Lords. As my noble friend Lord Caine said, the Government's first priority is to keep people safe and secure right across the United Kingdom. The PSNI, MI5 and others in communities and the wider public sector, who work tirelessly to keep people safe, have—and must have—our full support for the public service they give. As my noble friends Lord Holmes and Lord Caine said, rather more eloquently than me, they do fantastic work.

Another theme of this debate is that there is no excuse for paramilitary activity. This was raised by the noble Lords, Lord Murphy and Lord Kilclooney, my noble friend Lord Robathan and the noble Baroness, Lady Ritchie. Terrorism, paramilitary violence and criminality have no place in Northern Ireland. They must not hold us back from progress towards a peaceful and prosperous future. Those involved offer nothing but harm to communities. Their callous disregard, in recent weeks, for the safety and well-being of communities stands in stark contrast to the focus of police and others who have been working hard to save lives and protect people.

Preventing violent attacks takes a great deal of effort; it also requires the right resources. To reassure the noble Lord, Lord Browne, we have consistently provided PSNI and others with additional resources to improve the security situation. On top of funding that PSNI gets from the Department of Justice Northern Ireland, the UK Government have invested significantly in PSNI: more than £160 million in the 2015 Parliament. We should give credit where credit is due to my noble friend Lord Caine for helping to bring that about. We have also provided £25 million of match funding to the Northern Ireland Executive's five-year tackling paramilitarism programme. It is why the commitments in New Decade, New Approach that we supported to reform the justice system are also so important.

I shall address a question raised by the noble Lord, Lord Kilclooney, about why this order is coming now. It was not so much to do with the absence of an Assembly but because the order relates to national security and falls under the responsibility of the Secretary of State and is not devolved. I am sure the noble Lord knows that, but I wanted to confirm it.

There were a number of questions about security, in particular cybersecurity, raised by my noble friend Lord Wei, the noble Lord, Lord Bruce, and others.

Secure data is very important. It is important that the Police Service of Northern Ireland can bring an end to the archaic use of cassette tapes, as I said earlier, and avail itself of modern digital recording technology to bring its practice in line with the rest of the UK. I have outlined the steps taken by the Police Service of Northern Ireland to ensure that digital recorded interviews are stored on a secure file server accredited by the national accreditor for police information systems in accordance with the UK government security classification policy. I trust this provides adequate reassurance, but I will look carefully at *Hansard* for the specific questions raised, in particular by my noble friend Lord Wei. I also take note of the report that my noble friend Lord Holmes produced. I will be sure to look at it—I have not looked at it yet—and will make sure that the Northern Ireland Office also does so.

The noble Lord, Lord Thomas of Gresford, asked how long the recordings are stored after interviews. Although the secure storage of recordings is included in this code of practice, the retention period for recordings is not covered by the code. The Police Service of Northern Ireland has confirmed that current cassette recordings are retained indefinitely. Once it moves to digital recording of interviews, the retention period will be seven years, but I reassure the noble Lord and the House that this is currently under review.

It is clear that the Northern Ireland Office has listened to those who took the time to respond to this consultation and has amended the code accordingly. The Northern Ireland Human Rights Commission recommended that access to interpreting services should be made available on a case-by-case basis. This was raised by the noble Lord, Lord Bruce, who regarded it as a particular issue for those who might have hearing, reading or writing difficulties. He made some very good points. I reiterate that they will be looked at on a case-by-case basis, but PSNI has accepted this recommendation without reservation and stated that extra resources should not be required to make sure that such people are looked after properly and fully.

The noble Lord, Lord Carlile, raised important points. First, I should say to the House that he is right: we should give huge credit to the judiciary in Northern Ireland and there are safeguards and reassurances on interpreters, which I have largely covered.

In relation to historical recordings—there was not much in the debate about them—I want to say that the changes set out in this legislation will apply to future interviews only. This Government have recently reaffirmed their commitment to introduce legislation to address the legacy of the past, as the House will know, in Northern Ireland in a way that focuses on reconciliation, delivers for victims and ends the cycle of reinvestigations into the Troubles that has failed victims and veterans alike.

That leads me on to a very important point that was raised by many noble Lords—the noble Lord, Lord Hain, the noble Baroness, Lady Ritchie, the noble Lord, Lord Morrow, my noble friend Lord Empey and the noble Lord, Lord McCrea—concerning victims' payments. I was in the Chamber this week when the noble Lord, Lord Hain, raised this important matter once again and received a response from, I believe, my



noble and learned friend Lord Keen of Elie. Other noble Lords have referred to this as a campaign by the noble Lord, Lord Hain, and of course it is. No one wishes the matter to be taken forward more than me, the UK Government and the Northern Ireland Office. I was very moved by the noble Lord's account of Paddy Cassidy. I feel deeply about his tragic story and his death. However, we must also not forget—we certainly do not—the terrible injuries that have been suffered by many others during the Troubles. Victims have waited too long already, and we will continue to prioritise supporting the Executive's delivery of this scheme.

The Government provided a legislative framework in the absence of an Executive, and the Executive must now deliver. The Executive need to designate a department that can own the policy and implement the scheme, so that applications can be processed and payments made to victims. The necessary resources, including personnel, can be allocated to expedite payments. This is also the precursor to the independent board that is being set up to determine the details of payments to individuals. It is vital that this matter is dealt with as urgently as possible.

The current framework provides a fair, balanced and proportionate basis for helping those who suffered most throughout the Troubles, and I repeat that it is very important that all parties move forward. What has been happening? The Secretary of State has written and spoken to the First Minister and Deputy First Minister on several occasions—the most recent being yesterday—about the need to address the delay to the scheme.

The noble Lord, Lord Hain, spoke about statistics. I think that I have largely covered that matter. I do not want to go over the figures again, but I hope that the House agrees that the UK Government, in conjunction with the Northern Ireland Office, are taking resourcing in Northern Ireland particularly seriously. That will continue.

The noble Lord, Lord Kilclooney, raised the subject of the consultation, and perhaps I can give him a few more details. It was launched on 22 July and closed on 14 October. I reassure him that it was a public consultation and was publicised by the Northern Ireland Office Twitter account. However, we also wrote to 37 relevant stakeholders inviting them to respond, and we received six responses. I hope that that gives the noble Lord some reassurance.

The noble Lord, Lord Adonis, asked about other codes of practice being updated on the back of this one. Perhaps I may give him some reassurance that the Home Office is currently considering making similar updates to PACE Code H and the code for Great Britain, and that the Department of Justice in Northern Ireland is considering adding remote monitoring to the PACE (Northern Ireland) Order Code H.

If I understood correctly, my noble friend Lord Empey asked about the locations of terrorism interviews. I reassure him that this code applies to all interviews under Schedule 7 to, or Section 41 of, the Terrorism Act that take place in a police station in Northern Ireland. In practice, Musgrave Police Station, as I am sure he knows, is a designated TACT suite for the police service, but Antrim can also be called upon as a back-up.

I was asked why this has taken so long. I think that that requires a letter, as I am running out of time. That matter was raised by a number of noble Lords, not least the noble Lord, Lord Adonis.

My noble friend Lord Holmes asked about a wider review of how the data is held. The answer is that the secure storage is accredited by the national accreditor for police information systems, which I have covered already.

I realise that time is running out. I think noble Lords will know me well enough to know that I will look at *Hansard* extremely carefully and make sure that a full letter is written to all those who have taken part in this debate.

In closing, let us get back to the order. It is, as the House acknowledged, largely technical. The aim is that it will impact not how interviews are conducted in any way, only how they are recorded and stored. I also re-echo the view of nearly all those in the Chamber this afternoon: the Police Service of Northern Ireland has, and must have, our full support for the public service that it gives. I commend it and all the law enforcement agencies that do their utmost, sometimes quietly and sometimes out of sight, in delivering safety and security for the public in Northern Ireland and Great Britain. I commend this statutory instrument to the House.

*Motion agreed.*

2.25 pm

*Sitting suspended.*

## Arrangement of Business

### *Announcement*

2.33 pm

**The Deputy Speaker (Lord Russell of Liverpool) (CB):** My Lords, the hybrid sitting of the House will now resume. Some Members are here in the Chamber, respecting social distancing; others are participating remotely. However, all Members will be 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. Please be patient if there are any short delays switching between physical and remote participants. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

We now come to the Motion in the name of the noble Lord, Lord Goldsmith of Richmond Park. The time limit is one and a half hours. As you will have seen, a great many noble Lords have put their names down to speak. Please respect each other and remember the time limit is one minute.

## Environmental Protection (Plastic Straws, Cotton Buds and Stirrers) (England) Regulations 2020

### *Motion to Approve*

2.34 pm

*Moved by Lord Goldsmith of Richmond Park*

That the draft Regulations laid before the House on 19 May be approved.

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

**The Minister of State, Department for the Environment, Food and Rural Affairs, Foreign and Commonwealth Office and Department for International Development (Lord Goldsmith of Richmond Park) (Con) [V]:** My Lords, the instrument before your Lordships, the Environmental Protection (Plastic Straws, Cotton Buds and Stirrers) (England) Regulations 2020, is being made to restrict the supply of single-use plastic straws, single-use plastic-stemmed cotton buds, and plastic drink stirrers to end users. An end user is the final recipient in the chain who will use the item for its intended purpose—for example, a customer using a straw to consume a drink.

We consulted on this measure between October 2018 and December 2018. On 22 May 2019, the summary of responses and the government response were published. A full impact assessment covering straws, and two regulatory triage assessments covering cotton buds and stirrers, are published alongside the Explanatory Memorandum. These regulations are a devolved matter and this instrument applies to England only.

I first want to address an issue raised by the Secondary Legislation Scrutiny Committee, which has now been addressed in the Explanatory Memorandum. These regulations were initially laid in March this year and were set to come into force in April. However, in light of the unprecedented situation this country has faced due to Covid-19, they were delayed to reduce the burden being placed on industry and to avoid adding further demands on local authorities. We decided to delay entry into force for a short time, while we were at the peak of the crisis. Delaying these regulations was only a temporary measure in response to the crisis. Our commitment to turning the tide on the widespread use of single-use plastics is as strong as ever, as we seek to limit our impact on the natural world.

Turning to the purpose of this SI, the Government are committed to eliminating plastic waste and pollution. Single-use plastic items are increasingly common, and their use and inappropriate disposal continue to raise significant environmental issues. Unlike other materials, such as paper or wood, plastic can persist in the environment for hundreds of years. When released into the environment, items such as plastic straws can endanger wildlife and damage habitats, as small plastic items are often mistaken for food by animals. Furthermore, plastic will eventually break down into microplastics, ending up in our soils and seas and permeating our food chains. The full impacts of the dangers of microplastics are still being uncovered.

Even when some single-use plastics are properly disposed of, they will typically end up in landfill or go off to be incinerated, which releases carbon into the atmosphere. Straws, cotton buds and stirrers in particular are unlikely to be recycled due to their small size, as sizeable effort is required to segregate and clean them. Therefore, action is needed to curtail the use of single-use plastics and their release into the environment.

The proposed measures in the resource and waste chapter of our Environment Bill will transition us towards a more circular economy and change the way that we use and consume resources. We have already seen a drop in demand for plastic straws and pledges from a number of corporations such as McDonald's, Waitrose

and Tetra Pak to find sustainable alternatives. These new regulations will support the voluntary actions being taken by industry, led by the UK Plastics Pact, while ensuring that all businesses move to more sustainable alternatives. Our current data shows that we use a staggering 4.7 billion straws, 1.8 billion plastic-stemmed cotton buds and 316 million plastic stirrers every year in England. This SI will drastically reduce the use of plastic straws, cotton buds and stirrers by an estimated 95%.

This intervention is a strong marker of the Government's intent to clamp down on single-use plastic pollution and protect our environment. It will spur industry to innovate in this space, developing innovative alternatives such as new reusable or paper straws. When taken in conjunction with other parts of our policy approach to move towards a more circular economy, this will be another landmark moment, following our carrier bag charge and microbeads ban.

Plastic is, however, an incredibly useful and versatile material; its strength and relative light weight means that it can have a vital role to play in a range of applications. For instance, plastic straws can withstand high temperatures, such as in tea or coffee, and can be manufactured to bend or fit a particular shape. This allows for those suffering from ailments, for example motor neurone diseases, who struggle holding cups, to access hot and cold drinks as well as liquid foods. Therefore, we have included exemptions within these regulations for straws for accessibility, forensic, medical, and scientific uses, and cotton buds for forensic, medical, and scientific uses as well.

Plastic straws will be available through pharmacies without any requirement for proof of need. This will mean that relatives, friends, and carers could buy them on behalf of those who rely on these items. Similarly, we are allowing for catering establishments, such as restaurants and pubs, that supply food and drink ready for visitors to consume to continue to provide plastic straws on request, again without any proof of need. In these instances, it will be against the regulations to display and advertise that straws are being supplied in order to limit the impulse for people to request them without a need for them.

The regulations allow business-to-business sales—for example, between a manufacturer and a catering establishment—to ensure that businesses can supply items to those who need them. We have also exempted other establishments such as schools, care homes and prisons from the restrictions on plastic straws so that they can be made available for anyone in their care who may need one. Finally, there is also an exemption for plastic straws that are classed as packaging—for example, some medicines in pill form are packaged in straws, to be dispensed one at a time. These exemptions for medical, scientific and forensic purposes will be reviewed and updated as we move forward and as new technologies and evidence emerge.

We are determined to get this right, and it is vital that businesses and the public are informed about what they can and cannot do. Local authorities are obliged to ensure that guidance is published ahead of these regulations coming into force. To ensure compliance, we have given trading standards authorities the power that they require for this type of restriction—for example,

to enter and examine premises that they suspect are in breach of the law. Anyone caught still supplying these items against the rules set out in this legislation could face civil sanctions, such as stop notices or a variable monetary penalty.

Of course, we hope that those enforcement measures will not be necessary. Industry is already making good progress in removing these items from the shelves, and public demand for them is falling—but the regulations need to have teeth to show that this Government take the issue of plastic pollution seriously.

The new regulations send a signal to industry and the general public that we need to think carefully about the products that we buy and the materials from which they are made. The regulations will help people to make more sustainable choices, and I commend them to the House.

2.42 pm

**Lord Clark of Windermere (Lab) [V]:** My Lords, this piece of legislation is sound and timely. I guess that most of us were aware of the plastics littering the seashores of Britain, but when we saw Sir David Attenborough's "Blue Planet" series, and especially when he showed the effect of plastic on the marine environment and marine animals and fish, we were especially shocked. And it was not only us; the British public were really shocked. So when the instrument comes into effect, will the Minister ensure that that swell of support from the general public is built upon and that the British people are kept fully informed at every stage of its implementation?

2.43 pm

**Lord Oates (LD) [V]:** My Lords, I welcome the regulations as far as they go, but I fear that the scope of exemptions for plastic straws may undermine their effectiveness and make enforcement harder. I recognise of course the need to provide exemptions for people with disabilities, but the exemption seems wider than necessary. Although catering establishments will not be allowed to display them, as I understand it, they will be able to provide them to anyone on request, whether or not they have a disability need. Can the Minister confirm whether that is the case?

Finally, what assessment has been made of local authority trading standards' capacity to enforce these regulations? Does the Minister recognise the impacts of budget cuts to trading standards of up to 60% over the past decade? Will he urge his colleagues in the Treasury to provide local authorities with the funding to allow trading standards to enforce the laws and regulations that we pass in this House?

2.44 pm

**Lord Sheikh (Con) [V]:** My Lords, I am pleased that, following an open discussion, the Government are putting forward the regulations, which I fully support. It is important for us to tackle plastic pollution and protect our environment, which needs looking after, particularly the oceans and beaches. It is estimated that over 150 million tonnes of plastic is in the world's oceans, and every year 1 million birds and over 100,000

sea mammals die from eating or getting tangled in plastic waste. Furthermore, it is estimated that the plastic in the oceans will increase threefold in the next 15 years. What steps are we taking to remove plastic waste and stop it from entering the oceans?

Pollution is indeed a global problem. How are we working with or supporting other countries in tackling the issues? Are we supporting any research to modify the ways we manufacture and consume the items that pollute? Are there any outreach and educational programmes to encourage the young to reduce plastic consumption and marine litter?

2.45 pm

**Lord Singh of Wimbledon (CB) [V]:** My Lords, Sikh teachings stress the importance of living in harmony, respecting not only those of different creeds and beliefs but the earth and the environment that sustain us all. Sadly, over the years we have failed to respect a different pace of life and, in our short-sighted greed, we have done serious damage to our environment. Legislation to ban plastic straws, plastic-stemmed cotton buds and plastic drink stirrers is a small step in the right direction, although billions of these items are involved. Such steps can help nudge us to understand our wider responsibilities to our environment and to future generations.

2.46 pm

**Baroness Bennett of Manor Castle (GP) [V]:** My Lords, I cite to the Minister three pieces of research that have emerged since these regulations were drafted. First, on King George Island, off the north-east tip of Antarctica, microplastics were found in the intestines of Antarctic springtails, crucial soil microbes. Researchers said that microplastics are now an integral part of the soil food web. A University of Strathclyde study showed that microplastics are blowing ashore in the sea breeze. A University of Manchester study found 1.9 million pieces of plastic in one square metre of deep ocean floor—a key area for the breeding of sea squirts, which are filter feeders.

In introducing the regulations, the Minister said, "This turns the tide; this is a landmark moment." Does he really believe that future generations, as they sift through the layer of defilement we have left on every inch of this earth, will say, "Oh, but isn't it great that they banned straws, cotton buds and stirrers in 2020?"

2.47 pm

**Lord Moynihan (Con) [V]:** My Lords, the Food and Drink Federation's response to the consultation exercise urged caution by the Government, requesting them to take a holistic view of the wider pressures faced by industry at this time, along with the attendant risks, including the proposal to introduce a deposit return scheme and reform of the packaging producer responsibility legislation. Is the Minister able to update the House on those proposals? While I welcome the regulations, can the Minister also explain whether the ban covers all types of plastic straws, including those carrying a biodegradable or compostable stamp? If so, would it not have been better for the Government to have concluded their work with UK Research and Innovation and industry to seek evidence on the demand

[LORD MOYNIHAN]

and benefits of bio-based and biodegradable plastics that can be decomposed by the action of living organisms, before imposing a ban on these environmentally friendlier alternatives as well?

2.48 pm

**Baroness Wilcox of Newport (Lab) [V]:** The ban on these items was initiated by the former Prime Minister at a Commonwealth summit over two years ago—a long time coming but at least it is here now, at an increasingly serious and difficult time for the UK. Can the Minister say what estimate his department has made of the increase in plastic waste as a result of the pandemic? Is the department still committed to eliminating avoidable plastic waste? Why are we still waiting for the introduction of a deposit return scheme for drinks containers to incentivise people to recycle more plastic? Since the pandemic began, single-use has increased, exploited by some companies, which claim that it shows single-use, and often single-use plastic, to be the safest option. The science does not back that up; the virus can live on single-use surfaces as well.

The Welsh Government are currently consulting to restrict single-use, hard-to-recycle and commonly littered plastics and help move Wales towards a circular economy. We have often been at the forefront of these things. The longstanding commitment is outlined in *Beyond Recycling*. Today, I support the speedy introduction of these regulations for England and argue for a review of the regulations after 12 months.

2.50 pm

**Baroness Brinton (LD) [V]:** My Lords, these regulations are key to the UK's responsibility to reduce single-use plastics. However, as Trailblazers and other disabled organisations have made clear, there is an issue for some disabled people, who need to use plastic straws because of their flexibility and ability to be used in hot and cold drinks.

I thank the Minister for listening to disabled people and ensuring that the exemption in these regulations meets their needs. However, I want to ask him about the social impact of these regulations. What guidance is being given to the hospitality sector to train organisations and all staff and explain the needs of these disabled people so that outlets will still maintain a supply of plastic straws, even if these are not kept visible? Without plastic straws, those venues become inaccessible to these disabled visitors. Will Defra continue to consult disabled people and groups such as Trailblazers to ensure that disabled people are not disadvantaged or stigmatised when they use needed single-use plastics?

2.51 pm

**Lord Holmes of Richmond (Non-Aff) [V]:** My Lords, I welcome the regulations, which were so clearly introduced by my noble friend the Minister, not least for the way that they take account of the need for an inclusive approach and the needs of disabled people. Building on the comments from the noble Baroness, Lady Brinton, will he confirm that the department will continue to consult organisations of and for disabled people to ensure that all outlets understand and are clear that an inclusive

approach will allow everybody to access their products equally and that there should not be any difficulties or sense of stigmatisation as a result of this?

Does the Minister agree that these regulations are key to turning our ocean back to one that is salty and refreshing, rather than an ocean of plastic? Does he agree that, as a result of these regulations, a plastic straw in the wind will soon be a thing of the past?

2.52 pm

**Lord McColl of Dulwich (Con) [V]:** My Lords, I draw attention to the associated medical problems. The inhalation of microplastics is causing health difficulties in textile workers. Synthetic clothing is responsible for endless amounts of microfibres, which are even found in drinking water. Microplastics are found in high concentration in the air, especially in large cities such as London, and even in the Alps and the Arctic. Would the Minister agree that there is a very urgent need to reduce the amount of plastics in the UK? Cleaning up the environment should be a priority for everyone and possibly take priority over spending endless funds on trying to change the climate.

2.53 pm

**Lord McConnell of Glenscorrodale (Lab) [V]:** My Lords, I support these regulations and am very pleased that the Government have brought them back to us, despite the difficulties of the last three or four months in peak lockdown. However, the Government now need to look to the next steps. When will they bring forward plans to ban mixed packaging, which seems a particularly disgraceful waste that could be eliminated quite easily through regulation and legislation? I also ask the Minister to say more about how the Government are contributing to the delivery of UN sustainable development goal 12, which calls for sustainable consumption and production. At home and abroad, this Government should lead the way by going much further than this ban and making sure that any recovery around the world is more sustainable in both its consumption and production.

2.54 pm

**Baroness Northover (LD) [V]:** My Lords, we contribute to environmental harm from plastics, here and across the world. We must particularly thank David Attenborough for opening our eyes. In developing countries, you will see a mass of plastic waste filling every river and ditch, strewn around every home and through settlements. We have contributed to that. My noble friend Lady Parminter was right when she insisted, in the coalition, that we must charge for plastic bags, simply to cut their use. Limiting plastic straws and cotton buds and banning stirrers is welcome. I understand why we may still need to use plastic straws and cotton buds in health and social care settings, but I hope that we will develop substitutes. We have so much more to do. What other plans do the Government have? Plastics are everywhere we turn, here and worldwide. I look forward to the Minister's reply.

2.55 pm

**Lord Randall of Uxbridge (Con) [V]:** My Lords, I wholeheartedly welcome these regulations, which I am sure would have been implemented earlier had it not

been for the Covid-19 pandemic. I have found that the vast majority of the public is very supportive of measures to reduce plastic pollution, and that support ranges across all age groups and, indeed, businesses. I am sure that the forthcoming Environment Bill will offer further opportunities to continue on this path, particularly with the deposit return scheme, which we have been awaiting eagerly. I believe that the Government have taken appropriate consideration of those needing exemptions, particularly in relation to plastic straws, and I am very pleased that they are doing it in a way that will not stigmatise those who have to use them. I also know that manufacturers are working flat out to produce a suitable non-plastic straw for use when attached to a drinks container. There is a lot more to do to deal with the scourge of avoidable single-use plastics, but these regulations are another welcome step in the fight to save the environment.

2.56 pm

**Baroness Boycott (CB) [V]:** My Lords, this SI is a welcome step. What we need now is to significantly scale-up our ambition in order to transition to a circular economy that makes much better use of our finite natural resources. We can design out waste and pollution, keep materials and products in use, and regenerate natural systems. This means focusing on two things. The first is the standards in our design. According to the Ellen MacArthur Foundation, 80% of environmental impacts are determined at the design stage. Incidentally, it has further found that circular economy strategies could reduce emissions by 40% by 2050 if applied to four key industrial materials—cement, steel, plastic and aluminium. The second point is that, as we work on design, we must ensure that citizens and consumers understand the impact of current usage and shift their attitudes to see waste as a design flaw. What are the Government doing to support better public understanding of this?

2.57 pm

**Baroness Kennedy of Cradley (Non-Affl) [V]:** My Lords, I too am pleased that these regulations are before the House today. Half of all the plastics ever manufactured have been made in the last 15 years. Plastic production has increased exponentially; so much so that, every year, about 8 million tonnes of plastic waste escapes into the oceans, killing and harming millions of fish and animals, and ending up in our air, food and water. These regulations are a step forward and I support them, but it is only a step forward. The pandemic has, understandably, interrupted progress on tackling the plastic problem. These regulations have been delayed and the plastic bag charge has been lifted. We cannot let this temporary pause become an excuse for ongoing inaction. I want to ask the noble Lord about the bottle deposit return scheme, which is also delayed. When will this legislation come forward? Is it the case that the Government are now reconsidering this scheme, due to pressure from the industry?

2.58 pm

**Lord Foulkes of Cumnock (Lab Co-op) [V]:** My Lords, of course I too support this legislation, which will provide some help to reduce the awful problem of plastic waste, as described so vividly by colleagues. But

frankly, we still have an awfully long way to go—it only scratches the surface. There is much more that needs to be done to tackle not just single-use plastics but other types of problem waste in our society. All this work will form an integral part of our green recovery, yet we still have uncertainty over when the Government will publish the second wave of consultations, as has been mentioned already, for the extended producer responsibility scheme, the EPR, and the deposit return scheme, the DRS. We remain in a state of limbo over both. Will the Minister advise the House as to when the secondary consultations will be published?

2.59 pm

**Baroness Jolly (LD) [V]:** My Lords, I welcome the regulations we are debating today. The exceptions are sensible and practical. I live in the south-west, and a walk on the beach after a storm, or on the moors after a holiday weekend, proves the evidence that regulations may be a start but more needs doing. Alongside the items we are discussing are discarded or washed-up plastic picnic plates, beakers, cutlery and even tablecloths. Some products have equivalents made of biodegradable products such as paper, cardboard or wood, which could be easily recycled. Would it not be more responsible to encourage reuse, rather than disposal or just plain abandonment? I have two questions for the Minister. What is preventing the Government being bolder about the scope of the ban? When do we expect to see wider regulation or legislation for other plastic, single-use disposable products? As far as it goes, I support the legislation.

3.01 pm

**Lord Berkeley (Lab) [V]:** My Lords, I am sorry the Minister was not able to be in his place in the Chamber because I think I missed much of his introduction. As ever, we must look at this in perspective. According to the *National Geographic*, 8 million tonnes of plastic is deposited in the oceans every year, and straws represent 0.025% of that; that is one in 4,000. Here we have a 30-clause Bill to deal with 1/4,000th of the waste problem. The Minister said he is committed to eliminating plastic waste but, as the noble Baroness, Lady Bennett, said, he needs to do a lot more. When he comes to wind up, I hope he will explain exactly what he is going to do about the much bigger problem of tackling the rest of the plastic waste in the oceans.

3.02 pm

**Lord Hayward (Con) [V]:** My Lords, the noble Baroness, Lady Northover, raised the question of charges on plastic bags in small and medium-sized enterprises. I have been asking questions on this subject for over two years and received the latest of two Written Answers this week from the noble Lord, saying that the Government would be responding shortly. It has taken over two years of questioning and we have still not got any decision. Could I ask the Minister to please give a decision this afternoon when he sums up on this urgent, important and simple matter?

3.02 pm

**Baroness Scott of Needham Market (LD) [V]:** My Lords, in welcoming this SI, I echo the point made by the noble Lord, Lord Berkeley, that this is a very

[**BARONESS SCOTT OF NEEDHAM MARKET**] tiny amount. Unfortunately, one of the impacts of the pandemic has been to go back to plastic use where we were getting rid of it; for example, supermarkets are now delivering in plastic bags. Therefore, I wonder if the Minister might give an indication of what work is being done with health authorities to produce guidance that balances the need for good health practice and the reduction of plastic use.

Secondly, I echo the concern of the noble Lord, Lord Oates, about the extent of the exceptions, which do seem very wide. Can the Minister give an assurance that encouragement will be given to the research and development of alternatives to plastics that can be used in these different contexts?

3.03 pm

**Baroness McIntosh of Pickering (Con) [V]:** My Lords, a simple ban is only part of the problem. In response to the consultation, the Chartered Institute of Wastes Management asked clearly that alternatives such as paper and wood be explored. Could my noble friend update us on where we are on the use of these alternatives? Furthermore, does it not seem nonsensical that we are failing to dispose of plastics, whether single use or otherwise, where they could be reused—the plastic that is created from this—and recirculated so that there would be minimum waste? Should we not take a more whole-life approach to end-of-life use at the time of manufacturing any product, plastic or otherwise?

3.05 pm

**Baroness Uddin (Non-Affl) [V]:** My Lords, I welcome these regulations as we still have some way to go. I wish to make the following points. First, local authority recycling remains inconsistent and patchy, and food-waste management is absent in many boroughs. Secondly, I agree with the noble Lord, Lord McConnell, that supermarkets remain on the back foot regarding the use of plastic packaging. Having strolled through two markets yesterday, I saw plenty of free plastic being given out, demonstrating that understanding of the detrimental impact on the environment remains inadequate. Does the Minister agree that the visual campaign needs to be broadened, including in various languages?

Finally, on the use of alternatives to plastic straws and cotton buds, I agree that more needs to be done in respect of manufacturing robust materials. I have a disabled family member and grandchildren, and I know that paper straws and cotton buds crumble very easily and often do not function adequately, so I welcome the exemption. Does the Minister agree that now is not the time for punitive measures such as fining companies, without first educating people and producing durable alternatives?

3.06 pm

**Baroness Bowles of Berkhamsted (LD) [V]:** My Lords, I welcome this step towards reducing the amount of single-use disposable plastic that finds its way into the ecosystem. Paper straws evoke memories of school milk, soggy ends and pink or brown-coloured ends for special occasions, but thankfully paper technology has improved

since then. Taking a broader environmental view, everyday use of non-essential straws should not be encouraged. Making and disposing of them still uses resources, and it is unclear how quickly they will biodegrade. On the packaging exemption, does it provide a loophole if a product—say, a flavouring—is supplied in a straw which is then used for drinking? Finally, as a general question, have the wire and elastic bits from surgical masks been assessed for environmental damage now that they are already being discarded a little carelessly?

3.07 pm

**Lord Lucas (Con) [V]:** My Lords, to deal well with the interface between citizens and environmental initiatives such as this, we need a comprehensive, open and above all truthful evidence base covering such matters as pollution, recycling, energy saving, the whole life cycle and all costs and benefits. We, as citizens, should be enabled to question, understand and then own whatever is asked of us. Are microplastics actually dangerous? Can you really mix shattered glass and waste paper and end up with recycled loo paper you would actually want to use? Please can we have something easily accessible, comprehensive and obsessively truthful so that we can truly share in this enterprise?

3.08 pm

**Baroness Goudie (Lab) [V]:** My Lords, I welcome these regulations and I support my noble friend Lord McConnell regarding the development goals. Britain could clearly be leading the way on the development goals on plastic. Next year—because it has been postponed—we are hosting COP 26. By doing this we could show the rest of the world that we are banning all forms of plastic for consumers and for building, because we have seen what it is doing to our sewers, to our oceans and to Antarctica. We must protect the environment not only for ourselves but for our children and further generations. I hope that the Government will ensure that there is enough funding for local authorities to enforce these regulations.

3.09 pm

**Baroness Neville-Rolfe (Con) [V]:** My Lords, I strongly support this measure and congratulate the Minister on bringing it forward despite Covid, on doing a proper impact assessment and on making provision for medical need. As the House knows, I am a long-term campaigner for reducing the use of plastic because of its growth, its indestructibility and its appalling effect on the environment, wildlife, the oceans and, I fear, human health, as my noble friend Lord McColl suggested. I have two questions. First, there are some amazing steps forward on plastic. A spin-out from Imperial has pioneered an additive that causes plastic film to break down in water. Elsewhere, the pollution of recycling caused by black plastic trays has been solved and there is a way of making disposable coffee cups so that the lining can be removed and the paper recycled. Can my noble friend incorporate these into his strategy? Secondly, there is still not a single and comprehensible system of plastic recycling, neither bins nor product labelling, across Britain's local authorities. Can my noble friend pluck this low-hanging fruit and bring in a new system now?

3.10 pm

**Baroness Benjamin (LD) [V]:** My Lords, people of my generation were led down the wrong path into using plastic, so the conscious reduction in its use is very welcome. Single use, irrespective of the material, is not compatible with goals to reduce emissions and be sustainable. Plastic waste and pollution created by the products we use is a problem that will affect the youth of today and tomorrow more than previous generations. It is a problem that compounds itself and is still increasing.

Research has found that 68% of students want to learn more about the environment, but 75% of teachers do not feel they are equipped or trained adequately to teach students about climate change. We need to press the reset button. Will the Government respond to the Teach the Future initiative and commit resources to ensuring that climate considerations such as education on plastic, plant plastics and the need for sustainability and recycling in the economy are at the heart of our education system? I declare an interest as a member of the Peers for the Planet group.

3.11 pm

**The Earl of Clancarty (CB) [V]:** My Lords, the creative industries clearly have a huge role to play in finding substitutes for objects now unacceptable for general use, such as those covered in these regulations, as well as developing new uses for biodegradable materials. Everything around us that is manmade is the result of a series of design decisions, including the materials used. A mantra of a younger generation of designers is, “Waste is a design flaw”. Is there an ongoing dialogue between Defra, BEIS and DDCMS that connects concern for the environment with the encouragement of design solutions? If not, might there be one?

A second, related concern is that we should not replace one set of problems with another—namely, plastics biodegradable only under industrial conditions ending up in landfill. Good designers are aware of this. What progress has been made since last year’s call for evidence on standards for bio-based, biodegradable and compostable plastics? How does the department intend to educate the public in this area, including the use of labelling?

3.12 pm

**Lord Bhatia (Non-Afl) [V]:** My Lords, I support this legislation. The three items covered by it that use plastic must be banned and their manufacture stopped. Surely, with the help of science, a replacement material such as wood could easily be used. I have heard that grass or straw could be used and then eaten, thereby avoiding any residual material to be disposed of. This would help address environmental issues.

It is generally accepted that the environment and climate change are the important issues of this century. Current plastic stocks must be destroyed, and the Government should recompense the stockholders. What plans are being considered to find a replacement material, dispose of the current stocks and compensate the stockholders?

3.13 pm

**Baroness Redfern (Con) [V]:** My Lords, I too welcome these regulations and the review after one year to assess their impact. Plastic-stem cotton buds in particular are an added cost for water companies. They contribute to blockages, flooding and pollution in the sewers. Nationwide, £90 million is now spent clearing blockages after they are flushed down the loo. They eventually end up in our waterways and oceans and washed up on our beaches.

On a positive note, consumers will buy products that support the environment. They want to help our green recovery. According to the Ocean Plastic Survey, 89% of people are concerned about the effect of plastic pollution. As I speak, even more plastic escapes into the environment. We have to do more and do it quickly. The full impact is still being discovered. The ban cannot come soon enough.

3.14 pm

**Lord McNicol of West Kilbride (Lab) [V]:** My Lords, plastic pollution poses immense risks to the environment and the ecosystem. Incredibly, only 9% of plastics are recycled. With the UK experiencing the highest single-use plastic consumption in Europe, these regulations take an encouraging step—but, as many others have said, they fail to go far enough.

Small single-use plastics make up a fraction of global plastic waste. Some 25 million tonnes of plastic enter our oceans annually, which is the equivalent of pouring a garbage truck of plastic into the ocean every minute. It is estimated that small, single-use plastic makes up only 5 tonnes of those 25 million tonnes. Without a shift in policy on other forms of plastic waste, the crisis will grow exponentially, so I would ask the Minister why we are legislating only on small, single-use plastic, which makes up such a tiny proportion of plastic waste.

3.15 pm

**Lord Rennard (LD) [V]:** My Lords, the Government have set out their ambition to leave the environment in a better state for the next generation. But our generation was not given good leadership when David Cameron argued that we should

“get rid of all this green crap”

from energy bills. These regulations are a small step in setting that right. They rightly provide exemptions for people with disabilities who may need to use a straw, but I would ask the Minister, first, how we might prevent abuse of this exemption. Secondly, could more be done to promote recyclable or more environmentally friendly alternatives as far as it is safe and appropriate to do so? For example, given present concerns about Covid, would metal straws be considered safe if they are washed in a dishwasher? The damage done to teeth by sugary drinks may be mitigated by the use of a straw, so we need to ensure that people are able to use non-plastic ones.

3.16 pm

**Baroness Hooper (Con) [V]:** My Lords, as an MEP in the first directly elected European Parliament, I was privileged to present a report on “containers of liquids for human consumption”,

[BARONESS HOOPER]

generally known as the beverage containers directive. Ever since, I have remained interested in the difficult balance to be struck between health, hygiene and convenience on the one hand and the need to reduce, reuse and recycle on the other. These regulations aim to strike that balance.

Time is short, so I shall confine myself to asking my noble friend the Minister what international co-operation channels have been set up not only so that we can benefit from shared experience and research, but to monitor the situation both nationally and internationally. After all, the items covered by these regulations are in use throughout the world and our seas, oceans and marine life are being contaminated, as we have heard. If, in this country, 10% of these items are flushed down the toilet, what must the figure be globally?

3.17 pm

**Lord Mann (Non-Afl) [V]:** I welcome this modest change and note that the charge on plastic bags has been pretty much universally accepted across the country and with virtually no complaints. But we need to go significantly further. The whole takeaway, throwaway culture has to be challenged. It is not long-standing in this country, but very modern. Be it in our canteens across the Palace of Westminster, where people seem to feel that taking food and plastic utensils back to their offices is normal, or the absurdity of people buying takeaway hot drinks and wandering the streets or cycling with them, this culture needs to be challenged and changed, and government action is crucial to assist that.

3.18 pm

**Lord Arbuthnot of Edrom (Con) [V]:** My Lords, I welcome the sensitive way in which my noble friend introduced these regulations, particularly in relation to the exemptions—here I echo the comments of the noble Baroness, Lady Brinton, and my noble friend Lord Holmes. A member of my close family has severe Parkinson's disease and cannot drink without a straw. However, in answer to the noble Lord, Lord Rennard, in my view the straws do have to be disposable. I actually own a brush for washing non-disposable straws, but I am not sure that I believe in it. It may be that these regulations will spur research into new materials. However, if we do encourage the use of new materials, we need to ensure that, in creating them, we do not do further environmental harm in the way that, say, palm oil has done. We must beware of the law of unintended consequences.

3.20 pm

**Lord Goddard of Stockport (LD) [V]:** My Lords, the numbers given by the Minister regarding straws, cotton buds and stirrers are quite staggering. I believe that the public will be right behind this legislation, but if we are serious about dealing with and reducing these numbers, we must revisit the exemption list and tighten it up. As the noble Lord, Lord Mann, said, using these facilities and products must become unpopular and made like smoking was. At one time, everybody smoked; public opinion changed that and we can change this, too, but the exemptions—apart from the medical ones—

really need to be tightened up. Finally, how many more burdens can the Minister pass on to local authorities and trading standards without sufficient funding to maintain them and deliver the services that he requires? It is quite intolerable that, as every SI comes before us, the burden is put on local government.

3.21 pm

**Lord Young of Norwood Green (Lab) [V]:** My Lords, I too welcome the regulations. As many people have said, they are a small step in the right direction. What I query is that while the public may say they support these things, their attitudes display something different. Too many bottles, cans and plastic bags litter our environment. Why are retailers still offering plastic bags? We need to increase charges. Why is polyester still being used as packaging when we know how detrimental it is? Other people have mentioned the importance of speedily introducing the deposit return scheme; if we had one, children would probably co-operate in clearing up that problem. I looked at the Government's 25-year strategy and there are some good things, but it fails to deal with one of the worst blights: wet wipes. Millions and millions of these are used, totally unnecessarily. In the good old days, we used a flannel that was capable of being washed. I look forward to the Minister's response.

3.22 pm

**Baroness Gardner of Parkes (Con) [V]:** My Lords, I welcome these regulations to address the serious problem of single-use plastic in our disposable society. My youngest daughter, as chair of the Western Riverside Waste Authority in 2018-19, spoke of her frustrations at our throwaway culture and its cost to nature and society. In those years, that waste authority recycled more than 5,000 tonnes of plastic. Yet small items such as drinking straws are not commonly recycled and, having fallen through the machinery or worse, are left littering the environment. These regulations will be one step in re-educating people's habits.

I welcome the medical exemptions. Another grandson, who has severe Down's syndrome, relies on a straw to drink. His mother has now moved him on to a metal straw, which has become an essential part of his life. We should not just swap a plastic straw for an alternative one and then throw it away, but get people to change their behaviour by either reusing an alternative or not requiring a straw. It is good to see HMG bringing these regulations into force but October seems too far away, given the understandable delays in bringing them before the House. I hope that the Minister, having listened to today's debate, will now feel able to press the Government for an earlier implementation date.

3.24 pm

**Lord Hussain (LD) [V]:** My Lords, I agree with many of your Lordships who have spoken so eloquently before me, highlighting the damage that the use of plastic is causing the environment and supporting these regulations to ban the single use of certain plastic items, as agreed more than two years ago. Can the Minister tell the House what measures are being put in place to ensure that drinking straws, stirrers and cotton buds sold in England are made of more environmentally



friendly materials? Will he also promote the use of reusable alternatives? Furthermore, the use of such plastic material is an international problem for the environment, affecting almost every country in the world. But for educational and economic reasons, many developing countries have failed to take any steps to address this important issue. What are the British Government doing to assist those countries in addressing these issues?

3.25 pm

**Baroness Meyer (Con) [V]:** I thank my noble friend for bringing forward these regulations. They are a welcome step in halting the terrible damage done to the environment by plastic waste. I have only two points.

First, I welcome the sensible exemption to which the Minister referred. As the Covid crisis has shown, it is impossible to do without plastic until we can mass-produce a cheap biodegradable alternative. Secondly, human habits matter as much as the science of recycling. It is human beings who through their irresponsible dumping of plastic waste are poisoning food chains, habitats, water and wildlife. The curse of plastic waste demands a joint effort from the Government, business and the ordinary citizen. People must learn not to treat our streets, parks and beauty spots as a fly-tipper's paradise.

Does the Minister agree that there is also an urgent need for more rubbish bins and recycling points, more frequent removal of litter from public places and a speedy imposition of much heavier fines for littering? In all my years in London, I have never seen anyone fined for littering. Britain has a reputation for being the dirtiest country in Europe.

3.26 pm

**Baroness Bakewell of Hardington Mandeville (LD) [V]:** My Lords, the ban on single-use plastics—plastic straws, cotton buds and stirrers—has been debated in this Chamber on many occasions since autumn 2018 when the Government first started their consultation on it. In May 2019, the ban was confirmed by the Government. Since then we have had numerous debates in which my noble friend Lady Parminter and I have taken part and supported the measure.

In these debates, the noble Lord, Lord Gardiner of Kimble, as Minister, proudly reiterated that the ban on plastics was a prime example of the Government's commitment. I have no doubt that he was sincere in that. The Minister now before us was in the other place when the noble Lord, Lord Gardiner, was giving us these reassurances. However, I have no doubt about the present incumbent's commitment to the wish to see all plastics removed from our countryside. I welcome his introductory remarks. In England, an estimated 10% of cotton buds are flushed down toilets and can end up in waterways and oceans, threatening precious marine life.

There are exemptions to the ban for people with medical conditions and disabilities. Registered pharmacies will be allowed to sell plastic straws over the counter or online. For reasons I do not understand, pubs and catering establishments, although not displaying plastic straws, will be able to provide them if asked. These could easily be made of paper.

This ban was consulted on, went through all the processes of legislation and became law in May 2019, to be implemented by April 2020. However, here we are today debating moving the implementation date to October 2020. The deadline had already passed. It is over a year since the Government introduced the ban, and the compliance date was well trailed with the industry. The straw manufacturers and those making cotton buds have had plenty of time to comply. It is easy for the consumer to purchase non-paper plastic-stem cotton buds and paper straws. When we buy a cup of coffee, we can use the wooden stirrers provided.

Many noble Lords have made valuable contributions and important points supporting banning plastics on a much wider scale. I support all their arguments, but this could have already been done. Along with banning microbeads in wash-off cosmetics, the subjects of this SI are but a drop in the ocean of the plastics we need to remove from our environment. It is disappointing in the extreme that the Government are backtracking on their commitment.

Therefore, I am left with only one answer to why the Government have decided to postpone the implementation date, and it has absolutely nothing to do with Covid-19. One of the major producers of these products has done nothing to move its business forward and has put pressure on the Government to move the implementation date. I have only one question for the Minister. Which of the major companies that produce plastic straws, cotton buds or stirrers was unable to meet the Government's deadline of April 2020?

3.30 pm

**Baroness Jones of Whitchurch (Lab):** My Lords, I am grateful to the Minister for his introduction to this SI, and to all noble Lords who have spoken in this debate. Clearly there is a great deal of passion about this subject. As we have heard, the damage caused to the environment by single-use plastic is understandably a major concern, not only in this House but among the public at large.

When the proposal was first announced in 2018, some 80% to 90% of respondents supported the ban on plastic straws, drink stirrers and plastic-stemmed cotton buds, but this SI, welcome though it is, deals with only one small part of the plastics problem. It has been long promised and has taken a long time to get here, but at least it is a start, although the most recent delay, caused by the Covid-19 pandemic, also highlighted another problem: how easily the progress we are making on single-use plastic can be undone if we are not vigilant.

The use of plastic knives, forks and cups in takeaways and restaurants has surged again, as it is seen as safer than metal cutlery and china crockery. Even the restaurants here in the Lords are distributing plastic cutlery again as standard. Although this is not the subject of today's SI, it reminds us of the necessity of embedding a change in consumer behaviour and finding safe, reusable alternatives for all forms of plastic. However, while that is the right thing to do, we must be aware of the drift towards easy substitutes, which are often not much of an improvement on the plastic they replace. For example, the global market for paper straws is growing

[BARONESS JONES OF WHITCHURCH]

by 13% each year. McDonald's switched to providing paper straws in 2018 and currently uses 1.8 million straws a day, equating to 675 million a year. None is recycled; they all end up in incineration or landfill.

What measures are in place to prevent this ban simply resulting in a switch from one unsuitable single-use material to another? How will the use of unsuitable substitutes be monitored, and action be taken as required? Where does this fashion for drink stirrers come from anyway? In my childhood, metal spoons did the trick. It worries me that, as with many consumer products, we seem to have been sold a desire for a lifestyle symbol that is neither particularly practical nor attractive, while other, more sustainable, substitutes are available.

The Minister is committed to the concept of a circular economy, in which all materials are used and used again and consumers play their part in sustaining that economy, but we are a long way from achieving that goal and a great deal more education is needed to make it a success. In the meantime, this SI tackles only one small part of the challenge. We have been waiting for legislation on bottle return schemes and a requirement for all remaining single-use plastics to be recyclable and recycled. I agree with noble Lords that we need tighter measures to ensure that we do not simply export the plastics and contaminated waste to countries less able to process it.

We are also waiting for the Environment Bill, which has been delayed again. It would give us the chance to address some of these wider objectives—with, we hope, more ambitious targets than those originally set out in the 25-year environment plan. Can the Minister say when we are likely to receive the Bill in your Lordships House, and answer a specific concern about when the office for environmental protection will be in place and fully functioning, given that its deadline was originally 1 January 2021?

In the meantime, I have some specific questions. First, can he confirm that the exemption for plastic straw use in schools is only for reasons of disability? I am sure that he would recognise that allowing all young people to have access to straws could encourage an expectation which would be hard to reverse as the children get older. Secondly, what is the assessment of the introduction of these bans during the Covid pandemic? For example, would the medical exemption apply in pubs and restaurants if it was used for hygienic reasons? Thirdly, what guidance will be made available to local authorities on enforcement, and what steps will be taken—and indeed what additional resources will be provided—to ensure that trading standards is able to give this issue priority? I look forward to the Minister's response.

3.36 pm

**Lord Goldsmith of Richmond Park [V]:** I thank noble Lords who have contributed to the debate today. In order for us to leave the environment in a better state than we found it, which is our commitment as a Government, it is essential that we have the right legislation in place to limit the impact of our use of resources on the natural world. Plastics cause incontrovertible harm to the marine and terrestrial environment and we need to act now. These measures

are an important part of our wider strategy to tackle plastic pollution; they will serve as an important marker that our reliance on single-use plastics must be reduced.

I will do my best to answer the many questions raised throughout this fascinating debate. The noble Lord, Lord Oates, asked whether the exemptions were really necessary, and whether we could not simply switch to biodegradable and other alternatives. The reality is that, until the technology becomes more reliable and improves, we believe that these exemptions are necessary. He asked, as did a number of other noble Lords, about the capacity of local authorities to enforce these new rules. I can tell noble Lords that my officials are working with MHCLG to complete a new burdens assessment on this new regulation. Any new burdens will be fully resourced.

My noble friends Lord Sheikh and Lady Hooper, and my near-neighbour, the noble Lord, Lord Holmes, all in different ways raised the international component of the issue that we are discussing. I emphasise that the UK has shown real global leadership. This is a huge problem: we are told that, by 2050, the oceans will contain more plastic than fish, as measured by waste. This is a really big issue. The UK has committed up to £70 million to boost global research and to support developing countries around the world to prevent plastic waste entering the ocean, as well as to develop sustainable manufacturing. This includes the Commonwealth Litter Programme, which is a £6 million programme supporting countries across the Commonwealth to develop national litter action plans, and the Commonwealth Clean Oceans Alliance. A technical assistance facility of up to £10 million has been made available to ODA-eligible members to support the implementation of the alliance's many commitments. There is also the Global Plastic Action Partnership: the UK has committed just under £2.5 million to the World Economic Forum to help leading businesses to collaborate with NGOs and Governments to tackle marine plastic pollution—among many other things.

A number of noble Lords raised the obvious point that this is just one small step. The noble Lords, Lord Singh of Wimbledon, Lord Foulkes, Lord Mann and Lord Goddard, the noble Baroness, Lady Boycott, and my noble friends Lord Randall and Lady Gardner, all in various ways made the point that this is one step and we need many more. Of course, I and the Government recognise that much more needs to be done, and our resources and waste strategy clearly reflects that.

I would point out, however, that we have already introduced a world-leading ban on microbeads in rinse-off personal care products—it was a world first. We have reduced the use of single-use carrier bags by around 90% in the main supermarkets with the 5p carrier bag charge. We have committed over £100 million to support research and development around plastics, particularly the development of smart, sustainable plastic packaging, including alternatives to plastic. We have consulted on a suite of measures to reduce, reuse and recycle more. Among other things, we are creating a consistent service across England, ensuring that a minimum core set of materials is collected by all authorities. We are

committed to reforming the current packaging waste regulations to financially incentivise producers to take greater responsibility for the environmental impact of the packaging that they put on the market.

We are committed to introducing a deposit return scheme for drinks containers in England and to introducing a new tax on plastic packaging that has less than 30% recycled content from April 2022, with any revenue from that going to fund investment in plastic waste and litter. We have also committed to removing consumer single-use plastics from central government offices; Defra, for example, one of the departments that I am representing here today, has already removed single-use plastic cups for sale within the department.

My noble friend Lord Moynihan raised a number of issues around extended producer responsibility and the merits or otherwise of biodegradable alternatives, a point that was also made by the noble Earl, Lord Clancarty. The Government are reviewing the implementation timeline for the proposed introduction of extended producer responsibility. It will be announced soon; I apologise that I am not able to put a date to that.

The thrust of our environment approach, and almost the most important part of our approach to tackling waste, is extended producer responsibility, which for the first time will place the lifetime responsibility for a product on the shoulders of those who manufacture that product. There is a massive incentive in there for manufacturers and producers of products to produce products that last or that can be easily recycled.

On the biodegradable alternatives, there is no doubt that innovative new packaging types could help reduce the environmental impact of plastic if it is disposed of in the right way. However, in the absence of clear standards, we are concerned that claims about the biodegradability of plastic-based products cannot always be verified, and in fact they are simply not always true. Defra and BEIS therefore published a call for evidence last year to help us look at standards or certification criteria for bio-based, biodegradable and compostable plastics, and to better understand their effects on the environment and our current waste system. We are currently analysing the responses that we have had, with a view to publishing a government response late in the summer.

The noble Baroness, Lady Brinton, congratulated the Government on the exemptions that were included and asked that I commit that we continue to consult with stakeholder organisations. That point was also made by my noble friend Lord Holmes and I am happy to make that commitment here now.

I was asked whether we would be issuing guidance to businesses on how to work with the new regulations and the answer is yes. Defra will publish guidance for businesses and put it on the government website, GOV.UK, to assist them in complying with these new regulations. Local authorities, which ultimately will enforce the ban through trading standards officers, will also be required by the regulations to publish guidance on enforcement, and we will help them to do so.

My noble friend Lord McColl mentioned the problem of microplastics and suggested that that was a more important issue to be spending money on than, for example, climate change. These issues are not mutually exclusive. It is impossible to tackle climate change responsibly without also tackling broader environmental issues and working with nature-based solutions, and it is impossible to restore and protect the natural world in the way that he implies, with which I strongly agree, without also tackling climate change. We have no choice but to tackle both of those looming crises.

On the specific issue that he raised on microplastics, we have introduced one of the world's toughest bans on microbeads in rinse-off personal care products. Microbeads, like all other forms of microplastics, do not biodegrade; they get smaller and smaller and accumulate in the environment. Our ban has eliminated that avoidable source of plastic pollution.

The noble Lord, Lord McConnell, mentioned the problem of mixed waste. He is right: there is an inconsistency in the manner in which waste is collected. One of the things that we are committed to doing is ensuring consistency at local authority level. He also made the point that driving further with this agenda would be good as part of our green recovery plans, and I am pleased that the Prime Minister has made building back greener and better a key priority not only of this Government but in our international work as well.

The noble Lord, Lord Foulkes, asked when the second round of consultations would happen. That will be in early 2021. The noble Baroness, Lady Kennedy, asked whether we were still committed to introducing DRS. Yes, we are absolutely committed to doing so and I can give that commitment now. The noble Baroness, Lady Jolly, asked why we have not been bolder. I hope that the answers I gave to previous questions will have reassured her somewhat.

The noble Lord, Lord Berkeley, questioned the focus on something which represents a small percentage of the overall plastic problem. He is right, but 4.7 billion straws being used in England alone is not a small problem. Tackling these visible examples of what the noble Lord, Lord Mann, described as "our throwaway society" is, in itself, an educational process and alerts people to the problem of plastic more broadly.

The noble Lord, Lord Rennard, criticised the previous Prime Minister for using a derogatory term about environmental measures. Internationally, we have shown more leadership on climate change and environmental restoration than any country that I am aware of, doubling our climate finance to £11.6 billion, and leading the charge on making the case for nature-based solutions to climate change. We have a long history that we can be proud of. We were the first country to introduce legally binding emissions reduction targets and the first major economy to set net-zero targets by 2050. We are the top performer in the EU on resource efficiency and much more besides.

I recognise that I am running out of time. I apologise to noble Lords whose questions I have not answered. I have documented these and will write to them following this debate.

[LORD GOLDSMITH OF RICHMOND PARK]

As I have outlined, the regulations will restrict the supply of single-use plastic straws, stirrers, and cotton buds; in doing so, reducing plastic pollution and its impact on the natural environment. We recognise that there is a great deal more to do and the Government are committed to doing so. We are taking steps to

reduce our reliance on single-use plastics and to explore more sustainable alternatives. These regulations will help us achieve that. I beg to move.

*Motion agreed.*

*House adjourned at 3.48 pm.*



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