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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

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In Hybrid sittings, [V] after a Member's name indicates that they contributed by video call.

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

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

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

House of Lords

Monday 20 July 2020

The House met in a Hybrid Sitting.

1 pm

Prayers—read by the Lord Bishop of Chichester.

Arrangement of Business

Announcement

1.06 pm

The Lord Speaker (Lord Fowler): My Lords, the hybrid sitting of the House will now begin. Some Members are here in the Chamber, respecting social distancing, and others are participating remotely, but all Members will be treated equally. Oral Questions will now commence. Please can those asking supplementary questions keep them short and confined to two points and I ask that Ministers' answers are also brief.

Pharmacies

Question

1.07 pm

Asked by ***Lord Grade of Yarmouth***

To ask Her Majesty's Government what steps they are taking to ensure that independent pharmacies are able to continue to support the communities in which they are based.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con) [V]: My Lords, I pay tribute to the immense contribution being made by community pharmacies in the epidemic. We are hugely grateful for the unequivocal commitment that the sector has shown and we want to make sure that the sector is treated correctly. We have made available £370 million in advance payments to aid cash flow, providing funding for the medicine delivery service for shielded patients and increased drug reimbursement prices. We are talking to the sector about additional funding for Covid-19 costs.

Lord Grade of Yarmouth (Con) [V]: I am grateful to my noble friend the Minister for that response but, as I am sure the whole House will agree, independent pharmacies in so many small towns such as Yarmouth and places such as the Isle of Wight are now the heroic first line of defence for GPs and the NHS. The most vulnerable in these communities depend on them for medical advice and deliveries of vital prescriptions, which they offer for free. In my view, it is totally unrealistic for the department to point to some recent funding help as if that has solved the problem. It is nowhere near enough to keep the pharmacies in business, let alone to allow the pharmacists to have a day off or even earn a living. It just demonstrates that the department fails to understand why independent pharmacists are still in such grave peril. May I please urge my noble friend to meet a delegation of these front-line heroes, to hear directly why their businesses continue to hang by a thread? When they fold, they will not be replaced.

Lord Bethell [V]: My Lords, I agree with every word of the tribute of the noble Lord, Lord Grade, to the role of community pharmacies, particularly during the epidemic. They have played an absolutely pivotal role in communities, with advice, medicines and support, and I pay tribute to their hard work and commitment. I would be very pleased to meet a delegation to discuss the challenges that they face.

Baroness Pidding (Con) [V]: My Lords, as the noble Lord, Lord Grade, says, throughout recent months during the coronavirus crisis many independent pharmacists have served an important role in supporting their local communities. Does my noble friend agree that their role would be enhanced—indeed, it would be vital—if they offered flu vaccines as the autumn and winter months approach? What can the Government do to ensure that they are able to offer this potentially life-saving facility?

Lord Bethell [V]: My Lords, the role of pharmacies in the administration of vaccines is critical. Not only will the standard flu vaccine be coming up shortly, but, if today's news is to be taken on the level, the possibility of a Covid vaccine is at some point on the horizon. That is why we are talking to the sector about the role that community pharmacies can play in the greater administration of vaccines, both of flu and of Covid.

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, will the Minister indicate what further discussions will take place with the National Pharmacy Association to ensure that community pharmacies become the front line for giving out services that would normally have been dealt with by GPs and emergency departments, to ensure that they take the flak and slack off the National Health Service and continue to provide an essential service to the wider community?

Lord Bethell [V]: As the noble Baroness is probably aware, the Secretary of State for Health and Social Care spoke at the annual conference of the National Pharmacy Association, at which he reiterated his commitment to the sector. The noble Baroness puts it well: pharmacies have something very special and valuable because of their trusted role. We very much want to see an enhanced role for pharmacies in the delivery of healthcare.

Baroness Pitkeathley (Lab) [V]: Does the Minister agree that independent pharmacies are of particular importance in rural areas, where they are often the only source of advice and information, as well as prescriptions and equipment, for people with disabilities and their families? Will the Minister confirm both his support for these rural pharmacies in particular and the Government's commitment to ensuring that they can continue to provide all these vital services?

Lord Bethell [V]: The noble Baroness is entirely right. Although the vast majority of people live within a 20-minute walk of a pharmacy, many people face issues with location. That is why we will continue to maintain the good level of access that we have through the pharmacy access scheme, which provides additional financial support to pharmacies in areas where there are fewer pharmacies. Our commitment remains fully in place.

Baroness Jolly (LD) [V]: My Lords, clinical commissioning groups can commission local pharmacies to carry out tests on their patients, such as for blood pressure or atrial fibrillation. This would relieve local GP practices. How widespread is the adoption of this way of using pharmacies and what is being done to increase its uptake by clinical commissioning groups?

Lord Bethell [V]: The noble Baroness is right that pharmacies can play an enhanced role, particularly in providing the kinds of services that mean that people do not have to visit their GP. If we have learned one thing from Covid-19, it is that GP surgeries can be a source of infection and that GPs can sometimes be much more impactful working away from home. That is why we support exactly the kind of initiative that the noble Baroness outlines.

Baroness Wheeler (Lab): My Lords, we know that the health service faces the herculean challenge of dealing with pent-up demands caused by the coronavirus pandemic, including for postponed elective surgery and delayed preventive interventions. Community pharmacists have proved themselves a key element of assistance during the crisis and should have an important role to play in future in helping to clear the backlog by bringing more care into the community. What plan do the Government have to expand the clinical role of pharmacies and what steps are they taking to ensure that pharmacies are far better integrated into the primary care system?

Lord Bethell [V]: The noble Baroness is entirely right. We have introduced a new framework—the community pharmacy contractual framework—which has down-played some services that were not offering value for money but has enhanced some services that have made a huge impact, many of which are of a clinical nature. The settlement also includes a transitional payment, which will help to secure the financial resilience of the pharmacy sector. We could not be more committed to the community pharmacy sector. I believe that the future of healthcare in this country will depend much more on the role of pharmacies delivering the kinds of services that the noble Baroness outlines.

Baroness Gardner of Parkes (Con) [V]: My Lords, the essential difference between community pharmacies and dentists and doctors and so on is availability, which is much greater in community pharmacies. Availability, continuity and reliability are things that all patients benefit from. I am therefore very supportive of this. I remember so often as a dentist hearing from patients that they had had dental pain at some incredible time and the pharmacy was the only place where they could get any immediate help. I would like the Minister's assurance that this will continue.

Lord Bethell [V]: As the father of four small children, I completely endorse the noble Baroness's point. Many a night have I been outside a hard-working pharmacist's shop looking for advice, support and essential medicines. I pay tribute to the hard-working community pharmacy sector, whose pharmacists are often up until midnight helping their local communities and hard-hit fathers like me.

Baroness Barker (LD) [V]: What advice has the department had from local directors of public health about the resources that are necessary to ensure continuity for community pharmacies during local lockdowns?

Lord Bethell [V]: We are fully engaged with the sector. The National Pharmacy Association and the other stakeholder groups are in close communication with the department to ensure that they have the PPE, medicines and finances to keep going during the epidemic. The voice of the DPHs is involved in that stakeholder engagement.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed.

Biodiversity: Aichi Targets

Question

1.18 pm

Asked by ***Lord Oates***

To ask Her Majesty's Government what progress they have made towards meeting the Aichi Biodiversity Targets.

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 UK assessment shows five targets on track and 14 targets progressing. The Government need, and are determined, to do more. We are playing a leading role in developing an ambitious new global biodiversity framework and putting nature at the heart of our COP 26 presidency, paving the way for transformative action to tackle biodiversity loss and climate change holistically. In England, we have announced significant funding and new legislation to transform how we manage and protect nature.

Lord Oates (LD): My Lords, I thank the Minister for his Answer and welcome the progress that has been made, but does he recognise that we are still not making as much progress as we would hope on a number of targets, including targets 5, 10 and 15 on the degradation of natural habitats, the pressure on coral reefs and the contribution of biodiversity to climate change mitigation? Does he agree that local authorities up and down the country—such as South Lakeland District Council, which is working hard to

increase biodiversity—have a key role to play? Can he tell the House whether his department intends to strengthen local authorities' powers in this area?

Lord Goldsmith of Richmond Park [V]: We have expanded our protected areas at sea, provided new funding for woodland expansion, peatland restoration and nature recovery and increased significantly our funding for international biodiversity conservation. However, we acknowledge that there are ongoing declines in biodiversity in many areas, which is why we are driving an ambitious legislative agenda and backing it up with investment, not least the £640 million nature for climate fund. It is also why we are ramping up our global leadership in tackling climate change and biodiversity loss as two sides of the same coin.

Lord Browne of Ladyton (Lab) [V]: My Lords, in March 2019 the JNCC, which advises on progress towards targets, reported both a short-term fall in government funding for biodiversity in the UK and that, increasingly, it is difficult to assess data due to the tendency for Ministers to address multiple priorities with integrated funding on wide-reaching projects. What assessment is being made of the success or otherwise of this approach and how is it reported to Parliament?

Lord Goldsmith of Richmond Park [V]: One of the problems with the Aichi targets is that they are so open to misinterpretation or different interpretations. One thing that we are pushing hard for in the next round of discussions is meaningful targets where individuals, countries and businesses are aware of what they are expected to deliver. At the moment, it is possible for a country to sign up to the Aichi targets and to claim success even while very little changes. We are taking as prominent and as active a role as we can in the next round. One thing that the Prime Minister launched and that we are pushing for is the 30x30 campaign, getting as many countries as possible to sign up to a commitment to protect 30% of the world's ocean by 2030, among other targets.

Baroness Falkner of Margravine (Non-Afl) [V]: My Lords, turning to the target on air pollution, will the Government reconsider their approach to fine particulate matter, whereby fuels used in wood-burning stoves are to be phased out in February 2021? Given the impact of Covid, does the Minister agree that the target needs to be brought forward in advance of this coming winter so that people at high risk are less susceptible to fine particulate matter pollution?

Lord Goldsmith of Richmond Park [V]: Defra is analysing all the available data on air quality, in particular the impact on air quality of the measures taken to protect people against Covid. I am not in a position unilaterally to declare that targets will be strengthened or brought forward, but I assure the noble Baroness that we are looking at the data and will act accordingly.

Lord Duncan of Springbank (Con) [V]: My noble friend will be aware that the Convention on Biological Diversity, due to take place in China this year, has of course been postponed. Can he comment on the implications of this postponement and commit to briefing the House at an appropriate moment this year about where we are going to go next?

Lord Goldsmith of Richmond Park [V]: As far as we can see, the postponement has not damaged the agenda, in the same way that our being given a few extra months to deliver the climate clock at the end of next year has given us more time to build up more coalitions to drive greater ambition and to push a much more radical agenda than I think we would have been able to had we been required to deliver to the old agenda. I very much hope that the same dynamic holds true for China's hosting of the biodiversity COP half way through next year. The UK is working closely with China to ensure that the strongest possible framework is agreed. We are also keen that a bridge should be built between the biodiversity and climate COPs, as we regard a success for one as having a direct impact on the other and vice versa.

Baroness Bakewell of Hardington Mandeville (LD) [V]: My Lords, target 13 is on the genetic diversity of farmed and domesticated animals. Strategies should be implemented for safeguarding their genetic diversity. However, published figures show a decline of some native animal breeds—pig breeds decreased from 170 in 2000 to 152 in 2018 and horse breeds from 178 in 2000 to 117 in 2018. What are the Government doing to ensure that a proper strategy is developed to meet target 13?

Lord Goldsmith of Richmond Park [V]: There is no doubt that monoculture is the greatest friend of pandemics and disease and that biological diversity is the greatest buffer and hedge against instability and the kind of dangers that we have seen materialise in recent months. Although the details remain to be worked out at the finest level, we are shifting from the common agricultural policy, where payment is based pretty much on the amount of land turned into farmable land, to a new system of environmental land management that rewards farmers on the basis of their delivery of a public good. That includes environmental stewardship, management of land to slow the flow of water and diversity of species. I very much hope that this move to ELM, which is a world first, will deliver the kind of results for which the noble Baroness asks.

Baroness McIntosh of Pickering (Con): I am delighted that my noble friend has put nature at the heart of the Government's biodiversity targets. Will he go one step further? Can we learn the lessons from Covid and accept that food security should be recognised as a public good in the Agriculture Bill?

Lord Goldsmith of Richmond Park [V]: The Agriculture Bill is winding its way through Parliament as we speak, being expertly delivered by my noble friend Lord Gardiner. The concern about putting food security as a public good is that we are trying to move away from a subsidy system based on rewarding landowners for converting land into land that can produce food.

[Lord Goldsmith of Richmond Park]
While on the surface, and when it was developed, the old system may have made perfect sense, it has proven to be disastrous. It is clear that the new system has to be designed to ensure that no public money is handed to landowners without a return of some form of public good. We have to be slightly careful about how we define public good and that work is under way. We certainly recognise the value of food production but, on the whole, that is recognised by the market, unlike the environmental benefits that we know landowners, more than anyone else, provide.

Lord Alton of Liverpool (CB) [V]: My Lords, with just 14% of UK species having had their conservation status assessed, but 21% listed as threatened, what are we doing to increase the collection of data and to accelerate remedial measures, not least for restoration, of at least 15% of degraded ecosystems, including peatland and woodland, as we are urged to do in Aichi target 15?

Lord Goldsmith of Richmond Park [V]: Measurement is crucial to understanding and delivering good policy, but it is not as important as the policies themselves. If you look at what the Government are doing as a whole, we have probably the most ambitious environmental agenda of any Government to date. We have the first Environment Bill in over 20 years. We have ambitious measures, including restoring and enhancing nature. We have just announced a £40 million green recovery challenge fund to help charities and environmental organisations to start work on delivering much of that environmental gain across England, restoring nature and tackling climate change. We are going to use the new nature for climate fund to deliver woodland expansion, peatland restoration and more. We have announced a tripling of Darwin Plus to protect our precious Overseas Territories. We are replacing the disastrous CAP system, as I just explained, with the new environmental land management scheme, which will be revolutionary for our countryside, and we now have 25% of the UK's water in marine protected areas. We are making progress.

Baroness Jones of Whitchurch (Lab): My Lords, when on 8 July I asked the noble Lord, Lord Gardiner, about progress in establishing the office for environmental protection to help deliver our environmental goals, he replied that

"we have always said that we will ensure that there are alternative arrangements if, given the position we are in, the OEP is not up and running by 1 January."—[*Official Report*, 8/7/20; col. 1113.]

Can I ask the Minister what these alternative arrangements are?

Lord Goldsmith of Richmond Park [V]: The department on whose behalf I am speaking today is making progress in the construction, development and delivery of the OEP. As the noble Baroness knows, we need legislation and that requires the safe passage of the Environment Bill, which we hope to deliver in the coming months.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed. We come to the third Oral Question.

Smoking
Question

1.29 pm

Asked by ***Lord Faulkner of Worcester***

To ask Her Majesty's Government how they plan to achieve their objective of making England smoke-free by 2030.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con) [V]: The Government are moving fast on several fronts to address the issue of smoking. That is why we have brought forward the prevention Green Paper and the tobacco control plan. Covid has offered an opportunity for more people to give up smoking, which is why we have instituted the Quit for Covid plan.

Lord Faulkner of Worcester (Lab) [V]: When will the Government publish their response to the prevention Green Paper consultation? Will today's proposed guidance for smoke-free areas outside pubs and restaurants be agreed with his department, the DHSC? Will it be published before the House rises and will it be subject to parliamentary scrutiny?

Lord Bethell [V]: My Lords, the government Green Paper published on 19 July is an extremely complex proposal. That is why we are considering it in great detail. It addresses the urgent need to tackle the disproportionate amount of smoking in deprived areas and among marginal communities. We are engaged with those communities to figure out what will work best. When we have those answers, we will publish our reply.

Baroness Gale (Lab) [V]: Does the Minister agree that reducing smoking in pregnancy is essential to achieving a smoke-free generation, yet rates of smoking in pregnancy have not declined significantly since 2015? Financial incentive schemes are being effectively used to support pregnant women in Greater Manchester to give up smoking, including younger and more disadvantaged women. What further steps do the Government intend to take to reduce rates of smoking in pregnancy and will this include the national rollout of an incentive scheme?

Lord Bethell [V]: The noble Baroness points to the knottiest and most difficult of the challenges of giving up smoking. It is extremely sad that anyone should contemplate smoking during pregnancy, but this is one of the most durable and knottiest problems. I commend the use of creative and innovative schemes such as the one in Manchester to which the noble Baroness alludes, but more needs to be done, because prevention is better than cure.

Lord Rennard (LD) [V]: My Lords, 1 million people have given up smoking to protect their health during lockdown and now 86% of people in the UK do not smoke. Will the Minister therefore support the amendment

this afternoon, which would mean that if additional tables and chairs are put outside pubs and restaurants through pavement licences, all the new seating areas created will be smoke free and more attractive to potential customers?

Lord Bethell [V]: The noble Lord is right to commend those who have given up smoking during Covid. I pay tribute to anyone who has given up smoking. I struggled and found it immensely difficult, but I am glad that I did it. There is a government amendment to the Bill, which the Department for Health and Social Care supports, and we wish it every success.

The Earl of Shrewsbury (Con) [V]: Is my noble friend aware that I quit smoking many years ago and the credit for that is entirely down to the NHS and my GP? Can he tell me what is the estimate of the current annual cost to the NHS of treating smoking-related medical issues?

Lord Bethell [V]: My Lords, I believe that the annual cost is £2.3 billion. It is far too much and we must do more to get it down. Huge progress has been made but we are still committed to a smoke-free 2030.

Baroness Finlay of Llandaff (CB) [V]: Do the Government recognise the particularly high addictive potential of tobacco among the young and that two-thirds of 100,000 youngsters who took up smoking last year went on to become long-term smokers? Without banning passive smoking in open areas, all the public health gains to date will be lost. There is strong evidence that smoking bans have been most effective in improving health.

Lord Bethell [V]: My Lords, I completely recognise the power of the smoking bans, as well as the threat of young people taking up smoking and sticking with the habit for a long time. We are on track to meet our national ambition of reducing under-15 smoking from 5.3% in 2018 to 3% or less by 2022. However, even that seems too high and we will continue to work on our efforts.

Baroness Thornton (Lab): My Lords, it would be nice if, on his birthday, we could get to my noble friend Lord Simon, so my question is very short—fewer than 75 words. Inequalities in smoking remain the largest cause of life expectancy gap between the rich and the poor and are the main reason for the lives of people with serious mental illness being shortened by up to 20 years. Does the Minister agree that the smoke-free ambition may be achieved only by the most advantaged and will the Government's further proposals address this inequality?

Lord Bethell [V]: Health inequalities are one of the most pernicious and difficult aspects of modern life and the Government are focused on them. Smoking is a graphic example of the worst of our inequalities. That is why the prevention Green Paper focuses on these kinds of inequalities and why our response will be muscular and determined.

Baroness Walmsley (LD) [V]: My Lords, the Government propose that pubs should aim at two metres between smokers and non-smokers when outside. However, the Minister should know that social distancing is already being flouted when alcohol is involved. Is he concerned that this so-called compromise is supported by FOREST, which is funded by the tobacco industry, and will he answer the question of the noble Lord, Lord Faulkner, and ensure that the guidance will be issued by the Department of Health and Social Care rather than by MHCLG?

Lord Bethell [V]: I take a different view from the noble Baroness on the success of pubs' efforts to introduce social distancing. I spent the weekend in a number of pubs and I was extremely impressed by the measures that publicans have put in place. That is why we support the role of local authorities in judging the right measures for the right pubs and why we will support the government amendment.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I am sure that the Minister is aware that the rate of smoking among adults in Blackpool is almost double that of Westminster. Given the Government's levelling-up agenda, plus the fact that we know that smoking is related to illnesses that amplify the impact of Covid-19, and indeed threaten greater rates of death, why have we not seen emergency legislation to bring in a smoke-free 2030 fund, which has already been well explored and set out?

Lord Bethell [V]: I completely agree with the noble Baroness that there is a massive health dimension to the levelling-up agenda. Health inequalities affect families the hardest and the Government are highly focused on them. However, it is not our style to introduce emergency legislation, because we believe that prevention is better than cure and that people have rights and choices to make for themselves.

Baroness Blackwood of North Oxford (Con) [V]: My Lords, I welcome the publication of the draft guidance on pavement licences in time for the debate this afternoon. However, I note that, while local authorities are to consider public health when setting local conditions, Section 5.2 fails to reference the smoking reduction targets set out in the tobacco control plan or the ambition for a smoke-free England by 2030. These would be a helpful addition, so will the Minister consider including them as the guidance is finalised?

Lord Bethell [V]: It is not my role to comment on the drafting of legislation in the manner that my noble friend describes. However, I resolutely repeat the Government's commitment to a smoke-free 2030 and the tobacco control plan, both of which are absolutely essential to our tobacco policies.

Viscount Simon (Lab): My Lords, no licences are required to sell deadly tobacco products and, while retailers can be prosecuted for underage sales or selling illicit tobacco, penalties are low. Over 70% of small tobacco retailers strongly support introducing a licence

[Viscount Simon]
that could be removed if retailers break the law. Will the Government commit to consulting on the introduction of such a licence to help progress towards a smoke-free 2030?

Lord Bethell [V]: My Lords, I completely hear the views of retailers. No one wants to put a retailer in an awkward position and I completely understand why they would support the introduction of licensing. However, that is not currently our plan and we believe that we can get to a smoke-free 2030 without introducing onerous and expensive new regulations of the kind that the noble Viscount describes.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed. We now come to the fourth Question.

Employment: Young People

Question

1.39 pm

Asked by ***Lord Aberdare***

To ask Her Majesty's Government what steps they are taking to ensure that the young people due to leave school in the current academic year are prepared for work in a post-COVID-19 environment; and what changes they have made to careers support and guidance provision to achieve this.

The Parliamentary Under-Secretary of State, Department for Education and Department for International Trade (Baroness Berridge) (Con): My Lords, we are investing around £100 million this year in careers guidance for young people and adults. We are supporting schools during the Covid-19 pandemic to develop virtual careers activities for students, including the successful My Week of Work event. The National Careers Service offers impartial careers guidance and advice through a website, web chat and helpline, and it will operate an exam results helpline this summer. We will keep this support under review and assess its impact.

Lord Aberdare (CB) [V]: My Lords, 800,000 young people are currently leaving education and hoping to join an already overcrowded jobs market. Good careers advice, including personal guidance from qualified professionals, will be essential to ensure all that talent does not go to waste. How will the current careers strategy be renewed and expanded to meet this need, and will the Government introduce a careers guidance guarantee, complementary to the opportunity guarantee, to ensure that all young people can access professional, personal careers guidance to help them identify and pursue suitable careers pathways?

Baroness Berridge: My Lords, during the pandemic, the Careers & Enterprise Company, alongside teachers, has had to review its delivery strategy. Much of its training and support has therefore been delivered virtually, so we have seen virtual mock interviews and virtual CV preparation sessions. Of course, the expectation on schools is that they deliver a personal interview to students at 16 and 18, and we have advised that that should take place virtually rather than by telephone. More than 70% of schools are delivering that interview at age 16 to the majority of their students.

The Lord Bishop of Durham [V]: My Lords, the Social Mobility Commission recently published an apprenticeships report, which highlighted a 36% reduction in the number of apprenticeship starters who were from disadvantaged backgrounds. As we prioritise developing the skills of young people, can the Minister confirm how the new £1.6 billion funding for scaling up training and apprenticeships will be distributed across the country to ensure that areas such as the north-east with a high proportion of disadvantaged students have access to quality training?

Baroness Berridge: My Lords, in relation to traineeships and apprenticeships, this is the first time that the Government will be funding employers who provide trainees with work experience, at the rate of £1,000 per new trainee, up to 10 per employer. Additional funds are available for apprenticeships of £2,000 for every apprentice under the age of 25, in addition to the original £1,000 for 16 to 18 year-olds' apprenticeships. We are encouraging all employers, including employers in the north-east, to take advantage of those schemes and provide the work opportunities that young people need.

Lord Lucas (Con) [V]: My Lords, when I come across organisations which believe that they can help with the Government's efforts to provide careers support and guidance to those affected by Covid, whether they be young people or older people who have lost their jobs, what email address or other contact information should I provide them with so that they get a one-stop-shop access to all that the Government are doing?

Baroness Berridge: My Lords, it is wonderful when employers and other people want to offer their support to the Government. In relation to careers advice, the National Careers Service is the Government's overarching source of careers information and support, so that would be the first stop. Unfortunately, it is not a one-stop shop. The second stop would be the Careers & Enterprise Company. As my noble friend is probably aware, one of the three prongs of its approach is an enterprise adviser network, and more than 2,000 businesses and other employers are involved in providing that support in schools, so I would also direct those volunteers to that institution so they can assist schools at this time.

Baroness Coussins (CB) [V]: My Lords, we know that having foreign language skills makes school leavers more employable. Post Covid and post Brexit, this will be more so, and there is high demand in finance, telecoms, transport and tourism. Will the Minister include languages as a skills shortage in the national retraining scheme for technical education? Will she also promote effective liaison between the careers hubs and MFL hubs, to show exactly how language skills expand career opportunities and life choices?

Baroness Berridge: My Lords, the noble Baroness is correct about the importance of language skills, and that is why modern foreign languages have been included in the Ebacc. Yes, we encourage all our hubs in this area to work together: the careers hubs, modern foreign languages hubs and English hubs that we have across the country. The national retraining scheme is currently focused on those over the age of 24 who need to increase their skills to increase their income. That is led by a number of LEPs, and I am sure that they would welcome the introduction of modern foreign languages to that work.

Baroness Morris of Yardley (Lab): My Lords, all the initiatives introduced that the Minister has referred to have to be accessed digitally, but over these last few weeks we have learned that we have digital poverty. Many young people do not have access to a computer, and they fall in the group that most needs support and guidance. What will the Government do to help them? Please do not tell me that it has been solved by the Government's computer initiative, because we know that is not the case.

Baroness Berridge: My Lords, obviously, digital has become important, but the guidance issued to schools for September talks about their having remote learning from the end of September, so that includes the traditional way of delivering by way of printed packs, which I know many schools have been doing. Although we have been encouraging the use of virtual one-on-one interviews at age 16 over the telephone, of course schools have been encouraged to have some form of one-on-one physical contact with students before the summer holidays.

Lord Storey (LD) [V]: My Lords, all schools will be returning to full operation in September. How will access to impartial personal careers guidance be funded and promoted in schools, including primary schools, making the best use of careers guidance providers with the skills and resources to help young people make informed choices?

Baroness Berridge: My Lords, the noble Lord makes the important point that it is good to get involved early, so £2 million is being spent on primary school careers guidance and education. There is a specific pilot project involving 70 primary schools up in the north-east, working with Ernst & Young to see how the Gatsby benchmarking can be adapted for primary schools. As I have outlined, the expectation is that all schools will provide a personal interview with 16 and 18 year-olds before they enter the job market, and there is the local government guarantee for 16 and 17 year-olds of a place in education or suitable training, which will be particularly important this September.

Lord Baker of Dorking (Con) [V]: I declare my interest as chairman of the Baker Dearing trust, which promotes university technical colleges. Is the Minister aware that on Friday of next week, about 300,000 18 year-olds will leave their colleges and schools for the last time and will be joined by tens of thousands of 16 year-olds? Our job as a Government and as a Parliament is to ensure that as few as possible of those join the ranks of the unemployed. The Government have a very good and potentially successful scheme to allow those students to apply for an extra year's training to get a technical qualification, which will give them a chance of a better job next year. However, it is a great secret. It is not talked about generally or being promoted actively, except in the educational press, but 16 and 18 year-olds do not read the educational press. Can the Minister therefore ensure that by Friday of next week, every 16 and 18 year-old in the country will get clear information about the scheme, what it consists of and how they can apply?

Baroness Berridge: My Lords, the Government are using digital and traditional ways to promote the opportunities out there for young people. Many of the opportunities outlined in the skills recovery package are being promoted through jobcentres, and there is a £100 million fund for 18 and 19 year-old school and college leavers to study a high-value level 2 or level 3 if an employment apprenticeship or training opportunity is not available to them.

Lord Watson of Invergowrie (Lab) [V]: My Lords, the Resolution Foundation recently pointed out that the corona class of 2020, as it referred to it, could face years of reduced pay and limited job prospects, long after the current economic storm has passed, unless additional support is provided—and fast. Since March, entire year groups have missed out on university visits, work experience opportunities and, despite what the Minister said, much advice from careers leaders in schools. In preparation for a full return of pupils in September, school staff must have the funding and resources that they need to deliver that one-to-one support that enables young people to take advantage of the opportunities available to them after GCSEs. What additional support will the Government provide to schools to enable that to happen?

Baroness Berridge: My Lords, the Government recently announced a £1 billion catch-up package, £650 million of which will go directly to schools. The formula for that funding was announced today. The noble Lord will also be aware of the £350 million for the national tutoring programme. It is of course essential that there are skilled professionals in schools. One of the three prongs of the Careers & Enterprise Company strategy is to train up career leaders—1,300 training bursaries have been given, with a further 650 bursaries, as we recognise that this is a particular area of expertise. We expect that some of the £32 million that was announced for the National Careers Service will also go on training and upskilling careers advisers.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed.

1.51 pm

Sitting suspended.

Arrangement of Business

Announcement

2 pm

The Deputy Speaker (Baroness Henig) (Lab): My Lords, the Hybrid Sitting of the House will now resume. Some Members are here in the Chamber, respecting social distancing, while others are participating remotely, but all Members will be treated equally. If the capacity of the Chamber is exceeded, I will immediately adjourn the House. I ask that questions and answers are brief.

British Overseas Troops: Civil Liability Claims

Commons Urgent Question

The following Answer to an Urgent Question was given on Thursday 16 July in the House of Commons.

"We have introduced the Overseas Operations (Service Personnel and Veterans) Bill to lance the boil of lawfare and to protect our people from the relentless cycle of reinvestigations against our Armed Forces. Let me be absolutely clear: none of the measures will prevent the Ministry of Defence from being held to account for any wrongdoing.

To allay any further misunderstanding, let me provide some context. The Bill takes account of the uniquely challenging circumstances of overseas operations. It reassures our personnel that they will not be called on endlessly to defend against historic claims. It does that by introducing what we are calling a longstop. This restricts to an absolute maximum of six years the time limit for bringing civil claims or Human Rights Act claims for personal injury or death in connection with overseas operations.

It is simply wrong to assert that the Bill prevents service personnel, veterans or their relatives from bringing claims, because it does not change how the time limit is calculated. That will continue to be determined from either the date of the incident or date of knowledge. Conditions like post-traumatic stress disorder may not be diagnosed until much later, so the six years would start from the date of diagnosis.

The spirit of the Armed Forces covenant runs right through the legislation. Fairness is at its heart. We want to ensure that all claims are assessed fairly to achieve a fair outcome, yes, for veterans, but also for victims, service personnel and the taxpayer.

Yes, service personnel and veterans will still be able to bring claims against the MoD for such conditions, even if they are more than six years from the date of the incident. But also yes, this Government are going to war against lawfare. The days of veterans living in a persistent state of worry simply for having served this nation are coming to an end. Under this Prime Minister and under this Government, we will restore fairness to the process."

2 pm

Lord Touhig (Lab) [V]: My Lords, the Armed Forces covenant states that our forces community

"should face no disadvantage compared to other citizens",

yet this Bill does precisely that. It disadvantages veterans, service men and women and their families. It does so by putting a six-year time limit on them bringing claims against the MoD for personal injury or death. Why do this?

The Minister of State, Ministry of Defence (Baroness Goldie) (Con) [V]: I thank the noble Lord for his question. The Government are committed to introducing these protections to provide greater certainty for our service personnel and veterans. The other side of the coin to which the noble Lord refers is that, for too long, many of our service personnel and veterans have lived under the shadow of endless investigations and vexatious claims for increasingly historical events that occurred in the uniquely complex environment of armed conflict. We regard that as unfair and we regard the Bill as a proportionate response to that challenge.

Baroness Smith of Newnham (LD) [V]: My Lords, building on the question from the noble Lord, Lord Touhig, I want to press the Minister a little further. This is not about vexatious claims; it is about claims that service personnel, veterans and their families may be able to bring. What assessment have the Government made of the changes to cap it at a six-year long-stop?

Baroness Goldie [V]: I reassure the noble Baroness that this Bill will not abolish the right of people to make claims. It puts into context that a time limit will now surround when those claims can be brought. As I said to the noble Lord, Lord Touhig, that is fair and proportionate. It is fair to our service men and women, to victims and to potential claimants.

Lord Dannatt (CB) [V]: My Lords, when does the Minister believe that Her Majesty's Government will extend legislation in the overseas operations Bill to cover operations in Northern Ireland? I seem to recall that my first deployment in Northern Ireland in 1971 was by sea from Liverpool, so I regard this as a legitimate question. On a pertinent point, can the Minister confirm that should Major Bob Campbell, having been questioned and investigated eight times about the drowning of Said Shabram in Iraq in 2003, be exonerated by the Iraq Fatality Investigations inquiry, he will be within his rights to sue the Ministry of Defence should he be so inclined? Seventeen years of investigation have broken this decorated soldier, ruined his career and wrecked his mental health.

Baroness Goldie [V]: I will answer the latter part of the noble Lord's question first. I cannot comment on a specific case but, clearly, every individual is entitled to seek legal advice and consider what is appropriate action for them. On his first point, I assure him that, yes, a Northern Ireland Bill is coming forth to deal with similar issues; the Northern Ireland Office is currently in the process of preparing it. We expect more information in early course.

Lord Garnier (Con) [V]: My Lords, if the factors set out in Clause 3 of the Bill that support a decision not to prosecute five years after an offence are so powerful, why do they not apply before five years have elapsed?

Baroness Goldie [V]: Clause 3, to which my noble and learned friend refers, requires that a prosecutor must take into account the "exceptional demands and stresses" of overseas operations and the adverse impact that they can have on service personnel. While this requirement applies only after five years have elapsed, prosecutors may already take account of these circumstances in their decision-making at any stage. It is precisely to provide some form of protection for our service personnel and veterans and give them greater certainty that we believe it is important that the Bill makes consideration of these matters a statutory requirement once five years or more have elapsed.

Lord West of Spithead (Lab) [V]: My Lords, there are pressing reasons for this Bill, as military personnel have felt let down by successive Governments and the nation they serve. Historically, there was an understanding when one went into action that if any sense of doubt about actions arose, as long as one had acted with good intent, any balance of doubt would be in the service man or woman's interest. That seems to have ceased to be the case. Even if that is not so, the perception was that our people are vulnerable to repeated litigation; perceptions are important. However, I am concerned about some of the wording in the Bill. Does it open up service men and women to greater risk of investigation and prosecution by international courts?

Baroness Goldie [V]: First, I thank the noble Lord for his helpful comments; he speaks from singular experience in the field. The risk that he alludes to is not likely to materialise. As I said earlier, the whole point is that the Bill is framed not as abolishing rights but as placing these rights for exercise within the context of time limits. It is not a statute of limitations; it is not a pardon; and it is not an amnesty. I hope that, with a strong framework in our domestic legislation, such a manifestation will be unlikely.

Viscount Waverley (CB) [V]: My Lords, following on from that, I suggest that current policy is an affront to the sacrifice, service and spirit of the military covenant, which should be enshrined in law. Will this Government do that? If so, when?

Baroness Goldie [V]: I thank the noble Viscount for his pertinent question. We have committed to enshrining the military covenant in law. That issue is currently being investigated and we hope to be able to confirm further details in due course.

Lord Truscott (Ind Lab) [V]: My Lords, I note noble Lords' criticism but generally I support the Bill. While no one is above the law, there have clearly been attempts at vexatious prosecutions and false claims against members of our Armed Forces many years after the alleged incident. In the case of innocent members of our Armed Forces and their families, this has been deeply distressing and unjust. It is time that our Armed Forces are protected from the greed of some opportunistic lawyers and their clients. I therefore think that, on the whole, this Bill achieves the right balance.

Baroness Goldie [V]: I thank the noble Lord for his observations. I am afraid that the sound quality was very distorted so I did not detect a question, but I will look at *Hansard* and if I need to return to the noble Lord on another matter, I will do so.

Lord Polak (Con): My Lords, we should all celebrate the fact that, in Johnny Mercer, there is a Minister who supports and champions our veterans. He led from the front in acknowledging last week in the other place that he would be

"absolutely happy to amend the legislation … to get it right".—[*Official Report*, Commons, 16/7/20; col. 1674.]

The Bill will ensure that veterans who have served our country so bravely are freed from the reprehensible actions of certain human rights lawyers who have abused the system and made the lives of some of our veterans and their families an utter misery. Does my noble friend agree that the thrust of the Bill should not, and must not, be changed?

Baroness Goldie [V]: I thank my noble friend for his helpful comments and his tribute to my honourable friend, Mr Johnny Mercer, who is a noted proponent of the interests of veterans and a passionate supporter of this Bill. My noble friend gets to the kernel of the issue. I fully anticipate debate about a number of aspects of the Bill—that is healthy and the Government will of course look carefully at what your Lordships have to say when the Bill comes to your Lordships' House—but I can confirm for my noble friend that, for the sake of our veterans and armed services personnel, it is important that the underlying principle and under- pinning thrust of the Bill be preserved.

Lord Randall of Uxbridge (Con) [V]: Can the Minister reassure the House that the Bill will not deny essential rights to victims and potential claimants?

Baroness Goldie [V]: I am happy to give that reassurance to my noble friend. As I explained earlier, the Bill is neither a statute of limitations nor an amnesty but an attempt to strike a fair balance that recognises the legitimate rights of victims and potential claimants. However, it weighs those against the undoubted obligations and pressures which confront service personnel when, in the name of this country, we deploy them overseas to carry out operations and they find themselves in an unusual and very challenging environment. That is why the Bill has tried to strike that balance appropriately.

2.11 pm

Sitting suspended.

Business and Planning Bill

Report

2.45 pm

Relevant documents: 17th Report from the Delegated Powers Committee, 9th Report from the Constitution Committee

The Deputy Speaker (Baroness Henig) (Lab): My Lords, a limited number of Members are here in the Chamber, respecting social distancing. If the capacity of the Chamber is exceeded, I will immediately adjourn the House. Other Members will participate remotely, but all Members will be treated equally wherever they are. For Members participating remotely, microphones will unmute shortly before they are to speak—please accept any on-screen prompt to unmute. Microphones will be muted after each speech. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. I should remind the House that our normal courtesies in debate still very much apply in this new hybrid way of working.

A participants' list for today's proceedings has been published and is in my brief, which Members should have received. I also have lists of Members who have put their names to amendments in, or expressed an interest in speaking on, each group. I will call Members to speak in the order listed. Members' microphones will be muted by the broadcasters except when I call a Member to speak. Interventions during speeches or before the noble Lord sits down are not permitted and uncalled speakers will not be heard.

Other than the mover of an amendment or the Minister, Members may speak only once on each group. Short questions of elucidation after the Minister's response are permitted but discouraged. A Member wishing to ask such a question, including Members in the Chamber, must email the clerk.

The groupings are binding and it will not be possible to degroup an amendment for separate debate. A Member intending to press an amendment already debated to a Division should have given notice in the debate. Leave should be given to withdraw amendments. When putting the Question, I will collect voices in the Chamber only. If a Member taking part remotely intends to trigger a Division, they should make this clear when speaking on the group.

Lord Ashton of Hyde (Con): My Lords, with the leave of the House, I will say a few words before we start. It is imperative that we complete this important emergency Bill today so that it can achieve Royal Assent on Wednesday. A large number of Members have indicated that they wish to speak, so I ask noble Lords to be conscious of that and, when participating, to keep their contributions brief and to the point. Of course, if a point has already been made, there is no need to make it again. I really do hope that all Members will listen to this and try to be co-operative so that we can get this important Bill passed tonight. Thank you.

Clause 1: Pavement licences

Amendment 1

Moved by ***Lord Holmes of Richmond***

1: Clause 1, page 1, line 9, after "furniture" insert "safely (including a barrier being sufficiently visible to separate the furniture from the pavement and furniture placed sufficiently away from the pavement to allow for the safe passing of pedestrians)"

Lord Holmes of Richmond (Non-Afl) [V]: My Lords, it is a pleasure to speak in this debate. In doing so, I thank the Minister and officials from the department for their positive and extensive engagement before and after Committee on these amendments and others. In deference to and out of respect for the Chief Whip, I will try to set the pace for the length of speeches going forward. I thank the Minister and officials for listening to and hearing many of the arguments that I and other noble Lords made, which are reflected in the government amendments on national conditions and the significant changes to the draft guidance that have been made.

This is in no sense a work of perfection but it is a huge step forward from where we were before Committee stage. I do not intend to speak to any of my amendments in this group. Safe to say, while there is still work to do on the guidance, which I am happy to participate in, the amendments that the Government have brought forward and the spirit in which they have done so have been more than helpful. Without in any sense wishing to curtail debate or seeking to guide the Government, I wonder whether, at some stage in the debate on this first group, it would be worth the Minister speaking in broad terms about the changes that have been made. This may also help there to be swifter debate on a number of the amendments that I and other noble Lords have brought forward. I beg to move.

Lord Hain (Lab) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Holmes. I will speak to Amendment 4, which is in my name and those of my noble friends Lord Hendy, Lady Ritchie of Downpatrick and Lord Monks. It is an extremely modest amendment. It simply ensures that employees, trade unions and businesses are consulted and involved before a local authority determines a pavement licence application under Clause 3.

The coronavirus crisis has obliged the Government to set aside years of doubt about the value of consulting either the CBI, which they are sure is a hotbed of remoaners, or the TUC, which they viewed as the awkward squad. Since March, Ministers have consulted both sides of industry about how to keep firms afloat, how to keep workers and customers safe and how to stop supply chains seizing up.

Consultation has now moved on to lifting the lockdown safely and encouraging a confident and safe return to work. Those consultations have proved productive and surprisingly valuable. They have brought to the fore our shared interest in promoting the common good. Robust discussions have generated mutual respect. The Prime Minister's "New Deal for Britain" speech even borrowed the phrase "build back better" from a TUC policy paper. We all seek inspiration wherever we can find it.

Business leaders accept that the trade union response has shattered the myth that the TUC spells trouble and some of my trade union colleagues have conceded that not all bosses are Neanderthals. Consultation and co-operation have necessarily become the name of the game in this crisis. Last month, the CBI elected a new president, the noble Lord, Lord Bilimoria, and appointed a new director-general, Tony Danker, to take office in November. Britain's three biggest unions—Unite, UNISON and the GMB—are currently electing new general secretaries. A change of guard is a good time for a fresh approach.

Amendment 4 urges the Government to grasp the opportunity to establish a new framework for co-operation at work—one that makes consultation between business and unions the norm and gives workers a voice inside their workplaces and a say in their own futures. Unions have already demonstrated in practical ways their value in helping employers to get through this crisis. I mentioned some of these in Committee, as did my noble friends Lord Hendy and Lady Ritchie of Downpatrick. Unions have helped and have come out the other side better placed to thrive, as have employers.

The Communication Workers Union, for which I used to work, has agreed with the Royal Mail Group a four-step process to help employees who have been categorised as extremely clinically vulnerable or as a carer of someone in that category to return to duty. In May, the Food and Drink Federation, the GMB, Unite, USDAW and the Bakers, Food and Allied Workers Union highlighted how partnership between food and drink manufacturers, trade unions and employers has enhanced both the safety of workers and the effective running of workplaces. Ian Wright, chief executive of the Food and Drink Federation, said:

"Partnership between employers and unions has been crucial to continuing production over the last eight weeks."

Britain's biggest union, UNISON, has given fresh guidance to its workplace health and safety representatives on how to carry out inspections and investigate potential new hazards, such as Covid-19. It is also talking to employers to ensure that employees with underlying health conditions can work from home or, if that is not possible, are redeployed to roles where they are less at risk. Unite persuaded Rowan Foods to backdate sick pay to 1 June 2020 after a Covid-19 outbreak among the company's workforce for any employees who tested positive and were isolating. It also negotiated an agreement with the 2 Sisters Food Group that all of the staff employed at its Llangefni site would be paid in full for the two-week isolation period imposed following the Covid-19 outbreak.

The GMB, Royal College of Nursing, UNISON and Four Seasons Health Care have agreed full sick pay for 15,000 care workers for any coronavirus-related absence. The long-standing partnership agreement between Tesco and USDAW is the biggest such deal in the private sector, covering some 160,000 staff. Tesco has agreed with USDAW that employees will receive contractual pay if they are following government guidelines to stay off work.

In a previous debate, the Minister, the noble Earl, Lord Howe, said that a ministerially led strategy on consultation was unnecessary, yet the Prime Minister wants us to draw inspiration from President Roosevelt's New Deal, a federal government-led strategy that promised what Roosevelt called relief, recovery and reform. Roosevelt delivered a much more ambitious programme of employee consultation and investment in jobs than the Prime Minister has in mind; sadly, this Bill reflects a lack of ambition in that respect.

I wish to press the noble Earl to explain what exactly is wrong with this amendment and what is wrong with all the trade union agreements I have cited, which make everyone—workers, managers and the public—safer in the coronavirus crisis. Why do the Government not accept that employee consultation on navigating our way through this complex and dangerous pandemic should be the norm, to be officially and statutorily promoted?

This is an extremely modest, reasonable, common-sense amendment. It does not prescribe or constrict employers in any precise method of consultation. It simply states that they should implement it in a way that they feel is appropriate. I cannot for the life of me understand why the noble Earl, who is usually very responsive to constructive points, has not contacted me or my noble friends to indicate in advance his acceptance or, alternatively, to explain that he has tabled a government amendment to achieve exactly the same result in a different way.

Lord Blencathra (Con) [V]: My Lords, I declare my interests as on the register. Forgive me if I do not wax as lyrical as the noble Lord, Lord Hain, about the behaviour of the trade unions—especially the teachers' unions, which have behaved atrociously. My remarks will also be considerably shorter.

First, wearing my hat as chair of the Delegated Powers Committee, I give a warm welcome to Amendments 16 and 87, giving effect to our recommendations that the guidance be converted into SIs. I mention them now so I will not speak on them when they are reached.

While I support what my noble friend Lord Holmes of Richmond said and while I think that my Amendment 10, setting out a simple minimum requirement of 1,500 millimetres on the face of the Bill, is better than what the government amendment says, nevertheless, the Government have moved considerably on this measure and I am content to accept that, one way or another, there will be sufficient consideration given to the needs of disabled people when setting out tables and chairs on the pavement. My noble friend the Deputy Leader has written to us, saying that

"guidance will make clear that in most circumstances, 1,500 millimetres clear space should be regarded as the minimum acceptable distance between the obstacle and the edge of the footway."

The word of my noble friend the Deputy Leader is good enough for me. I have looked at the wording that he circulated in paragraph 4.1 of the guidance, which says the same thing. Accordingly, I will not move my amendment.

I also suggest that if the usual channels have an urgent discussion on this, the suggestion of my noble friend Lord Holmes for the Minister to speak early and set out the changes the Government propose would be helpful. Often, when a Minister speaks early, it antagonises the House, but this may be one of those occasions when it helps the House.

Finally, let me say that if, when I am out and about, I find that the gap is not wide enough between the tables, I shall simply bulldoze through them in my armour-plated wheelchair.

3 pm

Lord Cormack (Con) [V]: My Lords, I have no doubt that my noble friend Lord Blencathra would indeed go through in the way he suggests. I will be very brief. I am concerned entirely with the issue of pavement licences, and I raised these matters in Committee a week ago. When new constraints are imposed or new freedoms given—even if for only a very brief period,

[Lord Cormack]
relatively speaking—it is important that we should know precisely where we stand. That is why I have said, in my Amendment 17, that the Secretary of State should have no discretion on whether he prescribes conditions: he must prescribe conditions. I have gone on to say, in my Amendment 18, that he must have regard for those who will be inconvenienced by these new freedoms and conditions, specifically people who are disabled physically or who are blind or partially sighted.

I am afraid I have not received the letter to which my noble friend Lord Blencathra alluded in his speech, and I therefore look forward to hearing what my noble friend the Minister has to say. I agree with both my noble friend Lord Blencathra and the noble Lord, Lord Holmes, that this is one occasion—there are few, but this is one—where it might be helpful to have an earlier ministerial intervention than normal.

I want to feel assured at the end of this debate that people who are physically disabled, blind or partially sighted are not going to be inconvenienced by the new freedom that has been granted to people to spill over on to the pavement. In earlier debates, we heard how very dangerous that can sometimes be. We must always have uppermost in our minds the proper protection of those who are not always able to protect themselves and who, perhaps unlike my noble friend Lord Blencathra, do not drive mini tanks fearlessly along the road or on pavements.

Lord Hendy (Lab) [V]: I will speak to Amendment 4 and endorse everything that my noble friend Lord Hain said in his powerful speech in support of it. As he pointed out, the striking thing about this amendment is its modesty. All it requires is consultation of relevant trade unions and businesses over the granting of pavement licences. As was pointed out in Committee, for 70 years and three weeks since it ratified ILO Convention 98 on 30 June 1950, the United Kingdom has voluntarily assumed the obligation to encourage and promote collective bargaining. The United Kingdom fortified its commitment to collective bargaining when it ratified a similar obligation in Article 6 of the European Social Charter in 1972.

The need for collective bargaining, particularly at sectoral level, was brought home when we learned of the appalling conditions and pitiful rates of pay—often less than half the national minimum wage—in the sweatshops of the Leicester garment industry. We saw that need again in the agricultural sector, when an outbreak of Covid-19 among workers at a vegetable farm revealed the appalling living and working conditions among the workers there. We know that, in agriculture, conditions and pay are so bad that it was found necessary to fly pickers in from Romania earlier this season, since British workers, even faced with unemployment and the terrors of universal credit, were not prepared to put up with them.

The answer in these and other sectors was explained long ago in the other place by Sir Winston Churchill, who in 1909 introduced legislation to make sectoral collective bargaining mandatory. I will read three sentences from his speech that day:

"It is a serious national evil that any class of His Majesty's subjects should receive less than a living wage in return for their utmost exertions."

He continued:

"where you have what we call sweated trades, you have no organisation, no parity of bargaining, the good employer is undercut by the bad, and the bad employer is undercut by the worst".

He concluded by saying:

"where those conditions prevail you have not a condition of progress, but a condition of progressive degeneration."—[*Official Report*, Commons, 28/4/1909; col. 388.]

Hence, the Trade Boards Act 1909 was introduced and passed.

My noble friend Lord Hain referred to Roosevelt and the New Deal. Part of that was the National Industrial Recovery Act 1933, which introduced sectoral collective bargaining widely in the United States. It is in these circumstances that I stress the modesty of the amendment my noble friend proposes today. There can be no sensible reason not to adopt it, and I commend it to the Minister.

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Hendy, in supporting the amendment put forward by the noble Lord, Lord Hain. This is not only a very sensible and modest amendment; it will provide a new framework for co-operation between businesses and employees, as the noble Lord said. Why not allow employees to have a say over the implementation of pavement licences, as they will be directly impacted upon and charged with the responsibility of ensuring that—shall we say—the letter and spirit of the law is adhered to?

Employees have discharged many responsibilities during the whole Covid pandemic. However, there is absolutely no doubt—and there is evidence-based research to prove—that when employees, employers and businesses co-operate, it boosts performance, production and profitability, lifts living standards and enhances job prospects. We can look to Germany and the role of work councils, which we talked about last week when considering a similar amendment in Committee.

I have no hesitation in supporting this amendment in my name and those of the noble Lords, Lord Hain, Lord Hendy and Lord Monks. I commend it to your Lordships' House and ask the Minister to give dutiful consideration to accepting it.

Lord Shipley (LD) [V]: My Lords, now that we have reached Report stage, I remind the House that I am a vice-president of the Local Government Association. I shall be brief. My name is attached to Amendment 20, which is part of a group concerned with safety and accessibility for all who use the pavement. At previous stages of the Bill, I have emphasised the need to set clear and enforceable rules on the use of pavements—and I prefer conditions to guidance.

The Government's changes may well be a step forward, as the noble Lord, Lord Holmes of Richmond, has explained, but improvements could still be made. Amendment 20 would help to achieve these, and I hope that the Minister will explain how the Government's approach will deliver the degree of certainty we are looking for to enable our pavements to be accessible for all.

Lord Monks (Lab) [V]: My Lords, I will speak in support of Amendment 4. As my noble friend Lord Hain said, the Bill misses an opportunity to engage trade

unions fully in the measures it proposes, specifically on the issue of pavement licences. In his excellent new biography of Ernest Bevin, which I commend to the House, my noble friend Lord Adonis quotes from a letter from Bevin to the boss of ICI during the Second World War. In it, he proposes a round table for every workplace and says:

"Present methods tend to emphasise the apparent conflicting interests, whereas, if we could get round the table and get that idea suggested, we should get more emphasis on community of interest engaged together on a common task."

Ironically, this message was better received in west Germany than it was by employers in the UK and other places. Germany's impressive results are well known to Members of this House.

This amendment covers one small area, but it also looks to pave the way to a round-table approach from now on in the much-changed environment in many workplaces. Working from home, social distancing, protective clothing, and new hygiene standards are now features of work for many. For them to be successful, they need consent, support and active encouragement from all concerned. The noble Lord, Lord Blencathra, referred to the teachers' unions. Our message about round tables and partnership is aimed at everybody, including employers, trade unions and other organisations, including local authorities. What has been happening in Leicester? The workshops there show a serious failure in that city—although not just there—to engage workers properly on health and safety and, no doubt, other matters too.

The Chancellor said recently that the Government would look after employers who looked after their workers, but we need more than paternalism. We need a sense that we are all in this together and breeding an idea of partnership. As my noble friends have said, that sense of common endeavour was a key feature of Roosevelt's New Deal, which the Prime Minister has been extolling. Roosevelt promoted trade union collective bargaining as part of his job creation programmes and the PM's admiration for the New Deal should not blind him to the fact that it is not an a la carte menu from which you can pick different bits. It is a package, of which trade unions are an essential ingredient. What was good enough for the USA, and is good enough for Germany today, is surely good for the UK. I hope that the Government will recognise the strength of this case, do the right thing, and support Amendment 4.

Lord Low of Dalston (CB) [V]: My Lords, I will speak to Amendment 10, in the name of the noble Lord, Lord Blencathra, concerning the minimum width left on pavements for pedestrians to pass safely. I welcome the Government's announcement in Committee that they would be bringing forward amendments to place the conditions of pavement licensing on a statutory footing. I also welcome the acknowledgment in the Bill of the needs of people with disabilities to be able to access streets safely. However, I remain deeply concerned at the speed with which these measures are being rushed through. As the Government were not prepared to extend the consultation period for applications, it is essential that there is a clear requirement regarding the minimum space that businesses need to leave on the pavement for pedestrians to pass safely.

At Second Reading, I outlined the difficulties that people who are blind or partially sighted face as a result of social distancing, as well as many of the new challenges due to altered road layouts and one-way systems, not to mention the rapid rollout of e-scooters on to our streets. As it stands, the Bill risks a significant and barely controlled expansion in the level of obstruction on our pavements, which is especially hazardous for people with a sight impairment or limited mobility.

While putting conditions for licensing into statute is welcome, this will be useful only if the guidance that these conditions refer to is relevant and up to date. It is also vital that the requirement to meet these conditions is clearly communicated to licensing authorities. At present, the Bill's draft guidance refers to the Department for Transport's document *Inclusive Mobility*, which is one of the main sources of information on accessible design for planning authorities in England. In Committee, the noble Lords, Lord Blencathra and Lord Adonis, noted the inconsistencies in the minimum distances set out in that document and the confusion that this will cause. *Inclusive Mobility* only has limited references to street café furniture. As the last version is from 2005, the references to equality legislation are largely out of date. Most obviously, this guidance was drawn up well before social distancing was a consideration. As well as needing to take into account the minimum physical distance that is required for a wheelchair, mobility scooter or guide dog to pass, further space is surely now required in order that pedestrians can pass in congested areas at an appropriate distance.

3.15 pm

The need to update this guidance is obvious, and has been for some time. The coalition Government's 2012 accessibility action plan set out a goal to complete an update of *Inclusive Mobility* by 2014, but this did not happen. The previous Government made updating it a goal in their 2018 inclusive transport strategy, but we are still waiting. I strongly urge the Government to see the Bill as a cue for clear minimum distances to be specified. The conditions and guidance will be published only after the new system of licensing is up and running, but this requirement needs to be clear from the outset. Will the Government commit to publishing updated inclusive street design guidance, reflecting the new reality of social distancing and to communicating these changes to planning authorities?

Baroness Kennedy of Cradley (Non-Afl) [V]: My Lords, I will speak briefly in support of the amendments in the name of the noble Lord, Lord Holmes of Richmond. It is important that we make sure that the additional street furniture—the tables and chairs—do not restrict access or movement for individuals, especially disabled people. We must guard against creating potentially dangerous situations where people need to walk in roads, navigate around tables and chairs, or break social distancing rules to get past people on the street because of pavement licences. We need to get this balance right. Applications should not be granted if pedestrians are forced to cross a pavement in a dangerous manner, or if there is insufficient space between tables and chairs to enable disabled people to use the new space comfortably and safely or to pass through it

[Baroness Kennedy of Cradley]
without risk of incident. If properly managed and located, so that the needs of all pedestrians and customers are considered, pavement licences can make outdoor places vibrant and socially distanced safe places to be in the summer.

If the Minister does not accept these proposals and relies instead on the amendment in the name of his noble friend Lord Howe, it is important that he sets out, for the record, a clear framework to give clarity to those who need to enact this legislation on the direction they need to go in, and the guidance they need to follow to get this balance right. Finally, will the Minister assure the House that the relevant stakeholders have been consulted on the Government's amendment on this issue?

The Earl of Clancarty (CB) [V]: My Lords, at this stage, I would like to suggest something which the Government might include in the guidance. I do not fully support Amendment 1, as is not about access but about erecting barriers, which is often unnecessary and counterproductive. It should be perfectly possible, as in other European cities, to do something as simple as mark the corners of the café's territory with an object, such as a wooden tub of flowers, so that that territory is fixed in what I termed in Committee an open but rigid structure. In Committee, the noble Lord, Lord Adonis, correctly used the term "segregation" if barriers were installed, although I disagree with his inference. The problem with barriers is that those who have them imposed on them push back against them. They start to move, whereas fixed markers do not.

I appreciate that the reason for extending the café on to the street is to increase business at this time, but it should be done in a way that enhances the community. It is wrong that we insist, even before the local geography is assessed, that the café be cut off and isolated physically from everything else. The Government's draft guidance only says that the use of barriers should be "considered" by local authorities. However, I notice that markers of the kind that I referred to are not listed in that guidance as a possible strategy. Will the Government consider this? I am not talking about permanent fixtures, just something solid enough to help determine the territory designated but able to be carried off the pavement at night and replaced in precisely the same position the following day.

Baroness McIntosh of Pickering (Con): My Lords, it is a pleasure to follow the noble Earl. I declare an interest in having had the honour, I think in 2016, of chairing the ad hoc Select Committee on the review of the Licensing Act 2003. When my noble friend Lord Greenhalgh sums up this little debate, could he put our minds at rest that the measures in the government amendments in this group, tabled by my noble friend Lord Howe, will negate the need for the other amendments tabled? I think that will carry the House with him. Does he share my concern that the wide-ranging consultation proposed in Amendment 4, while well-meaning—normally I would be in favour of as wide a consultation as possible on any long-lasting modifications—would in this case negate the whole point of speedy measures, which are, of necessity, of a temporary nature?

The Deputy Speaker (Baroness Garden of Frognal): The noble Lord, Lord McConnell, has withdrawn from this group. I call the noble Lord, Lord Bourne of Aberystwyth.

Lord Bourne of Aberystwyth (Con) [V]: My Lords, it is a great pleasure to follow my noble friend Lady McIntosh. Appropriate regulation to ensure proper provision for the blind, the partially sighted and the disabled in the allocation of pavement licences is absolutely right. In a civilised society, such measures should be a given. I therefore welcome the moves proposed by the Government in the amendments which the noble Earl, Lord Howe, is bringing forward.

It is important that we encourage economic activity. As my noble friend Lady McIntosh said, that must be done speedily if it is to make sense in this context. We should bear that in mind. The provisions brought forward by the Government in this group on access and protecting individuals are appropriate and to be welcomed. We should embrace the wider Bill, which seeks to promote the necessary economic activity I referred to. I will not delay the House further, as there is a long list of Peers who wish to speak. I give this part of the Bill my total support.

Lord Addington (LD): My Lords, I stand here as a rather inadequate substitute for my noble friend Lady Thomas of Winchester to support the thrust of the amendments spoken to very ably by the noble Lord, Lord Holmes of Richmond, and a triumvirate of government Back-Benchers. This took me back a few years to when we had to cover access on virtually everything, as every single Bill required it. One wonders why when we have the Equality Act, but apparently we need to put something into this piece of legislation.

The noble Lord, Lord Holmes, has said that he is satisfied with the Government's amendments, so I feel that we probably should be too. However, there is one other issue—enforcement. Who will undertake enforcement? Access officers have been cut. Who will make sure that the arrangements embodied here are enforced? Clearness of guidance is vital, and, as we hear from the Government all the time, this is emergency legislation. If we have to wait to book someone to come in and have a look, that will take time. Will the police have some enaction? Will someone else do something? How clear will that guidance be?

It is not just those who are disabled or in wheelchairs who will benefit from this, but the entire flow of pedestrian traffic. Anyone pushing a buggy with a child in it or luggage on wheels will be positively affected by these changes. How will we make sure that they are enforced? The Government must answer this question; if they do not, this will become an empty series of words with no action to back it up.

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, I speak in support of Amendments 9 and 10, although many in this group which make a lot of sense. I welcome the Government's Amendment 16 and will possibly welcome what follows on from it even more. I hope so. I cannot better what those who tabled them

have said about needing more space on pavements, other than to add that I can think of many more reasons to have one and a half metres of space as well as disability needs.

I welcome Amendment 9 from the noble Lord, Lord Holmes, which probes how much scope local authorities will be able to have in what they put on under the conditions. Could the Minister make it clear whether local authorities can stipulate a set of standard requirements in advance that will always apply to every licence? Examples could include space, no smoking or types of barriers, but I am sure that there would be other things for particular circumstances. To have a list in advance that you knew would apply to your licence would be helpful both to those seeking licences and to those who may have concerns. Such sets of requirements are far more easily consulted on. Is it reasonable to expect the public to respond to a continuous flow of licence applications? Will fatigue not set in? Ultimately, responses that should perhaps have been made will not go in.

Baroness Neville-Rolfe (Con) [V]: My Lords, I always take great pleasure in following the noble Baroness, Lady Bowles. I note that we debated many of these issues very well in Committee. Things have come on a great deal, and my noble friend the Deputy Leader has tabled a number of well-judged amendments and concessions in this and later groups.

I wish to reiterate the importance of balance. This legislation is intended to help businesses, particularly in the hard-pressed hospitality sector, so that they can get back to work, lure back customers and support broader economic recovery. We are concerned with temporary measures and must not confuse matters by adopting regulatory amendments, some of which we might feel would be well justified if we were talking about permanent laws. To my mind, we have already gone quite far enough and the detailed draft guidance—I think its extent will make many small businesses blanch—makes it quite clear that where a pavement licence is granted, clear access routes on the highway will need to be maintained, taking into account the needs of all users, including disabled people, as my noble friend Lord Blencathra made clear earlier. The guidance also requires applicants to fix a notice to the premises when they make their application.

The noble Lord, Lord Addington, made a good point about enforcement. I look forward to hearing from my noble friend the Minister on that.

We have to get the economy, our construction industry and our high streets going again if we are not to live through a number of frigid economic winters. In particular, our hospitality sector has been decimated and needs all the help it can get. We must stop debating this Bill with its temporary provisions and get it on to the statute book.

Baroness Jones of Moulsecoomb (GP) [V]: I declare my interest as a vice-president of the LGA. I am quite torn on these amendments, as I appreciate that the Government have moved and accommodated some of the problems, but I also see their compromise as insufficient to address the issues raised so well by the noble Lord, Lord Holmes.

The Government's amendments tend to kick the issues into the long grass, leaving your Lordships to hope that Ministers will made the right decisions at the right time. That might mean bringing in the necessary provisions later through secondary legislation, which none of us likes very much. Instead of the Bill providing certainty that blind people and those with disabilities will be protected from unnecessary obstacles, the government amendments actually create uncertainty.

That uncertainty also exists for the many businesses that will be applying for pavement licences, which will have questions about all sorts of random conditions that might later be applied by central Government to their licence. For these reasons, I hope that the noble Earl the Minister can explain their plans and set out a clear timetable for bringing in secondary legislation for these amendments. Most importantly, I would ask him to give a clear assurance that blind and disabled people will be safe and will not be put into harm's way by the Bill. I hope that he will do everything in his power to ensure that this remains the case.

3.30 pm

Lord Harris of Haringey (Lab) [V]: My Lords, I am grateful to the noble Earl the Minister for bringing forward these amendments. No comment has yet been made in this discussion about Amendment 21, but I welcome the clarification that licensing is not part of the executive function of a local authority. It should be done by an independent panel within the authority.

I want also to support Amendment 4, in the name of my noble friend Lord Hain, and again pose the question again: why is this not acceptable? What this amendment and a number of others in this group are all about is effective consultation, in the instance of Amendment 4 with trade unions and the employees who are affected. It is always better when such consultation happens. It can happen at a reasonably fast pace, but at the least the exercise should be undertaken.

The noble Lord, Lord Blencathra, has argued forcefully on a number of occasions for a 1.5 metre margin around pavement activities. He is quite right to do so and I trust that that will be made explicit in the government guidance. As I have wandered around my local area over the past few weeks, I have seen able the burgeoning of pavement tables and pavement activity. I welcome that because I like the idea of a much more café culture society. However, as people drink during the course of the evening, there tends to be pavement creep, and the space gets narrower. That is why the points made by the noble Lord, Lord Addington, and echoed just now by the noble Baroness, Lady Neville-Rolfe, about the importance of enforcement are so critical. Can we be assured that local authorities will have the enforcement and regulatory officers to ensure that there is no pavement creep of the kind I have just talked about, and that the police will be there in sufficient numbers to provide back-up if required?

Lord Balfe (Con) [V]: My Lords, first, I thank the Minister and his fellow Ministers for the careful way in which they have looked at the points that have been made and for the concessions that they have given. Indeed, if you asked the question, "What is the role of

[Lord Balfe]
the House of Lords?" this Bill provides a good example of it, because while it went through the Commons in a matter of an hour or so, we have given it detailed consideration and, importantly, the Ministers responsible have looked industry detail and with sympathy at the points that have been made. So I make those points first.

I want to make a couple of points, in particular about Amendment 4. Some noble Lords will remember that I was David Cameron's envoy to the trade union movement. I know a bit about it because I have been a member since the age of 16. Now the first thing about Amendment 4 is that, of course, there are very few trade unionists in the catering industry. The second point I should like to make about it is that this is Labour virtue signalling. There are plenty of trade unionists who support the Conservative Party. Indeed, in the union of which I am president, BALPA, the majority voted Conservative at the last election. Many trade unionists vote for the SNP, Plaid Cymru, the Liberal Democrats and, in particular, for the Green Party—so what we have here is very much a bit of Labour special pleading.

On that, I am always pleased to hear Churchill being quoted by the noble Lord, Lord Hendy, and I would remind the noble Lord, Lord Monks, that I believe he was working for the TUC when it turned down the proposals of the Bullock committee to consult unions and have them on the board. So let us have a bit of remembrance. And let us also remember that Labour has decided not to support any Divisions on this Bill. So it is worth remembering when it starts asking, "Can this be done or can it not be done?" that it will not be supporting anything to the point of a Division.

I make all of those points because I would ask the Minister to acknowledge in his summing-up that co-operation is needed from all groups in society, including responsible trade unionists. I am sure that they will be happy to co-operate, whether they are trade unionists or just workers in the catering industry. I look on this amendment as a partisan one that does not add to the Bill; it is so that a group of people can go and wave at the TUC.

I note that the noble Lord, Lord Adonis, is set to follow me. I will just tell him that on one occasion when David Cameron met a leading member of the TUC General Council, he asked, "Apart from the national minimum wage, which we are not going to abolish, which piece of pro-union legislation that the Blair Government passed are you worried that we might repeal?" The answer was total silence. So let us not have too many lectures about what Labour is going to do for trade unions until some future date when it may even have done something.

The Deputy Speaker: I am afraid that the noble Lord, Lord Adonis, is not going to follow the noble Lord, Lord Balfe, because he has withdrawn from this group. So I now call the noble Lord, Lord Naseby.

Lord Naseby (Con) [V]: My Lords, I have taken part in every stage of this Bill and I believe that we must never forget that its basic principle is to get the economy going and in particular to help the hospitality industry. I do not know how it was for anyone else, but over this last weekend less than half the pubs in Bedfordshire were open to cater for people who wanted to go out on Friday or Saturday evening. Why were they not open? Either they did not have the space or they had not managed to get organised, et cetera. Against that, I pay tribute to what my noble friend Lord Blencathra, and the noble Lords, Lord Holmes and Lord Low, have done to ensure that the Government of the day have taken note of the challenges for disabled people. They have worked tirelessly on this and I say a great personal thank you to them. It is good that my noble friend on the Front Bench has listened and that we now have Amendment 16 before us.

The only other point I want to make is about guidance notes. I have been the chairman and the leader of a local authority and there is nothing worse than guidance notes that are out of date. They do not need to be 300 pages long; they need to be probably 20 clear and short statements of what is necessary in an emergency situation.

Baroness Grey-Thompson (CB) [V]: My Lords, I thank the noble Lord, Lord Holmes, and others for continuing to raise the issue of access for disabled people, and I too will not rehearse my arguments again. I welcome the Government's amendment and I have two questions for the noble Earl the Minister. How will this provision be monitored to ensure that reasonable access is not something that is provided from day one, which is what usually happens when the intention is good, but swiftly erodes as we move further out of lockdown, potentially leaving disabled people with a much poorer level of access than they currently have? My second question is: how will disabled people be able to make a complaint and be listened to if their access has been diminished?

Lord Sheikh (Con) [V]: My Lords, at the outset I reiterate what I said at Second Reading and in Committee. I welcome the Bill, which will trigger a revitalisation of our businesses and help people's well-being. We would like the economy to pick up and create employment for people who have been idle for the last few months. We need to take steps to enable restaurants, pubs and cafés to expand their businesses and provide additional facilities to attract customers. Our hospitality sector has taken a massive hit and we need to assist the sector to get back on its feet. We should therefore give consideration to how we can do this. One way is to allow customers to be served outside the premises and on the pavement.

I support these arrangements but we need to look at certain issues that may cause problems to pedestrians. I am concerned about accessibility and the passage of blind, partially sighted and disabled pedestrians. They must be able to get through the customers outside a premises without being obstructed in any way. Blind and partially sighted people already feel less independent during the lockdown. If we do not have proper controls and make appropriate provisions, they will encounter difficulties. If adequate arrangements are not made, these persons may go on the road, take someone else to go with them or not go out at all.

Some disabled persons are in wheelchairs that need to be carefully manoeuvred. If people are congregating on the pavement without adequate controls, manoeuvring will be difficult and cause distress to the disabled persons. Furthermore, there is the possibility of an accident arising because of a lack of proper spacing for wheelchairs to get through, which may cause injury to a customer or the disabled person.

As far as pedestrians are concerned, in Committee I expressed concern about Muslim ladies who may be harassed or picked on if they are walking through a crowded area. Since my speech in Committee, I have been approached by other Muslims expressing support for what I said. It is therefore important to bear in mind issues concerning Muslim ladies. I have been told that since the lockdown has been eased, there has been a spike in Muslim women being insulted and abused.

In addition, there needs to accessibility for all persons, with a distance of at least one metre for everyone's benefit and as a safeguard against the spreading of the virus. I therefore support Amendments 1, 2, 5 and 6. I also render support to Amendment 7, which will

"establish a right to appeal the approval of an application"

within the time stated in the amendment.

Furthermore, I support Amendment 12 regarding the need for a local authority to investigate a complaint where there are issues of accessibility relating to people with disabilities or other pedestrians. I feel that Amendments 7 and 12 are necessary to ensure that relevant persons with genuine issues are listened to where there are difficulties regarding passage or accessibility.

Finally, I support Amendment 16 as I feel the Secretary of State must

"specify conditions for pavement licences".

I am sure that in doing so, the Secretary of State will be minded to ensure adequate access and passage of all pedestrians without hindrance.

Baroness Chakrabarti (Lab) [V]: My Lords, I associate myself with so much that been said in this discussion about the rights and accessibility of disabled people in particular; the importance of employer-employee co-operation in the fight against the virus; the need to return to economic activity; and enforcement. That is perhaps why the swipes at the trade unions were particularly gratuitous and jarring.

The deadly pandemic we are still in the grip of seems to discriminate quite brutally and savagely, so it is particularly important that we do not discriminate in our response to it. If anything, we should work harder—perhaps even more radically—to redress the balance in the discrimination provided by the virus.

The economy exists for the benefit of people, not the other way around, so there ought not to be any real tension between the aspiration of protecting people—all people, the vulnerable in particular—and wanting to bring the economy back and to restore some normalcy in our lives.

3.45 pm

I am grateful to Ministers for taking on board the points about disabled access and safety in particular. I hope that in doing so they are reflecting not just an approach to this Bill—which, after all, is primarily about economic growth—but an attitude to coping with the virus in general and to not being irritated by reasonable questions about workplace safety, whether posed by teaching unions or anyone else, and concern about public health and safety foremost in the difficult times ahead.

It seems that too many members of our polity and commentariat have tried to present a zero-sum game between this abstract thing called the economy and people's lives, including those of the most vulnerable. We have heard really quite eminent voices in newspapers and the media say, "Save the economy and let the elderly or vulnerable shield themselves." That is not a compassionate approach or one of a civilised society that puts human rights at its heart, so I hope the broad base of comments in this debate will be taken on board and not the more jarring ones. It seems we all love our own rights and freedoms; it is just others' that we sometimes find a little more difficult to swallow.

Baroness Pinnock (LD) [V]: My Lords, I draw the House's attention to my interests as set out in the register as a councillor and a vice-president of the Local Government Association.

We on these Benches support the Bill's intentions to provide some additional business opportunities for construction companies and pubs, bars and cafés, which are often smaller, independent businesses on our high streets and have had their trade curtailed by the coronavirus restrictions.

This group of amendments in general provide for cafés and pubs to apply to extend their sales on to the pavement in front of their premises for a temporary period. In Committee we had an extensive debate about the consequences for people with disabilities, in particular those with a sight impairment. I thank the Ministers—the noble Earl, Lord Howe, and the noble Lord, Lord Greenhalgh—for the meetings following Committee to discuss these issues of concern.

My noble friend Lord Shipley has succinctly described the purpose of our Amendment 20, to which I also have my name. Our intention is simply to ensure that in the granting of licences, pavements do not become a hazard for pedestrians. The noble Lord, Lord Holmes, has raised similar concerns and tabled a number of amendments to seek clarification and prevent pavements becoming inaccessible. In particular, we have been concerned about tables and chairs on the pavement gradually spilling over into the area set aside for pedestrians. This is the reason for the suggestions we have made about the requirement for a simple barrier to mark off the area of the pavement licence. I hope that most businesses will make this simple provision.

On another issue, the noble Lord, Lord Holmes, has made an important point in his Amendments 23 and 24: the principle of inclusive design should be the starting point when changes to the built environment are made. I hope the Government take note.

The amendment in the name of the noble Lord, Lord Hain, to aid a partnership approach between employers and employees and their trade union representatives states a principle we can easily support. It is good that the Government have listened to these concerns and have tabled several amendments seeking

[Baroness Pinnock]
to ensure that pavements are kept clear for pedestrians. Although these amendments do not go as far as we and others have argued, they go a long way to satisfy those of us worried about the potential consequences.

If the Government's Amendment 16 passes, there will be provision for the Secretary of State to make conditions on pavement licences by regulation. I thank the Government for sending an update of the guidance, which shows their willingness to safeguard the interests of pedestrians. We accept that the Government have moved a considerable distance in resolving these issues and look forward to the Minister's response.

Baroness Wilcox of Newport (Lab) [V]: My Lords, I draw attention to my interests in the register. It is right that the House is again afforded the opportunity to consider the implication of pavement licences. The various amendments in the name of the noble Lord, Lord Holmes, highlight the need for inclusive design. I agree with him and am pleased that the Government have also tabled amendments on this theme. The noble Lord, Lord Cormack, and the noble Baroness, Lady Pinnock, raise similar concerns, and I am glad that the House has debated them today.

I hope that, in addition to the Government's amendments, the Minister offers further non-statutory assurances to make certain that accessibility issues are resolved. As my noble friend Lady Kennedy of Cradley noted, applications should not be granted if people are forced to cross a road; they should be able to pass by without incident. Pavement licences, when granted, can result in vibrant social spaces, but relevant stakeholder consultation is essential, as is the role of local authorities in ensuring compliance—as raised by my noble friend Lord Harris of Haringey. I agree with him that resources will need to be made available to local authorities for the extra work that this will entail.

My noble friend Lord Hain returned to the issue of trade union engagement, and he has the support of these Benches in so doing. As he said, consultation and co-operation have become the name of the game. I associate myself with the remarks of my noble friend Lady Chakrabarti in that respect. It should be the norm and statutorily implemented.

The House is aware from previous stages of the Bill that amendments in my name and that of the noble Lord, Lord Kennedy, have been raised about the concerns of trade union members. This amendment would ensure that local authorities consult employees and their unions when determining pavement seating applications. In recent weeks, I have spoken to members of Wetherspoon staff represented by the BFAWU, and it is clear that they are often left in the dark on decisions that have enormous ramifications for their working conditions. I hope the Minister will assure the House that he has at least engaged with trade unions in drafting the legislation and that he continues to during its implementation.

The Minister of State, Home Office and Ministry of Housing, Communities and Local Government (Lord Greenhalgh) (Con): My Lords, the pavement licensing clauses in the Bill will provide vital temporary flexibility to aid the recovery of the 158,000 hospitality businesses that employ almost 2 million people over the summer months. That is the importance of this legislation, as raised by my noble friends Lord Naseby and Lord Sheikh, and the noble Baroness, Lady Pinnock.

Noble Lords have voiced concerns over accessibility, which the Government agree is paramount. While the Government have sought to address accessibility from the outset, through robust conditions such as the no-obstruction condition, guidance and enforcement procedures, we have reflected on the strong feeling in this House and recognise that more needs to be done.

In response—and what has been described by "a huge step forward" by my noble friend Lord Holmes—the Government have tabled Amendments 6, 16, 21 and 87, in the name of my noble friend Lord Howe. First, the Government have tabled Amendment 6 to Clause 3, which would insert a new subsection after subsection (6). New subsection (6A) provides that, when local authorities are determining whether furniture put on the highway would be, or already is, an unacceptable obstruction, they must have specific regard to the needs of disabled people and to any recommended distances required for access by disabled people, as set out in guidance issued by the Secretary of State. This puts in the Bill a requirement that a local authority, when deciding whether to grant an application and to exercise its enforcement powers, must have in mind the needs of disabled people and for clear access, as set out in the Government's guidance.

Secondly, as well as the amendment to the Bill, I appreciate that there has been some confusion over the application of inclusive mobility guidance, so we are going to sharpen the focus. Inclusive mobility draws on a wide range of stakeholder inputs and remains the key piece of design guidance for the pedestrian environment. In response to the noble Lord, Lord Low, work led by DfT is under way that will update inclusive mobility next year. However, we recognise that businesses applying for licences may need clearer direction.

That is why our guidance will make clear that, in most circumstances, 1,500 millimetres or 1.5 metres of clear space should be regarded as the minimum acceptable distance between the obstacle and the edge of the footway. We will also address other concerns raised—specifically, provision of clear barriers to demarcate seating, explicit reference to duties on local authorities under the Equality Act and style of furniture. In response to the noble Baroness, Lady Bowles, that is the framework within which we are asking local authorities to operate.

We have also set out, in the House, the circumstances when local authorities can use their power to revoke, including where there is a breach of condition or there are risks to health and public safety, as well as highways obstruction. In response to the noble Lord, Lord Addington, there are robust enforcement procedures and local authorities can revoke licences when they give rise to these risks. They will need to have regard to the public sector equality duty under the Equality Act, when devising and implementing the new licensing regime, to eliminate discrimination and harassment. In response to the noble Baroness, Lady Grey-Thompson,

disabled people can complain to the local authority, so authorities can act and revoke the licence for breach of a condition, which would be taken immediately. The idea of using markers, as raised by the noble Earl, Lord Clancarty, will also be considered in the guidance. That was a good point.

In drafting the guidance, we have consulted key stakeholders, including the RNIB and the Guide Dogs for the Blind Association, as well as the Local Government Association. These are the relevant stakeholders requested by the noble Baroness, Lady Kennedy. Since these measures will come into effect immediately on Royal Assent, it is important that we publish final guidance now, so that local authorities and businesses have regard to these vital considerations of accessibility without delay, as soon as these measures are implemented. However, we have made clear that any new national conditions will be subject to the negative procedure, as I will turn to shortly.

Finally, as a third step, we will be communicating the publication of the guidance to local authorities to make sure that they have sight of it as soon as possible. In so doing, we will point to existing examples of best practice on accessibility, as suggested by the RNIB.

With these steps, the Bill now makes clear that authorities must take the needs of disabled people and recommended distances into account, while guidance will set out further detail on what this entails. This provides very clear direction to local authorities and leaves scope for them to respond to their own local circumstances, while complying with their existing duties under equalities legislation. That delivers the certainty referred to by the noble Lord, Lord Shipley, with a degree of local discretion. I have to say, I note that my noble friend Lord Blencathra reserves the right to bulldoze through any obstruction in his armoured wheelchair.

I hope, therefore, that my noble friends Lord Blencathra, Lord Holmes and Lord Cormack, the noble Baronesses, Lady Pinnock and Lady Thomas, and the noble Lord, Lord Shipley, will accept government Amendment 6, and not press their amendments on this matter.

As I set out at Second Reading, the Government have accepted the recommendation of the Delegated Powers and Regulatory Reform Committee and tabled an amendment to replace the Secretary of State's power to publish national conditions on pavement licences with a power to specify any national conditions for pavement licences in regulations, subject to the negative resolution procedure. This should provide a robust level of scrutiny of any national conditions. I hope that noble Lords will accept government Amendments 16 and 87.

4 pm

The Government have tabled Amendment 21, a minor and technical but important amendment, to ensure that pavement licence functions are discharged by the authority, rather than by the authority's executive. This responds directly to an ask of the Local Government Association. It means that these functions can be delegated by the authority to a committee, sub-committee or an officer, or to any other local authority under Section 101 of the Local Government Act 1972. This is in keeping with other similar licensing regimes, such as the existing pavement licence regime. In short, this will provide a real practical benefit to local authorities on the ground; it means that decisions can be made more efficiently by an existing committee, reducing the burden on local government. This issue was raised by the noble Lord, Lord Harris. I trust that the House will see the benefit of this to local authorities and hope that Amendment 21 is accepted.

I finish by turning to Amendment 4, tabled by the noble Lords, Lord Hain, Lord Hendy and Lord Monks, and the noble Baroness, Lady Ritchie, which seeks to require that trade unions and other relevant businesses are consulted when determining applications. I appreciate the intent behind this amendment and the importance of ensuring that employees are consulted. However, this would make the process unworkable and contrary to the emergency nature of the Bill, which is to speed up decisions. We would expect businesses to engage with their employees, so there is no need to mandate this in statute, a point raised by my noble friend Lady McIntosh. For these reasons, I hope that the noble Lords will not press Amendment 4.

I can tell the noble Lord, Lord Hain, and the noble Baronesses, Lady Chakrabarti and Lady Wilcox, that the Government have worked constructively with unions throughout the pandemic to ensure that workplaces remain safe, and will continue to do so as the UK looks towards economic recovery. The Government recognise that trade unions can play a constructive role in maintaining positive industrial relations, and collective bargaining remains an important form of negotiation in the workplace. However, where possible, we believe that industrial relations should be undertaken voluntarily and not mandated by the state. I will leave the matter there.

Lord Holmes of Richmond [V]: My Lords, I thank all noble Lords who have spoken on this group. It has been a very clear and effective debate that goes to the heart of the changes that my noble friend the Minister has spoken to this afternoon. As many noble Lords have said, although the Government certainly could have gone further, they have indeed gone a considerable distance from their position when the Bill arrived in your Lordships' House.

I thank my noble friend Lord Blencathra for his traditional clarity and effectiveness in getting across his point of view. It is reflected in the guidance of 1.5 metres, although as my noble friend and I agree, it would have been more helpful across the piece had this been in the Bill. I thank the noble Baroness, Lady Kennedy of Cradley, for her comments, and thank other noble Lords who have spoken on this group.

I am content with the amendments that the Government have laid on the points that I have already spoken to, and with Amendment 21, the technical amendment. I ask my noble friend the Minister to consider whether further amendments can be made to the guidance. There are issues that could be made clearer, particularly around the application process and the appeals process. Wording could be inserted to make it absolutely clear to disabled people and others that they would be able to make appeals, not least under the Equality Act. It would be helpful to have that spelled out in the guidance.

[Lord Holmes of Richmond]

There are also issues around the whole concept of consultation, not least relating to paragraphs 7.5 and 7.6 in the guidance. This debate has demonstrated that there is a bit of a misconception around consultation in a number of ways. I do not believe that consultation needs to be lengthy, but it needs to be effective and authentic. Although it sounds tautological, it needs to be truly consultative. In so many instances across society, it is not, but rather is something masquerading as consultation, and the reality for those involved is very different. I believe that for individuals and local authorities, it would be helpful if, in the guidance, an affirmative function was clearly set out for local authorities to engage swiftly in consultation and to speak to organisations of and for disabled people and others. That could be done incredibly effectively—it may be a matter of a few phone calls. It does not need to be a massive consultation; it needs to be an effective consultation.

My noble friend Lord Naseby was quite correct when he talked about guidance being seen as a leaden weight around the neck of local authorities. Guidance needs to be conceived to be helpful and seen as helpful. To that extent, will my noble friend the Minister also consider putting in some kind of checklist or flowchart, both at the front of the guidance, setting out what it does in a few bullet points, and as an appendix, to take applicants through the procedure and what they need to consider at each stage. That should be done in a clear, effective and understandable manner.

To that extent, I am grateful to my noble friend the Minister and his officials for the positive way in which they have engaged. This will be an ongoing issue. We will obviously have time to see and assess what happens as the Bill lands. In conclusion, I am absolutely, wholeheartedly behind economic growth and getting the economy up and running effectively again. I do not believe in any sense that anything around accessibility, or inclusion and inclusive design, runs counter to that. In reality, inclusion, inclusive design, accessibility, enablement and empowerment are the bedrock of a fully functioning economy and civil society. With that, I beg leave to withdraw Amendment 1.

Amendment 1 withdrawn.

Clause 2: Applications

Amendments 2 and 3 not moved.

Clause 3: Determination of applications

Amendments 4 and 5 not moved.

Amendment 6

Moved by ***Lord Greenhalgh***

6: Clause 3, page 4, line 8, at end insert—

"(6A) Where a local authority is considering for any purpose of this group of sections whether furniture put on a relevant highway by a licence-holder pursuant to a pavement licence has or would have the effect referred to in subsection (6)(a), the authority must have regard in particular to—

(a) the needs of disabled people, and

(b) the recommended distances required for access by disabled people as set out in guidance issued by the Secretary of State."

Member's explanatory statement

This amendment makes provision for the needs of disabled persons in particular to be taken into account when determining whether furniture put on the highway is an obstruction.

Amendment 6 agreed.

Amendment 7 not moved.

Clause 4: Duration

Amendment 8 not moved.

Clause 5: Conditions

Amendments 9 and 10 not moved.

The Deputy Speaker (Baroness Henig) (Lab): My Lords, that brings us to the group beginning with Amendment 11. Members should ensure that they have the correct text of Amendment 11, with the word "not" in proposed new subsection (2C). I remind noble Lords that Members other than the mover of the amendment and the Minister may speak only once, and that short questions of elucidation are discouraged. Anyone wishing to press this, or any other amendment in the group, to a Division should make that clear in the debate.

Amendment 11

Moved by ***Baroness Wilcox of Newport***

11: Clause 5, page 4, line 37, at end insert—

"(2A) Conditions under subsection (2) may include that smoking is prohibited in either the entire area or part of the area covered by a pavement licence.

(2B) A condition to prohibit smoking under subsection (2) may only apply if the local authority has first consulted local businesses and residents prior to the publication of such a condition.

(2C) Conditions under subsection (2) may not prohibit the use of electronic cigarettes in the area covered by a pavement licence."

Member's explanatory statement

This amendment would allow local authorities to prohibit smoking in areas covered by pavement licenses, provided they have first consulted local businesses and residents. This would not prohibit e-cigarettes.

Baroness Wilcox of Newport [V]: My Lords, tobacco is the leading cause of preventable death in the world. Although fewer than one in five adults in the UK now smoke, the Government must do all in their power to aid this remaining population to quit. We are in a fortunate position, in that in recent months, a million people in Britain have stopped smoking. The Government would do well to consider the recommendations of Action on Smoking and Health for how this can be built on.

The health risks of smoking are, of course, not restricted to smokers. The House will clearly be aware of the dangers of second-hand smoke, including in outdoor areas of pubs, bars and other premises to which the Bill relates. The Bill, as introduced by the

Government, was a missed opportunity. In creating new outdoor areas, there should have been provision from the outset for smoke-free areas. On this basis we tabled Amendment 11, which would create a power for local authorities to prohibit smoking in certain areas covered by pavement licences after due consultation.

I am pleased that the Government sought to rectify their omission by tabling Amendment 13 to allow for smoke-free areas. It has the support of these Benches, but the amendment alone is not enough. The Government must take a firmer line on public health and consider how they can reduce the dangers of second-hand smoke more widely. In future legislation, I hope they will focus on doing so from the outset, for if they do not, we will again.

The amendment in the name of the noble Baroness, Lady Northover, would create a condition that pavement licences can be granted only if smoking is prohibited. While I fully sympathise with her reason for tabling this effort, I am afraid that we cannot support the present draft. As it stands, it might have enormous unintended consequences. It does not clarify that the prohibition of smoking should apply to the area covered by pavement licences, and without the definition of smoking it might unintentionally ban e-cigarettes. I understand that there are also concerns that other errors might lead to judicial review. If not for these errors we could consider the amendment, but in its present iteration I am afraid we cannot.

The noble Baroness is right to press for the Government to consider the implications of second-hand smoke, but when the hospitality industry is already suffering as it is, this attempt at some form of blanket ban, attached in haste to emergency legislation, would have consequences that I am sure are unintended. I hope the noble Baroness will reflect on this, support the efforts to create smoke-free zones and join us in holding the Government to account on their widespread failures to reduce smoking.

Finally, I ask the Minister to confirm that the Government's amendment will not be their only effort to eliminate the dangers of second-hand smoke during this crisis. The initial drafting of the legislation served as a missed opportunity to tackle smoking. I am afraid that that is somewhat characteristic of their attitude over the past decade. I will press the Government on three specific issues. Will they halt the planned cuts to smoking cessation services across England? Will they properly fund the devolved Governments, including the Labour-led Welsh Government, to support their efforts in stopping people smoking? Will they engage and equip local authorities to play their significant part in what remains an enormous challenge to public health? I beg to move.

Baroness Northover (LD): My Lords, I shall speak to Amendment 15 in my name and that of my colleagues, the noble Lords, Lord Young of Cookham and Lord Faulkner of Worcester, and the noble Baroness, Lady Finlay of Llandaff. There has been an anti-smoking cross-party coalition in the Lords for almost two decades. That cross-party approach reflects the House at its best. Since Sir Richard Doll's report all those years ago, we have known that smoking kills, and in an appalling fashion. Nevertheless, as we know, it has been an uphill battle to set in place anti-smoking measures. The noble Earl, Lord Howe—I am glad to see that he is in his place, even if he is not on the Front Bench—has long been part of that coalition. This issue does and should arch over mere party concerns, though that is not always the case. It is extremely disappointing when that manifests, because our opponents are funded and united.

However, I was very glad that when we raised this as the sole amendment on this issue in Committee the Government responded. I was in the Chamber, and I admit that I directed much of what I said to the noble Earl, given his track record on this issue. I hugely commend those of other parties who have had the determination to stand against the pressure on them for the sake of public health.

4.15 pm

Let me state the case for this cross-party amendment. Smoking kills smokers and those exposed to second-hand smoke. That is why we secured—and now the vast majority of the public enjoy—smoke-free restaurants, pubs and other public places. This is not a ban on smoking outdoors. Our amendment would apply only to the new fast-track licences, which allow premises to put furniture on the pavement to alleviate the capacity restrictions caused by coronavirus.

Because of Covid-19, the outside is the new inside. We need to make sure that people are protected there as well—for their health, for staff serving them, for families and for unborn babies of pregnant women. Some 86% of people do not smoke, so bringing them back and making it appealing for them is vital. If people do not think that is relevant, look at the fact that 1 million people have given up smoking during lockdown. That shows a level of fear and concern about health and safety. We need to support them in that process, and local government and the hospitality industry say that it much easier for them if there is a clear national policy on this.

I am afraid that I find Amendment 11 surprisingly weak. I did not expect that from the Labour Party. I do not understand why it tabled it. I am afraid that, well-meaning as it might be, it will allow FOREST and the tobacco industry to drive a coach and horses through it. I am glad that it is not being put to a vote. I encourage Labour to support our cross-party Amendment 15. So many on those Benches have done so much on this issue over the years, and I pay tribute to them. The Labour Party holds in its hands the ability to secure this clear, simple public health measure—or not. I hope it will.

I am immensely encouraged that the Government are committed to England being smoke-free by 2030, which is defined as 5% of the population smoking. I was also delighted when Jo Churchill, the Health Minister, got in touch with me and made clear her own very strong personal commitment. I do not doubt the noble Earl's. I thank the former Secretary of State—the noble Lord, Lansley—the noble Lord, Lord Young, and many on the Conservative Benches for all their help.

I also thank the Government. I am very glad that they realised when it was flagged to them that they had completely overlooked the problem of smoking outside premises, and that they have now recognised that they

[Baroness Northover]
need to address this issue. I have sympathy with the Department of Health and Social Care, which came to this late. It had much else to think about. The noble Earl, Lord Howe, has clearly been busy, for which I thank him.

However, the Government's so-called compromise is supported by FOREST, which is funded by the tobacco industry. That should send important signals to everyone. The problem with their amendment is: how do you stop smoke drifting over non-smokers, just as it did when different areas of pubs were designated in that way? Is it fair to expect proprietors to accommodate smokers, who are not likely to be the majority of their customers, yet whose activities will affect all of them? What is this: simply an "aim" to keep the two groups two metres apart? Who will decide the regulations, the Department of Health and Social Care, or the Ministry of Housing, Communities and Local Government, which is clearly less familiar with this area and whose Bill this is? The noble Lord, Lord Bethell, was asked earlier whether the Department of Health would lead on the guidance. He implied that that would not be the case. Is that so? Will this come to us as an SI? If so, will it be negative or affirmative?

I understand the huge concerns in the hospitality industry about getting customers back; who could not? The MHCLG was unfamiliar with the effects of tackling smoking when the ban was introduced a decade and a half ago and clearly believed the lobbyists, but local government, which is responsible for public health, does know. The Local Government Association, speaking on behalf of councils of all political persuasions, all 10 authorities in the Greater Manchester region, the cities of Liverpool and Newcastle, and Oxfordshire County Council, supports our cross-party amendment, because it will be good for business and protect public health by encouraging people to come back to pubs and restaurants without fearing an unpleasant and unsafe experience.

I strongly commend Amendment 15, which I may vote on. It was drawn up not by me but by that outstanding campaigning organisation, ASH, working with local government, and it is the right thing to do. I look forward to hearing the Government's response.

Lord Young of Cookham (Con) [V]: My Lords, I begin with a brief word about Labour's Amendment 11, moved by the noble Baroness, Lady Wilcox. I am disappointed that the party which—with a bit of prodding when in government—introduced the ban on smoking in pubs has in opposition retreated from that bold approach to public health issues, and cannot support Amendment 15. This disappointment is shared by many of Labour's noble Members. Its own amendment has been trumped by the Government's amendment, which goes further, and which I will turn to in a moment, but I agree with the noble Baroness, Lady Wilcox, that more action is needed to combat smoking.

The Government have adopted the "hard cop, soft cop" approach on this issue. Last week, my noble friend Lord Greenhalgh was cast as the hard cop and was obliged to read out an uncompromising speech asserting that our amendment would lead to pub closures and job losses. Why pubs that have survived all the problems that have confronted industries so far should decide to close when given the opportunity to extend their non-smoking premises to include the pavements outside was never explained. He also said that imposing a condition to prohibit outdoor smoking would not be proportionate. Yet outdoor smoking is already banned in open-air stadiums and at open-air railway stations, because they are places where people congregate and therefore there is the health risk and the annoyance of passive smoking. It would be the same with pavement smoking.

However, it would be churlish to complain too much, because in the meantime the hard cop was replaced by the soft cop, my noble friend Lord Howe, emollient and with an impeccable public health record. He has tabled an amendment which goes a long way towards what we were arguing for, and wrote a helpful letter to noble Lords today. I pay tribute to his role in listening to last week's debate and moving government policy forward on this issue. I know that my noble friend Lord Greenhalgh, who made a personal commitment to the anti-smoking campaign in the debate last week, has also played a role.

As the noble Baroness, Lady Northover, said, the government amendment does not go as far as I would like, but before turning to that, I will make one point about the guidance referred to in the noble Earl's amendment. Given that many pubs have already made provision for smokers on their own premises—usually canopies with patio heaters—I hope the guidance will say that where this is the case, any extension to the pavement should be smoke-free, since there is already somewhere for the smokers to go.

The Government's amendment does not go as far as I would like, and I will not repeat the arguments in favour of Amendment 15 so ably put by the noble Baroness, Lady Northover, and other noble Lords, last week. While none of the arguments against it have convinced me that they would be the right way forward, I recognise that given the position of the Labour Party, the cross-party alliance so skilfully constructed by the noble Baroness has gone as far as it can, and therefore I am prepared to settle for and support the government amendment. I hope that others who share my view will feel able to do the same.

Lord Faulkner of Worcester (Lab) [V]: My Lords, yesterday's press release from the Ministry of Housing, Communities and Local Government stated:

> "People using pubs, restaurants and cafés will soon have greater freedom to choose non-smoking outdoor areas",

a laudable objective that is consistent with the cross-party Amendment 15, which I have signed, along with the noble Baronesses, Lady Northover and Lady Finlay of Llandaff, and the noble Lord, Lord Young of Cookham, and which is identical to the one we debated in Committee last week. Some of your Lordships may take the view that had we not raised the issue of smoking in areas covered by pavement licences, the other amendments in this group might never have seen the light of day today. Indeed, if it had not been for the noble Baroness, Lady Northover, raising the subject at Second Reading, that would probably be the case.

As I indicated in Committee last week, our amendment enjoys strong cross-party support from the Local Government Association, which represents local councils in England and has asked the Government to make pavements smoke-free. Birmingham Labour councillor Paulette Hamilton, vice-chair of the LGA's community well-being board, is urging your Lordships to give councils the power to extend smoke-free areas to include pavements, so that

"this alfresco summer can be enjoyed by everyone."

She added:

"Councils have worked hard to help hospitality businesses reopen, including relaxing requirements and making changes to roads and pavements to enable pubs, cafés and bars to operate outside safely with more outdoor seating. Pavement licensing should not be a catalyst to increase smoking in public places, putting people at greater risk of ingesting second-hand smoke when they are enjoying a drink or a meal."

This view is shared by the Conservative leader of Oxfordshire County Council, Ian Hudspeth, whom I quoted in the debate last Monday, and who has set the laudable target of a smoke-free Oxfordshire by 2025.

On 15 July, the Welsh Government committed to bringing in new laws to ban smoking in hospital grounds and schools under the Public Health (Wales) Act 2017, to

"protect the public from second-hand smoke and de-normalise smoking in the eyes of young people."

They are on course to bring in a smoking ban for the outdoor seating areas of restaurants and cafés, which is supported by nearly two-thirds of adults in Wales, according to a survey by ASH Wales.

My final point arises from my supplementary question to the noble Lord, Lord Bethell, earlier this afternoon. Noble Lords may recall that I asked him whether today's proposed guidance for smoke-free areas outside pubs and restaurants would be agreed with the DHSC, published before the House rises and subject to parliamentary scrutiny. Rather to my surprise, he did not answer any of these rather important questions, and later in the session, when the noble Baroness, Lady Walmsley, asked them again in the same form, she did not get a reply either. What is going on? Have the Government not yet made up their mind, or does the MHCLG refuse to acknowledge that this is a public health issue, let alone that it has anything to do with the Government's aim to make England smoke-free by 2030? I still think that our amendment is the best of the three on offer, and I will be disappointed if the House does not agree to it this afternoon.

Baroness Finlay of Llandaff (CB) [V]: My Lords, Amendment 15, to which I have added my name, seems to be the best way to avoid the Government throwing away the hard-won gains in public health that smoking reduction strategies have achieved to date. There is now clear evidence of the benefits from our legislation, which has banned smoking in public places. The benefits of ending passive smoking are to the heart, the vascular system and the lungs. The strongest evidence of the health benefits of making places smoke-free is in those working in pubs. The Smoke-free Premises and Vehicles (Wales) Regulations 2020 will extend the smoking ban to outdoor areas of hospital grounds, school grounds and local authority playgrounds.

4.30 pm

In smokers, the evidence is clear. The cancer-promoting effect of tobacco smoke is enhanced by drinking alcohol at the same time as smoking. Alcohol and smoking independently promote cancers of the mouth, throat and larynx. Smoking while drinking multiplies that risk most markedly, possibly by direct effect on the mucosal cells of the mouth, throat and larynx. These are ghastly disfiguring cancers, and the multiplicative effect on risk is also seen for oesophageal cancer.

In young people the addictive potential of nicotine is particularly high, which is why two-thirds of the 280 children who experiment with cigarettes every day go on to be long-term smokers. Of smokers aged 16 to 24, the vast majority of adult smokers start before the age of 21. Many remain tempted by their addiction for the rest of their lives, making it particularly difficult to stay "quit" when out drinking if others are smoking. Is it any surprise that the tobacco lobby does not want a mandatory smoking ban in pavement licences? The tobacco industry has recognised the importance of the under 21 year-old age group for decades. In 1986 Philip Morris said:

"Raising the legal minimum age for cigarette purchasers to 21 could gut our key young adult market (17-20)."

More than 200 adults die each day from smoking. In 2017 it was estimated that the NHS spent £2.4 billion per annum on their treatment and care and that the average amount of life lost was more than 13 years. Through absenteeism, social care costs, fires and other effects, smoking costs England alone more than £12.5 billion each year.

Covid–19 is not simply a respiratory illness. It affects the heart, scars the lungs, increases the risk of thrombosis and can cause strokes. These are the same organs that are hit by tobacco. It does not make public health sense to spend billions on treating Covid and ignore the call from the Local Government Association to impose a ban on smoking at pub seating. Noble Lords should not forget that children's lungs are particularly vulnerable to second-hand smoke, so without protecting spaces the socialising benefits for families will be negated by long-term damage to the next generation. Will the guidance advise families to avoid going to pubs where there is smoking on pavements? I think not. Do people who do not smoke now look forward to going out and coming home smelling of tobacco smoke? I think not. I suggest that they are far more likely to drink alcohol bought in the supermarket at home or in the park, and this choice will do nothing to support the hospitality trade. I fear that the unintended consequence of the Government's amendment will be that the struggling hospitality industry will not be helped as much as it wants and deserves.

The damage caused by smoking during pregnancy is clearly documented, so why are the Government not doing everything to support pregnant women who want to socialise for their mental and emotional health by at the same time supporting their efforts not to smoke by not allowing them to be temped? Can the Minister explain why the Government, in their blurred amendment, are abandoning their own policy of working towards this country being smoke free and are giving in to tobacco industry lobbyists? I hope the House will support Amendment 15.

Lord Lansley (Con): My Lords, it is a privilege to follow the noble Baroness, Lady Northover, and her three co-signatories to Amendment 15. As she rightly said, it is only by virtue of their bringing forward the amendment in Committee that we had the benefit of a very good and persuasive debate last Monday. They won the argument, as evidenced by the Government's Amendments 13 and 14 and what they said about the guidance that will be issued alongside the no-smoking condition. I pay tribute to the noble Baroness, Lady Northover, for that.

I might say to the noble Baroness, Lady Wilcox of Newport, that the Labour Party did not put down such an amendment. I welcome what she said about maintaining positive forward pressure on this vital public health issue, but I remind her that as a result of the coalition Government's activities—in which we were all participants, including my noble friend Lord Howe—this country was regarded as having the toughest tobacco control regime in the world, perhaps bar Australia, although I think there was a debate about that. The point is to maintain that pressure. The Government's commitment, which I wholeheartedly support, is to secure a smoke-free England by 2030. The point of this temporary legislation is to support the hospitality and leisure industries, and our debate was about ensuring no retrograde steps away from our objective of banning smoking in public places. We do not want families who expect to go to a public house and have a smoke-free meal to find that they are exposed to second-hand smoke.

Like my noble friend Lord Young of Cookham, I would have liked the Government to have gone a bit further and the guidance to have been more specific—particularly on the points he mentioned, which for brevity's sake I shall not repeat—but I share his view that the Government's Amendments 13 and 14 are significant victory. He and his cosignatories to Amendment 15 can take credit for that. I welcome what the Government have done, I hope the House will support Amendments 13 and 14 and that, in consequence, the noble Baroness will not see the need to press Amendment 15.

Lord Clement-Jones (LD): My Lords, I shall speak briefly in support of Amendment 15, which was so cogently moved by my noble friend and spoken to so persuasively by her co-signatories. In Committee, the Minister, the noble Lord, Lord Greenhalgh, said:

"The Government recognise the vital importance of health and safety concerns but we do not believe that imposing a condition to prohibit outdoor smoking would be proportionate."

He also said:

"The case is now incontrovertible that there are dangers from second-hand and passive smoking."—[*Official Report*, 13/7/20; col. 1482.]

I acknowledge that the Government have come part way to meet the amendment, but I hope that, even now, they will change their mind.

I want to address the Minister's proportionality point, especially in the light of his second statement and this Government's plans for a smoke-free England by 2030. A new survey conducted between 15 April and 20 June 2020 for ASH and UCL has found that more than 1 million people in the UK have stopped smoking since the Covid-19 pandemic hit the country. A further 440,000 smokers tried to quit during that period. Younger smokers have quit at a much greater rate than older ones: around 400,000 people aged 16 to 29 have quit, compared to 240,000 aged over 50. The rate of quitting for 16 to 29 year-olds is more than twice the rate for those over 50. This is quite unprecedented and hugely encouraging for the health of our nation. Given what the Minister has said about the dangers of passive smoking—and given that smoking-related illnesses linked to worse outcomes from Covid-19 include chronic obstructive pulmonary disease, diabetes, stroke and other heart conditions—is it not proportionate to want to build on the success during lockdown by restricting smoking in public areas in this way, especially as it applies only to these newly permitted outdoor spaces, as my noble friend pointed out?

As fewer people are smoking after lockdown, is it not right to do everything to attract non-smokers back to the outdoor spaces of our hard-pressed pubs, bars and restaurants by providing a smoke-free environment? We are not yet seeing customers return in great numbers—that much is clear from restaurant owners quoted over the weekend. Would this assurance not be of huge benefit in luring them back?

The Government's amendments are welcome so far as they go, but they are very much half a loaf. I remember only too well that Forest was the principal opponent obstructing my tobacco advertising and sponsorship Bill, and I am sorry that it has been given any credence by this Government.

Amendment 11, in the name of the noble Baroness, Lady Wilcox, is also disappointing. It is very disappointing that Labour is not supporting this cross-party amendment, especially when the noble Baroness, Lady Wilcox, quotes the research from UCL and ASH, and the latter is supporting Amendment 15.

I am not going to rub salt in the wound by reminding her why I had to introduce the Tobacco Advertising and Promotion Bill in the first place in 2001. I hope, therefore, that the Government will go the whole way and ensure that the adoption of Amendment 15 will be an important staging post towards a smoke-free Britain.

Lord Blencathra [V]: My Lords, despite his eloquence, I am afraid that I cannot agree with the noble Lord, Lord Clement-Jones, since I am opposed to Amendment 15.

The Government have repeatedly underlined the point that this is emergency and temporary legislation. It should not be used as a Trojan horse to ban smoking outdoors for the anti-smoking fanatics. Even the Labour Party's amendment is not as extreme as that and does permit for some consultation. Initially, I did not understand the ambivalence but, as my noble friend Lord Balfe reminded us in the first group of amendments, it is just indulging in rhetoric. Labour says it cannot support the government amendment, but it seems it will not vote against it. It says that they are holding the Government to account and pressing them hard, but it is not voting against it. This is the sort of irresolute, sitting-on-the-fence opposition I would have loved as a former Whip.

At the moment, smokers use outside tables—perfectly correctly, since they are banned from being inside. There is no danger whatever from passive smoking outside. Those who confess to being worried about the public health impacts of smoke inhalation should ban toxic diesel buses, which are far more dangerous than someone having a fag at a pavement table. There are legitimate arguments for and against smoking outside but, if extremists and ASH want to bring forward a ban on smoking outdoors, there must be proper consultation, proper debate and subsequent legislation—not this sneaky back-door attempt.

Lord Carlile of Berriew (CB) [V]: My Lords, I mean what I say when I say that it is always a pleasure to follow the noble Lord, Lord Blencathra. He always speaks in primary colours, so we know exactly what he means. But on this occasion, I am afraid that he and I are, not for the first time, going to disagree with convivial cordiality.

I, too, am grateful to the noble Earl, Lord Howe, who has made a considerable effort to come towards those of us who support Amendment 15. I am afraid that I am always suspicious of clauses in statutes—especially for temporary legislation—which are peppered with the word "reasonable". There are so many "reasonable"s in these amendments that it gives a clue to what is in reality a key to confusion. I believe that Amendment 15, moved so clearly by the noble Baroness, Lady Northover, and supported by those who signed the amendment with her, does not commit any terrible act which would put any economic interest—including that of the tobacco industry—at any real disadvantage. We need to bear in mind that it applies not to existing open-air spaces outside pubs and restaurants, because they are not newly licensed premises under the Bill, but to licensed sites.

Why is it so important? We are dealing with a double problem: not merely health damage caused by the exhalation of tobacco smoke but the real danger of the exhalation of coronavirus with that tobacco smoke, if the people smoking are suffering from coronavirus or have the necessary symptoms. The draft guidance makes it clear that many of the licensed venues will effectively be largely enclosed and partly covered—[*Inaudible*].

4.45 pm

Perhaps I may remind your Lordships of paragraph 1.5 of the draft guidance, which refers to

"umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink. … The furniture is required to be removable."

[*Inaudible*]. Provisions in the draft guidance make it doubly clear that these are really going to be like cricket pavilions with their doors open.

Please forgive me if I read one sentence from paragraph 4.3, which states:

"Where a local authority sets a local condition that covers the same matter as set out in national published conditions, then the locally set condition would take precedence over the national condition where there is reasonable justification to do so."

I submit that that kind of sentence pays lip service to reality. It is just discursion. I understand each of the words, but not the meaning of the lengthy sentence in which they appear.

So I suggest that the Bill as it stands is a field day for confusion, while Amendment 15 introduces clarity and simplicity without any equivocation whatever. The Bill, as it stands, would make life very difficult for many licensees, who would have to enforce something that is vague and covered with words such as "reasonable". The only sensible and simple solution, which would do no harm to anyone, and a great deal of good to many, is to support Amendment 15.

Baroness Grey-Thompson [V]: My Lords, I strongly support Amendment 15 in the names of the noble Baroness, Lady Northover, and other noble Lords. I listened intently to the debate in Committee, and it is important for this amendment to be considered, because of the impact it could have on some disabled people.

Other noble Lords have talked about the impact of smoking, and this is more of a personal plea than I would normally allow myself in your Lordships' Chamber. I have never smoked, but secondary smoking has a significant impact on me and some other disabled people. People who hold tobacco products, whether they are walking or sitting, often hold them at my head height, so, in normal times, I spend a considerable amount of time identifying who is smoking and working out how to avoid them. Though it has not been deliberately done, I have had cigarettes waved in my face, I have been burned by lit cigarettes and I have had ash flicked in my face. The amount of smoke I inhale may be considered negligible but, in my view, if I can smell the smoke, I am inhaling it. And, although it might be considered a better option, I am not a fan of the secondary inhalation of e-cigarettes, either.

The reality is that often, non-disabled people do not look for or see disabled people, and this is where the problem arises. As I have tried to explain with other amendments, it is not always easy for disabled people to move out of the way, and that is in normal times; we are not in normal times. With different street furniture, and smokers in different places, it might be really difficult for disabled people to avoid those smokers. There may be people with a visual impairment who are not aware of the new arrangements and may come far closer to those smokers than they would wish, and not be able to move out of the way terribly quickly.

As this Bill is opening up establishments in a new way—people have not been sitting outside in this way before—it makes it really difficult for disabled people. The noble Baroness, Lady Northover, very articulately explained the need to think about those who might be using these new places. This is not about stopping smoking—arrangements are already in place for smokers, which they should carry on using—but about ensuring that places are smoke-free.

I like the suggestion from the noble Baroness, Lady Wilcox of Newport, that we must continue to look for ways to encourage people to stop smoking in the future, but the reality is that that will take a long time to implement further. We need to be thinking about now. I am delighted that so many people have chosen to give up smoking, but we have to make sure that we do not in any way encourage them to go back—which can be very easy when alcohol is involved. We should be thinking of non-smokers, who are in the majority.

[Baroness Grey-Thompson]

In conclusion, it is very important that we consider how to protect people and that we think about smoke-free zones in these new spaces. I will support the amendment if the House divides on it.

Baroness Falkner of Margravine (Non-Afl) [V]: My Lords, I understand the need to follow the exhortation of the Chief Whip to be as brief as possible in today's debate, and I will try to do my bit in that regard by speaking very briefly.

I can see the need for a speedy passage of the Bill in order that businesses, and, most importantly, the hospitality and retail sector can attempt to salvage whatever they can from this health and economic catastrophe. I also see the importance and understand the aims of Amendment 15, in the name of the noble Baroness, Lady Northover. It is entirely sensible, particularly in the light of what I have just heard from the noble Baroness, Lady Grey-Thompson, and others in this debate. I have absolutely no issue with their aims.

However, although I agree with all their motives, in my view the noble Baroness's measures should be complemented by a more considerate and deliberative conversation about public health messages on addictive behaviour, given that the single biggest long-term public health crisis in this country is obesity and people who are overweight. This conversation needs to be part of a wider strategy on healthy living and education. Having now seen the Government's amendment, which seems to be a sensible compromise, I will support that today.

Lord German (LD) [V]: My Lords, I speak in support of Amendment 15, so well moved by my noble friend Lady Northover and well spoken to by others. If in recent years you have visited one of the ever-decreasing number of countries where smoking in public places is not banned, I think you will have appreciated how awful it is. The difference from the experience in our country is dramatic, particularly if you are a non-smoker. To have second-hand tobacco smoke wafting about your food and drink is both unpleasant and nauseous, and inhaling second-hand smoke injures your health.

The distaste about stepping back more than a decade is not just because we have made the change in this country; it is because it is very much an experience to which we do not want to return. With so many of us now being non-smokers and having had the smoke-free experience for so long, we take it for granted that tobacco smoke will not be around our food and families as we eat.

I am pleased that the Government have gone some way to recognise that in their amendments, but I do not think that they have gone far enough. The arrangements for this Bill are partial and temporary, and for England only. Noble Lords will be aware that the ban on smoking in public places began earlier in Wales than in England. I am pleased that Wales was a pathfinder then, and it now looks like it will be so again. The Labour Health Minister in Wales has just announced that he will bring forward legislation to prohibit smoking in the spaces outside pubs and restaurants and that the ban will be permanent. I hope that his party colleagues in your Lordships' House are listening to that.

Of course, that legislation is moving with the non-smoking times. As more and more people give up tobacco smoking and public health improves, so the introduction of smoke-free areas around places such as those proposed by the Labour Minister, along with children's play areas and the precincts of schools and hospitals, is a logical step. As the smoking minority of our population has got smaller, smokers have become more and more used to moving away from others in public places, and this amendment proposes a logical next step. There is no evidence that it will diminish the number of people who go to pubs and restaurants. In fact, the opposite might occur and people might be encouraged to attend because they know that smoke will not be wafting around them.

I have one question for the Government on their proposal. Your Lordships are of course familiar with our own arrangements for separating smokers and non-smokers on the Lords Terrace: a physical barrier is in place between the two areas. Can the Minister explain whether the legislation proposed by the Government requires a physical barrier to be put in place between the two sectors? Will it be a solid barrier through which smoke cannot pass and, if so, at what height? Smoke drifts and floats about, and without clear barriers it would pass between the tables of smokers and non-smokers alike. Without making it clear that that issue will be dealt with, this problem will not be eradicated. So it is obvious to me that Amendment 15 is the way to go in order to get clarity on this issue.

Lord Balfe [V]: My Lords, I am surprised that we are even having this debate. Pubs are closing every week. No one seems to realise that one reason for that is that they are in many ways not very pleasant places to be in. I can say without any doubt whatever that my wife and I would not go near a pub that permitted smoking. It is as simple as that. If you want to get rid of your middle-class clientele and close your restaurants, start allowing smoking. It is not just acceptable in a place where you go to dine.

The government amendments include a "smoke-free seating condition" so that any premises that provide outdoor seating for smoking will also

"make reasonable provision for seating where smoking is not permitted."

We have been down this route before. I have flown around the world for 50 years. We used to have smoking and non-smoking sections on aeroplanes and it did not work. That is why planes are all non-smoking today. We used to have ashtrays in hotel rooms and there was an overhang of smoke if a smoker had been in there. Then hotels started to introduce smoke-free floors and found that they were so popular that they started to ban smoking, before it was banned anyway because it had started a lot of fires. Hospitals used to have seating areas where patients could go outside for a smoke. That was stopped because it was recognised that the ambient smoky atmosphere was bad for the people who did not smoke.

I hear time and again that this is a temporary provision, just like income tax, that will be brought in and disappear after a year. I do not believe that. I think that some of these provisions will be permanent.

The noble Lord, Lord German, mentioned Wales. There will be a tendency to say, "This system works. We'll carry on with it for another year and maybe another year after that". So I really do not see it as working. I welcome where the Government have got to, but I do not think that they have gone far enough. I am pretty neutral on the thing because I will not in any case go near a pub or restaurant that has smoking, but I urge the Government to go some way further, to grasp this particular bull by the horns and say, "We're not having smoking in places that serve drink or food".

5 pm

Lord Hunt of Kings Heath (Lab) [V]: My Lords, I very much welcome the amendment in the name of the noble Baroness, Lady Northover. I stress its cross-party nature and the support that it has from all around the House. Even this late stage, I ask the Minister to take this back and consider it further between Report and Third Reading. I was very proud of the actions of the Labour Government which led to the banning of smoking in public places. I worked with my noble friend Lord Faulkner and other noble Lords across the House in getting through the Lords the amendment that banned smoking in cars when children are present; we have a great history of working together in relation to measures against smoking. I do not see why, even at this late stage, we cannot do this again. With Covid-19, we know that many of the worst-affected have been those with cardiovascular or lung disease. Equally, Covid-19 has had a powerful impact on people taking up exercise programmes, fighting obesity and giving up smoking as a result; some 1 million people have done this during lockdown and there could be more.

This amendment, in whatever guise, could be helpful to many people. Far from having an adverse impact on business, smoke-free areas would be welcomed by most customers and would therefore bring in more trade; the noble Lord, Lord Balfe, surely had his finger right on the pulse in that. The measure is proportionate; the regime will apply only to licences on highways so not to pub, café or restaurant garden areas or pavement seating, where smoking is allowed. It also has support from local government. In addition, we need to think about the workers. The noble Lord, Lord Young, reminded us in Committee of the health risks to employees of passive smoking. Given the risks that those staff already carry, a duty of care is surely owed to them in respect of the risk from passive smoking.

My noble friend Lady Wilcox made a powerful speech, arguing that the decision should be left to the discretion of local authorities. I welcome the progress that my Front Bench has made on this. She also pointed to some technical deficiencies with the Bill. We have a way of clearing up technical deficiencies: either through a government amendment at Third Reading or, if the Government agree, by holding this over until a discussion can take place between all of us before we reach Third Reading. I hope that, even at this late stage, we can attempt to reach some form of consensus; I urge everybody concerned to do all they can to do so.

Baroness McIntosh of Pickering: My Lords, possibly the most surprising thing about Amendment 15 as drafted is that the signatories are predominantly Liberal Democrats; it is not a particularly libertarian policy that they have come up with. Also, it seeks to unravel the compromise reached when the smoking ban was introduced. What I regret most about Amendment 15 is that it does not recognise the heavy investment that pubs, bars and restaurants have made in the outdoor facilities that they hope to open more of. For that reason, I regret that I shall be unable to support Amendment 15.

I pay tribute to my noble friend Lord Howe, who, through my chairmanship of PASS, I know has spent a great deal of time with the hospitality industry; obviously, I have had dealings with the hospitality industry as well. It is keen to recognise—and I welcome—the compromise offered by the government Amendment 13: there will be a smoke-free seating element. Had Amendment 15 not been tabled, perhaps we would not have got to the position we are now in. I note that a number of noble Lords have expressed the wish that the Government should go further, but the beauty of Amendment 13 is that it has regard to the heavy challenges currently facing the hospitality and leisure sectors during the ongoing Covid crisis and the way they are seeking to reopen. I very much welcome the work that has gone into Amendment 13; I will be delighted to support it if we have to later this evening.

Lord Rennard (LD) [V]: My Lords, earlier today, the noble Lord, Lord Bethell, congratulated the million people who have given up smoking during the lockdown, permanently we hope, to protect their health. Sadly, the government amendments today fail to do enough to protect them and others, including staff and families with children, from the dangers of second-hand smoke, which does not respect social distancing rules. We do not want non-smokers to be encouraged to return to habits they have struggled to give up. The connection between the consumption of alcohol and the smell of tobacco smoke is well known as a significant problem for people trying to give up smoking. The cross-party Amendment 15 is about minimising that problem by making newly created pavement areas smoke-free.

As is to be expected, tobacco company representations on this issue are disingenuous and, sadly, their views are too close to what is set out in the government amendments this afternoon. Today's letter from the noble Lord, Earl Howe, to Members of the House repeats a fallacy about the cross-party amendment. It wrongly suggests that, in the event of making new areas non-smoking, there would be confusion with existing outside areas which would not be subject to the new rules. There need be no such confusion. Existing outdoor areas will maintain their current designation and provision for smokers, while newly created areas should be clearly signposted as being smoke-free, with something placed on the tables instead of ashtrays. The distinction should be very clear.

The cross-party Amendment 15 is not about banning smoking outdoors. As the Minister's letter says, existing outside areas would not be subject to the new rules and nor would other open spaces. The proposal for new areas outside pubs and restaurants to be smoke-free is in line with the present provisions banning smoking in areas such as railway station concourses, which often have many different cafés and restaurants within

[LORD RENNARD]
them. Making new outdoor seating areas smoke-free will make them more attractive to the 86% of adults who do not smoke, especially families who do not want their children exposed to greater risk of second-hand smoke. The avoidance of smoking will make these places more attractive to potential customers, which is why local authorities support Amendment 15.

Finally, this amendment does not go nearly as far as the Welsh Government are going. With Labour support today, this amendment will be carried. Perhaps the Government will agree to think again before Third Reading.

Baroness Neville-Rolfe [V]: My Lords, it is good to follow the noble Lord, Lord Rennard, and to hear of the progress that has been made with so many people giving up smoking during lockdown. I rise, however, simply to lend my voice to those who applaud the care being taken in this difficult area by my noble friend the Deputy Leader. I could not support Amendment 15—or the introduction, in emergency legislation, of what amounts to a new smoking ban. This would be a real slap in the face to the hospitality sector, which is already on its knees. The measure could also displace customers into other trading areas, blocking access and achieving the near opposite of what is desired. The government amendment, which I support, requires proper provision for non-smoking seating. This will allow customers to sit outside whether they want to smoke or not and aid the observance of social distancing. We should not delay the Bill by trying to work the issue further. The government compromise should be agreed to forthwith.

Lord Adonis (Lab) [V]: My Lords, leaving aside what colleagues have said about their support or non-support for particular amendments, the right policy here is very clear. In fact, it has been supported by 15 of the 17 noble Lords who have spoken before me in the debate.

That policy is this: licensed outdoor premises, where they replace indoor premises where smoking is currently not allowed, should not be licensed for smoking. As the noble Lord, Lord Lansley—a former Health Secretary—said, anything less than this is a retrograde step. This is emphatically not a new smoking ban, as the noble Baroness, Lady Neville-Rolfe, just suggested. It is the replacement of indoor premises by outdoor premises, and those indoor premises do not currently allow smoking.

I applaud everyone who has helped get us to the halfway stage: my noble friends on the Front Bench who have done an excellent job in negotiations with the Government; the noble Baroness, Lady Northover, who first raised this matter at Second Reading; and the noble Earl, Lord Howe, whom we hold in very high regard, and whom I know has worked hard to get to a compromise position.

The compromise is a compromise. The House needs to address this question: on an issue as fundamental as this, to the public health of England and to people's ability to enjoy and access licensed premises, should we settle for a compromise or should we move to the right policy which—as I have said—almost everyone who has spoken in this debate supports? This policy would simply replace the existing prohibition on smoking indoors in licensed premises with a prohibition on smoking outdoors, in respect of those licenses. Contrary to what the noble Baroness, Lady McIntosh of Pickering, said, this would not affect existing outdoor smoking facilities.

I have listened carefully to this debate, and to representations which have been made to some of us outside of it. I cannot see a single good argument for not agreeing with this amendment. I applaud the noble Baroness, Lady Northover, on bringing it forward and pushing it so strongly. Without people like her, we never make progress on these fundamental issues of public health and civil liberties. I will simply end with the great injunction of David Lloyd George: "When traversing a chasm, it is advisable to do so in one leap".

Lord Sheikh [V]: My Lords, we need the hospitality sector to be active and to start doing business, both for its benefit and for the good of the country and members of the public. People have been frustrated over the last few months due to the lockdown. Some of them suffer from anxiety problems, and it is important for them to go out and mingle with their friends and relatives. Therefore, we must cater for people who smoke, as well as those who do not, when they go out.

We must bear in mind that over 85% of the British population are non-smokers, and they are concerned about being subjected to passive smoking when they go to a pub, restaurant or café. We all appreciate that if any person smokes it causes harm, not only to himself but to others around him who inhale second-hand smoke.

Persons who have been confined indoors over the last few months are now able to go out, and they feel happier when they are sitting in the open, rather than inside the premises. I was recently at a private club, where nearly all the customers were sitting outside on the terrace. In fact, the group next to me were smoking, but there was adequate distance between the two tables and I was happy with the situation.

In Committee, I supported an amendment disallowing smoking outside the relevant premises. In fact, the Government are unwilling to ban smoking altogether, and I support Amendments 13 and 14 as I feel it is an adequate compromise. These amendments will allow both smokers and non-smokers to go out with some degree of safety, as there will be areas for both groups.

I follow the logic of the Government, as they do not wish to ban smoking outside generally. By banning smoking outside a restaurant, pub or café, it could be deemed that we are banning smoking altogether. I feel that the Government have listened and introduced Amendments 13 and 14. Having said this, I hope that we will achieve a smoke-free England by 2030.

With regard to the situation at present, there needs to be appropriate distance between smokers and non-smokers, which will prevent the danger of passive smoking affecting non-smokers. In addition to supporting Amendments 13 and 14, I am happy to support Amendment 25, as we ought to clearly define what smoking is all about and avoid ambiguity.

5.15 pm

Baroness Jones of Moulsecoomb [V]: My Lords, I support Amendment 15 very strongly. I do not understand why on earth the Government are being so weak on this. They should accept that this is the way in which society is moving. Furthermore, why is Labour letting them? I have huge respect for the noble Baroness, Lady Wilcox of Newport, and I could not understand the rationale for Labour accepting the government amendments. The smell from e-cigarettes does not go very well with food either, so why on earth should we not ban those when we are trying to enjoy our food?

As we heard, thousands die from the complications of smoking. My mother, a lifelong smoker, did exactly that. It was decades ago, but I still miss her; she had an early death because of smoking. The damage from smoking was not clearly understood then—we understand it now, and we really should be doing something about it.

The noble Baroness, Lady Northover, spoke extremely well. I thought that she expressed her concerns and it was a brilliant speech; I was delighted that I agreed with her. I often agree, surprisingly, with the noble Baroness, Lady McIntosh, and I often support her amendments. She says that this is not very libertarian, so I ask: what about my liberty to breathe clean air? Road traffic and road safety campaigners that I meet come up against this all the time. We want the liberty to breathe clean air, and smoking does not allow that. Therefore, I wholeheartedly support Amendment 15 and I very much hope that it will go to a vote.

Baroness Pinnock [V]: My Lords, we have heard, as we did in Committee, powerful arguments about taking this opportunity to exclude smoking from new pavement licensed areas. The case for ensuring that those of us who do not wish to inhale second-hand smoke are not excluded from that enjoyment is well made.

The amendment in the name of my noble friend Lady Northover is a vital step in making our country smoke-free. It had strong and detailed arguments in support of it from the noble Baronesses, Lady Finlay and Lady Grey-Thompson, the noble Lords, Lord Faulkner and Lord Balfe, and many other noble Lords.

However, Amendment 11, in the name of the noble Baroness, Lady Wilcox of Newport, lacks clarity for businesses and shies away from the paramount public health concern. It is a cop-out. When an argument relies on pointing to the drafting issues of a stronger amendment, as hers did, you know that it is very weak.

We have heard that the overwhelming majority of people do not smoke: a mere 14% do. Protecting the interests of a minority does not extend to a situation where, by doing so, harm is created for the majority, as the noble Baroness, Lady Jones of Moulsecoomb, has just explained. Smoking kills and second-hand smoking kills. Surely the Government should take every opportunity to restrict it.

The choice is clear: do we use this opportunity to keep the health needs of customers paramount or not? The amendment of the noble Baroness, Lady Northover, is supported by the Local Government Association. I hope the Minister will provide a full response to the proposal of the noble Lord, Lord Hunt of Kings Heath, to have further consideration on Amendment 15 prior to Third Reading, so that progress on this issue can be made.

Other amendments on this matter fudge these vital health concerns, and we on these Benches wholeheartedly support the cross-party amendment in the name of my noble friend Lady Northover.

Lord Greenhalgh: My Lords, we would do well to remember that the pavement licensing clauses in the Bill provide vital temporary flexibility to aid the recovery of hospitality businesses over the summer months, and that we need to proceed quickly to achieve that. Noble Lords have voiced some concerns and requested clarity in relation to the position on outdoor smoking under these temporary fast-track licences. I am not going to go into the respective roles of the hard cop and the soft cop in achieving the Government's amendments, as my noble friend Lord Young put it. However, in recognition of the mood across the House the Government have tabled Amendments 13, 14 and 25 to provide the clarity that local authorities, businesses and customers need.

It is important to recognise that we are winning the battle against smoking: Great Britain has one of the lowest rates of smoking in Europe, at 13.9% of adults. Fewer than one in six adults smoke today and, as we heard from the noble Lord, Lord Rennard, over 1 million people have given up during the lockdown, as was mentioned by my noble friend Lord Bethell earlier today.

This Government have taken great strides in reducing the harms caused by smoking. We committed to doing so in the prevention Green Paper. We will publish the prevention guidance response in due course and set out our plans to achieve a smoke-free England by 2030 at a later date. I am delighted that the noble Baroness, Lady Wilcox, supports that mission. I emphasise to her that there has been no stop in providing smoking cessation support. The Government continue to provide those programmes of work, which address smoking harms nationally and are delivered locally through the tobacco control plan for England and the NHS long-term plan's commitment to provide smoking cessation support in hospital settings.

In the debate noble Lords expressed their support for the temporary, urgent and necessary reforms brought forward in the Bill to support the businesses hardest hit by this pandemic—our pubs, cafés and restaurants—and to protect jobs in those sectors. We recognise that the Covid restrictions mean that customers are encouraged or required to eat and drink outside, and that clarity is critical as we support businesses to recover. That is why the Government have tabled an amendment requiring proper provision for non-smoking seating via a smoke-free seating condition. This amendment does not prevent the portion of businesses which wish to cater for smokers from doing so. It requires proper provision for non-smoking seating. This means that customers who want to choose to sit in smoking or non-smoking al fresco dining areas will be able to do so.

The Government's position means that all businesses eligible for pavement licences can share the benefits of this new fast-track licence, while ensuring provision

[Lord Greenhalgh]
for non-smoking seating. Of course, businesses can already make their own non-smoking policies for outside spaces to reflect customer wishes without the need for regulations, and the Government support that. I say to my noble friend Lord Balfe that a blanket ban can be imposed by businesses themselves. Our guidance will further reinforce this point, making it clear that the licence holder has to make reasonable provision for seating free of smoking.

The guidance is available on the GOV.UK website and was circulated to noble Lords and noble Baronesses before this debate. It includes clear no-smoking signage, displayed in accordance with the Smoke-free (Signs) Regulations 2012. No ashtrays or similar receptacles are to be provided or left on furniture where smoke-free seating is identified. Licence holders should aim for a minimum two-metre distance between non-smoking and smoking areas, wherever possible. That is the framework, so I do not see the confusion raised by the noble Lord, Lord Carlile.

It is also worth reiterating that businesses must continue to have regard to smoke-free legislation under the Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006. This is restated in our guidance, as it is absolutely right to stress it, and the Government are committed to working towards a smoke-free society by 2030, as I have said.

Now is not the time to prevent businesses catering to their customers, or to use a temporary provision on pavement licences to ban smoking outdoors. Now is the time to support our hospitality industry and ensure that all businesses eligible for pavement licences can share the benefits of this new fast-track licence. This point was made by my noble friend Lord Blencathra. The noble Baroness, Lady Wilcox, is to withdraw her Amendment 11 and I thank her for her support for our amendment, which seeks to achieve what she set out in her amendment.

However, I fear that Amendment 15 in the name of the noble Baroness, Lady Northover, is not the way to proceed and would be unfair to businesses. While undoubtedly not its intention, it would create confusion. The effect is to create an unfair playing field between businesses applying for these new licences, which need to abide by the condition, and those with existing licences, which do not. This point was made by several of my colleagues. Her amendment also cuts across the ability of business owners to make their own non-smoking policies for outside space, without the need for regulations. Of course, there are cases where the regulations are already clear. The existing power, set out in the Health Act 2006 and subsequent Smoke-free (Premises and Enforcement) Regulations 2006, made it illegal to smoke in public in enclosed, or substantially enclosed, areas and workplaces. The Bill changes none of this.

On the other hand, the Government's amendment has the proportionate approach advocated by the noble Lord, Lord Clement-Jones. He said that we needed proportionality and this is what we deliver with this amendment. It rightly requires proper, fair provision for non-smoking seating, while not undermining business owners whose customers include smokers. It supports our hospitality sector in continuing to operate, while following the Covid restrictions necessary to protect public health. I thank my noble friends Lady Neville-Rolfe, Lord Sheikh, Lady McIntosh, Lord Lansley and Lord Young for supporting the government amendment, as well as the noble Baroness, Lady Falkner. I therefore urge noble Lords to support government Amendments 13, 14 and 25, which will ensure that consumer choice remains. The noble Baroness, Lady Wilcox, has already indicated that she will withdraw her Amendment 11, but I ask that the noble Baroness, Lady Northover, does not move her Amendment 15 when called.

On a couple of points of clarification, the guidance being issued is joint guidance from the MHCLG and DHSC. It will not be subject to parliamentary scrutiny, in response to the noble Lord, Lord Faulkner. In response to the noble Lord, Lord German, there will be no physical barrier between non-smokers and smoking areas but a two-metre gap. I hope that answers the questions raised in the debate.

Baroness Wilcox of Newport [V]: My Lords— *[Inaudible.]*

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): Unfortunately, Lady Wilcox, we cannot hear you. Can we try again?

Baroness Wilcox of Newport [V]: Deputy Speaker, can you hear me now, please?

The Deputy Speaker: Yes, carry on.

Baroness Wilcox of Newport [V]: Thank you. I thank all noble Lords who have spoken in this debate for the many important and apposite points raised. The Government could have gone further in the development of their amendment, as I noted, and thus we tabled our own amendment. I may be one of the most recent Members of your Lordships' House but I believe it is one of the prerequisites of our work to make those changes. For the record, the Welsh Health Minister, Vaughan Gething, made a manifesto commitment before the introduction of legislation that will follow, under normal process, regarding Wales's public spaces and smoking in the next Senedd term. We will keep these matters under review and, no doubt, return to the issue within longer-term legislation in the future. I therefore now beg leave to withdraw the amendment standing in my name.

Amendment 11 withdrawn.

5.30 pm

Amendment 12 not moved.

Amendments 13 and 14

Moved by ***Earl Howe***

13: Clause 5, page 5, line 3, after "no-obstruction condition" insert "or a smoke-free seating condition"

Member's explanatory statement

This amendment makes provision for a "smoke-free seating" condition.

14: Clause 5, page 5, line 6, after subsection (5) insert—

"(5A) A "smoke-free seating condition" is a condition that, where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.

(5B) In considering for any purposes of this group of sections whether a licence-holder has made reasonable provision for seating where smoking is not permitted, a local authority must have regard to guidance issued by the Secretary of State."

Member's explanatory statement

This amendment relates to the first amendment to Clause 5 and defines the "smoke-free seating condition".

Amendments 13 and 14 agreed.

Amendment 15

Moved by ***Baroness Northover***

15: Clause 5, page 5, line 6, at end insert—

"( ) Pavement licences may only be granted by a local authority subject to the condition that smoking is prohibited."

Baroness Northover: I thank the Minister for his response to the amendment. I remind the noble Baroness, Lady McIntosh, that the noble Lord, Lord Young, sits on her Benches, that the noble Lord, Lord Faulkner, sits on the Labour Benches, and that the noble Baroness, Lady Finlay, sits on the Cross Benches—this was a cross-party amendment. I thank all noble Lords for their contributions and their overwhelming support. I am glad that the Government have taken on board the issue of smoking, which we raised at Second Reading and in Committee. I realise that it was late in the day to put something effective in place at this stage, despite the Government's apparent commitment to England being smoke-free by 2030. I note that the noble Earl, Lord Howe, has chosen not to move his amendments in person, even though he is here in the Chamber.

This amendment was about public health, and about encouraging people back to pubs and restaurants. I said that this issue was in Labour's hands, and it is an open goal. It is utterly specious to say that this amendment is flawed. If it were to go through, the Government's lawyers would help to iron out any deficiencies if they existed, as is absolutely usual. I am disappointed that Labour chose to put down their own, much weaker, amendment. I thank the numerous supporters on the Labour Benches, who have told me of their own disappointment about their party's position today, which means that we cannot secure the cross-party amendment which would have been clear, simple and the right thing to do. Once a further 30 Peers are introduced, it may become even more difficult.

I am more than ready to work with others across the House, and with the Government, on making sure that their regulations are clear, simple, and encourage people back, making a clear situation for both proprietors and local authorities. But as we cannot win without Labour support, and as the Labour Front Bench has made its position clear, I will not put my co-signatories in a difficult position. This is, after all, a cross-party amendment. I therefore beg leave to withdraw the amendment.

Amendment 15 withdrawn.

The Deputy Speaker: I inform the House that if Amendment 16 is agreed to, I cannot call Amendments 17 and 18 by virtue of pre-emption.

Amendment 16

Moved by ***Earl Howe***

16: Clause 5, page 5, line 7, leave out subsections (6) to (8) and insert—

"(6) The Secretary of State may by regulations—

(a) specify conditions for pavement licences, and

(b) make provision as to whether, or the extent to which, those conditions have effect in addition to, or instead of, any other conditions to which pavement licences are subject."

Member's explanatory statement

This amendment replaces the power to publish national conditions with a power to make provision about national conditions by regulations.

Amendment 16 agreed.

Amendments 17 and 18 not moved.

The Deputy Speaker: We now come to the group beginning with Amendment 19. I remind noble Lords that Members other than the mover and the Minister may speak only once, and that short questions of elucidation are discouraged. Anyone wishing to press this or anything else in the group to a Division should make that clear in the debate.

Amendment 19

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

19: Clause 5, page 5, line 7, at end insert—

"(6A) Any conditions published under subsection (6) are subject to annulment in pursuance of a resolution of either House of Parliament."

Lord Stevenson of Balmacara [V]: My Lords, in moving Amendment 19, I will also speak to my other amendments in this group. Since there is much agreement, and also duplication, I will try to be brief.

These amendments are drafted pursuant to the 17th DPRRC report. I thank the committee for its hard work on this Bill, and on the emergency Bills on which it has had to work in recent weeks. The timescales are very difficult, and the pressure to deliver is also very high, but it has been able to do that with considerable skill, and we are very grateful.

The DPRRC recommendations set up, in essence, a dialogue between the Government and the committee. However, in a spirit of co-operation and because of the short timescales of the emergency legislation, we often put down the recommendations of the committee as amendments as a way of encouraging the Government to act. In Committee, we had a series of notifications that the Government were preparing to accept the DPRRC recommendations. However, on this occasion, it also produced an interesting outcome. For your Lordships' information, the wording of our amendments has been strongly influenced by the helpful advice we received from the Public Bill Office, although they are our responsibility and tabled in my name. But it is interesting that on several occasions, recommendations made by the DPRRC in the report have resulted in different wordings in the amendments that have been tabled by the Government and by ourselves. When the noble Earl comes to reply, he may be able to shed light on the Government's thinking and explain some of the differences in approach, and I think that would be helpful. Amendment 78 in the name of the noble Earl says:

[Lord Stevenson of Balmacara]

"If the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus."

But our version in Amendment 79, which we hope will achieve the same result, says

"but regulations may only be made under this subsection where the Secretary of State considers it necessary or appropriate for a purpose linked to the coronavirus pandemic."

I am not saying that we have a monopoly on the correct drafting, but I think it interesting that we have come to different conclusions about what might be considered the same issue.

I am left with a slight concern that we may have exposed a gap in our procedures that is exacerbated by the nature of these pieces of legislation. I hope that in calmer times, the DPRRC and the House might find an opportunity to reflect on this, and that our other committees, such as the Secondary Legislation Scrutiny Committee and the Constitution Committee, might do likewise.

When he comes to respond, it would be for the benefit of the House if the noble Earl highlighted any areas where the Government have decided not to follow the advice of the DPRRC, in whole or in part. I beg to move.

Lord Balfe [V]: I only really need to say one thing. I am concerned that some of these clauses might turn into permanent legislation—I am aware that there is a tendency for what is temporary to become permanent. Can I have the Minister's assurance that it is not intended to extend any of these clauses beyond what is absolutely necessary to deal with this emergency?

Lord Blunkett (Lab) [V]: My Lords, I share the fear expressed by the noble Lord, Lord Balfe, and by many others during the brief passage of this urgent legislation. We must be mindful that it is on the whole about temporary and not permanent measures, and that we have clearly identified where the temporary should apply. I will not overegg the difference between Amendments 78 and 79, which has been rightly highlighted by my noble friend Lord Stevenson, especially as the Government Chief Whip has reminded us to confine ourselves to getting this Bill through to Royal Assent without keeping people up until midnight. Enough has been said.

Lord Naseby [V]: My Lords, I thank the noble Lord, Lord Stevenson, who I think has done a service to the House and indeed the country. It was interesting to hear what he said about advice from the Public Bill Office. However, Amendment 27, which is the one that took my eye, is precautionary and by definition refers to the coronavirus pandemic and, therefore, one hopes it is time-limited. I thank him for raising this absolutely crucial issue and yet giving the Government the facility to act as they feel appropriate.

Lord Beith (LD): I would not normally intervene on a Bill when I had not taken part in its earlier stages, but noble Lords will know that my earlier absence was because of the illness and death of my wife, who contributed so much to this House and had friends in all parts of it.

I speak as a member of the Constitution Committee to underline its concerns about fast-track legislation and, to some extent, the way they have been dealt with as the Government have brought forward the amendments in this group. Fast-tracking tends to limit parliamentary scrutiny and discourage necessary amendment of Bills. It also tends to increase confusion about what is the law, what is guidance, what is advice and what is merely a proposal. During the whole of the coronavirus epidemic, this has been a besetting failure, leaving those who have to enforce the law uncertain as to what it is and is not. Fast-track legislation should not be drafted widely, loosely and without clarity.

These government amendments appropriately limit the worrying power to extend the time limits on what is supposed to be temporary legislation dealing with an emergency—admittedly one whose duration none of us can be certain about. Had we passed the Bill in its original form, we would be enacting sunset clauses in a land where the sun never sets—as people used to say about the British Empire—because they can be extended for no purpose connected to the coronavirus. This might have been challenged in the courts, but it would have been a long and complicated case.

The new drafting makes Parliament's intention in allowing these powers of extension clear: it is to allow them only to the extent necessary to deal with the effects of the coronavirus. I note that the wording deals with the effects and not merely the virus itself; we are clearly talking about the economic consequences as well. I welcome the fact that the Government have brought these amendments forward, and they significantly improve the Bill.

Baroness McIntosh of Pickering: I am most grateful. It is a pleasure to see the noble Lord, Lord Beith, back in his place, and we mourn his loss. I recognise the contribution that his late wife, the noble Baroness, made to this House; she will be greatly missed.

The noble Lord, Lord Stevenson, and my noble friends have done a great service to the House with this group of amendments, which can only improve our understanding of the temporary nature of the legislation before us today. I do not wish to add anything further at this stage.

Baroness Neville-Rolfe [V]: My Lords, I associate myself with what my noble friend Lady McIntosh said about the noble Lord, Lord Beith, and his late wife. I have nothing to say on this amendment and am delighted with the amendments the Government have brought forward. I also associate myself with the comments made by the noble Lords, Lord Stevenson and Lord Beith.

Baroness Jones of Moulsecoomb [V]: My Lords, I take this opportunity to say something positive about the Government because it is positive that the Minister has tabled amendments that tighten up the secondary legislation powers in the Bill. The Government routinely ask Parliament to grant excessively broad powers so that they can go off and make up their own laws. It would save a lot of time if they were to exercise self-restraint in writing Bills because, if they thought something like, "Let's draft it as narrowly as possible without undermining the purpose of the Bill", I think we would have fewer fights in your Lordships' Chamber.

The amendments brought by the Government today will head off many of the potential problems raised in Committee and show how parliamentary scrutiny can bring the Government to the right place in the end.

5.45 pm

Lord Kirkhope of Harrogate (Con) [V]: My Lords, I refer to government Amendments 58, 65, 78 and 81, as well as to other amendments related to them. This takes me back to law school and the two greatest challenges I encountered there. The first was in the field of equity. We had a phrase in the legal profession: "Equity varies with the length of the Chancellor's foot." Yet it was—and still is—a vital and valuable area in which fairness can be administered in the application of the law in England and Wales.

The second element was the word "reasonable". I spent much time then, as I have again now, rereading some of the judgments, particularly those of a lawyer I greatly respect—the late Lord Denning—who talked about reasonableness and the interpretation of "reasonable". It is a minefield, particularly in an area of legislation such as this. I think the noble Lord, Lord Carlile, was so right in what he said a little while ago in this debate: dealing with the word "reasonable" in terms of the Minister's powers to extend the provisions opens up a challenge—which I hope will not happen because in general this legislation is not only necessary but, in the main, well drawn.

I recognise the activities of the Delegated Powers and Regulatory Reform Committee in what it said. It supported—as shown by the letter we received from my noble friend Lord Howe earlier today—the wording of the various government amendments here, with the word "reasonable" used in terms of ministerial activity. However, as the noble Lord, Lord Beith, said, the Constitution Committee came out quite clearly with wording not dissimilar to that used by the noble Lord, Lord Stevenson. The advantage of that wording is simply this: talking of necessity, and introducing necessity and appropriateness into a decision taken by a Minister who wishes to extend, makes the legislation less vulnerable to challenge.

I hope that, even at this late stage, my noble friend the Minister will consider looking at those words, which again came from the Public Bill Office as well as from our Constitution Committee, and making those changes to give the Bill a real prospect of being unchallenged—either in its temporary form or in any extended form that might be regarded as necessary and desirable.

Baroness Pinnock [V]: My Lords, thanks to the work of the Delegated Powers and Regulatory Reform Committee, a number of very important amendments have been tabled by the Government that limit the extent of the powers in the Bill, with exceptions for a need consequent on a further outbreak of the coronavirus. Although there are disputes over the wording—the exact precise wording, as we have heard from a number of speakers—in general the amendments are supported on these Benches.

Of course, we all greatly miss our friend Baroness Maddock and record our commiserations to my noble friend Lord Beith.

Earl Howe (Con): My Lords, I begin by speaking to the government amendments in my name—Amendments 26, 28, 47, 49, 58, 60, 65, 67, 73, 75, 78, 80, 81 and 83—which are grouped with Amendment 19 and the others in this group tabled by the noble Lord, Lord Stevenson.

I am grateful to the noble Lord, Lord Stevenson, for tabling his Amendments 19, 22, 57, 63 and 71, which would require any statutory guidance issued by the Secretary of State in relation to pavement licences, extended planning permissions, construction hours or electronic inspection of the Mayor of London's spatial development strategy to be subject to negative parliamentary procedures. As he indicated, these amendments reflect recommendations made by the Delegated Powers and Regulatory Reform Committee of your Lordships' House in its report on the Bill. I welcome the opportunity to discuss them.

The committee's views are always important, and we have responded positively elsewhere in the Bill to its recommendations, as I shall explain in a moment. However, in relation to this matter, I am afraid we cannot accept its recommendations or, by extension, these amendments. This reflects partly a general principle but also the practical realities. First, the statutory guidance under Clauses 5, 8, 16, 17, 18 and 21 is planning guidance. Guidance by the Secretary of State to local planning authorities has been a key feature of the planning system ever since its creation over 70 years ago—whether that guidance has been through circulars, planning policy guidance or, more recently, the National Planning Policy Framework and its associated practical guidance.

The issuing of this guidance, as a general principle, has never required statutory instruments. For instance, there is no parliamentary procedure requirement in relation to guidance to local planning authorities about the preparation and content of local plans, a key planning function under Section 34 of the Planning and Compulsory Purchase Act 2004. Similarly, and to give an example directly relevant to this Bill, our construction working hours provisions and the extension of planning permission provisions modify the Town and Country Planning Act 1990. The various powers of the Secretary of State to issue guidance under that Act are not subject to parliamentary procedure. These documents will form part of the full suite of planning practice guidance and, in practice, it would be peculiar to have different parallel procedures for publication.

Our pavement licence clauses are linked to Part 7A of the Highways Act 1980. That Act contains four powers for the Secretary of State to issue guidance, none of which are subject to parliamentary procedure. Two of these powers were inserted by amending Acts in 2000 and 2015. The situation is similar for other statutory guidance required by this Bill. So, prescribing a parliamentary procedure for guidance in relation to the temporary planning measures in the Bill would be out of kilter with our well-established approach.

Furthermore, requiring guidance to be subject to parliamentary procedure does not reflect the practical realities of planning guidance. The draft guidance we have published is, like our other planning guidance, technical and practical and expressed in the form of questions and answers to help local planning authorities, and applicants, and has been formulated taking account of the view of sector specialists. For instance, the guidance on additional environmental approval for extending planning permissions has had input from the Environment Agency and Natural England. I hope that many noble Lords will have had the opportunity to review this guidance during the course of the Bill's passage.

[Earl Howe]

This guidance is designed to evolve over time in response to local planning authorities' practical experience of these temporary measures. While we have obviously sought to ensure that guidance is as comprehensive as possible from the outset, we know that, in time, additional questions or clarifications may be required. We want to be able to make these updates in a flexible and timely way. We should not forget that local planning authorities are best placed to understand the specific needs, requirements and arrangements of their local areas. Providing helpful and up-to-date guidance is essential in allowing them to exercise their judgment on the ground. Requiring each change of guidance to be subject to the negative parliamentary procedure makes it more difficult in practice to make incremental changes to help them. I therefore regret that we cannot support these amendments, and I humbly beg the noble Lord, after reflecting on our arguments, to withdraw or not move them.

Turning to the other amendments in this group, I am pleased to say that the noble Lord, Lord Stevenson, and I find ourselves in broad agreement. The Government's Amendments 26, 28, 47, 49, 58, 60, 65, 67, 73, 75, 78, 80, 81 and 83 implement another of the recommendations of the Delegated Powers and Regulatory Reform Committee, which the Government are pleased to accept. As noble Lords will be aware—I emphasise this to my noble friend Lord Balfe and the noble Lord, Lord Blunkett—the vast majority of the measures in the Bill are temporary. In several cases, clauses provide for expiry dates to be extended by regulations, subject to the affirmative or "made affirmative" procedure.

We thank the committee for its careful consideration of the Bill. Our amendments in this group would implement its recommendation to clarify that the provisions will only be extended for a purpose linked to the coronavirus pandemic. I was grateful to the noble Lord, Lord Beith, for his supportive comments on this issue. I join other noble Lords in extending my sympathy to him on the loss of his wife, the noble Baroness, Lady Maddock.

The Government's intention has always been for the powers to extend the temporary provisions to be used, if necessary, in response to emerging information about the duration of the pandemic, the nature of social distancing requirements and the impact of coronavirus on relevant sectors. We want to provide absolute clarity that the powers to extend will be exercised only where this is necessary and appropriate, and only to mitigate an effect of coronavirus. Therefore, these amendments make this clear on the face of the Bill. The wording we have used is consistent with other legislation. I also remind noble Lords that the requirement for any extensions to be by regulations, subject to the affirmative or "made affirmative" procedure, will provide opportunity for further parliamentary scrutiny.

I am sure that noble Lords will welcome this clarity, and I hope that the noble Lord, Lord Stevenson, will agree to withdraw Amendment 19 and to not move Amendments 27, 48, 59, 66, 74, 79 and 82, which are intended to achieve the same purpose.

Lord Stevenson of Balmacara [V]: I thank noble Lords who have spoken in this short debate, not just for their widespread support but for their brevity. I particularly thank the noble Lord, Lord Naseby, for his kind words. I join other noble Lords in very much appreciating that the noble Lord, Lord Beith, has come in today to speak on this issue, and sympathise with him at this time of loss.

It was good to hear the noble Earl give a full response. He always couches his words to your Lordships' House in such reasonable terms, packaged in a velvet of deepest hue, that it is sometimes easy to think that he is agreeing with you, when in fact he is not. In particular, I picked up his heavy points regarding the Government's intention not to take up the recommendations from the DPRRC on statutory guidance to which regard must be had. The noble Earl gave very good examples, which had not occurred to me, but I have no reason to doubt that they are genuine. However, the DPRRC's report is very firm on this issue:

> "We have frequently taken the view that statutory guidance to which regard must be had … should be subject to a parliamentary procedure."

It goes on to say that:

> "This is not to say that the guidance should have to be drafted like a statutory instrument … The point is that guidance which has legal significance, and which may have—and may be expressly designed to have—a transformative effect on behaviour in important areas, requires a parliamentary procedure."

There is clearly no chance that the House will resolve this important issue in this Bill, but I point out to the DPRRC that it has now been raised. It, and other committees, may wish to return to it in order that we resolve it going forward.

The House has given this issue a good kick about. I am grateful to the noble Lord, Lord Kirkhope of Harrogate, for picking up exactly point I was trying to make about the importance of the choice of terminology. He focused on a different set of amendments, but this issue runs like a golden thread through all the Government's proposals when compared to ours. These are important differences, but they are not necessarily going to hold the House back tonight. I hope, again, that the DPRRC will look at them in due course. I beg leave to withdraw Amendment 19.

Amendment 19 withdrawn.

Amendment 20 not moved.

Clause 8: Guidance

Amendment 21

Moved by ***Earl Howe***

21: Clause 8, page 7, line 3, at end insert—

> "(2) Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (S.I. 2000/2853) (functions which are not to be the responsibility of an authority's executive) has effect as if, in paragraph B, after item 72 there were inserted—

"73 Functions relating to pavement licences	Sections 1 to 7 of the Business and Planning Act 2020.""

Member's explanatory statement

This amendment secures that, where a local authority has executive arrangements, functions relating to pavement licences are not the responsibility of the executive.

Amendment 21 agreed.

Amendments 22 to 24 not moved.

Clause 9: Interpretation

Amendment 25

Moved by ***Earl Howe***

25: Clause 9, page 7, line 36, at end insert—

""smoking" has the same meaning as in Part 1 of the Health Act 2006;"

Member's explanatory statement

This amendment defines "smoking".

Amendment 25 agreed.

Clause 10: Expiry of pavement licence provisions

26: Clause 10, page 8, line 13, at beginning insert "If the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus,"

Member's explanatory statement

This amendment provides that the Secretary of State's power to extend the date on which Clauses 1 to 9 expire, and certain other dates in those clauses, can only be exercised if the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus.

Amendment 26 agreed.

Amendment 27 not moved.

Amendment 28

Moved by ***Earl Howe***

28: Clause 10, page 8, line 16, at end insert—

"(3) In subsection (2) "coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)."

Member's explanatory statement

This amendment is consequential on the Minister's amendment at page 8, line 13.

Amendment 28 agreed.

6 pm

The Deputy Speaker (Baroness Garden of Frognal) (LD): We now come to the group beginning with Amendment 29. I remind noble Lords that Members, other than the mover and the Minister, may speak only once and that short questions of elucidation are discouraged. Any noble Lord wishing to press this, or anything else in this group, to a Division should make that clear in debate.

Clause 11: Modification of premises licences to authorise off-sales for limited period

Amendment 29

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

29: Clause 11, page 8, line 33, after "a" insert "pre-cut off"

Member's explanatory statement

This amendment, and the Minister's other amendments the explanatory statements for which refer to this amendment, provide for certain new permissions regarding off-sales to end at 11pm.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, in moving Amendment 29, I will also speak to the other government amendments grouped with it and to which it relates. I thank noble Lords who have scrutinised the alcohol licensing measures in this Bill and, in particular, those who have made points regarding late opening hours. The Government have listened to and understood the concerns around the possibility of associated noise nuisance and anti-social behaviour occurring when a late licence is in existence.

Taken together, Amendments 29, 31, 32, 33, 34, 36, 38 and 44 introduce a standard cessation time of 11 pm to operators trading under the new off-sales permissions. They also limit the ability of those premises which are licensed after midnight to resume off-sales at that time, restricting their ability to do so until they open for business the following day. With these amendments, new permissions will apply only until 11 pm or until the current licensing hours for that premises end, whichever is earlier.

We have also tabled Amendment 45, which addresses those premises that may have restrictions on their licences that do not permit the use of a beer garden or other outdoor space beyond a certain hour. Amendment 45 will limit the ability of a premises to carry out off-sales under the new permissions where they are already limited from selling alcohol for consumption in an outdoor area of the premises. That is, if a premises cannot use its outdoor area beyond a particular time, it will not be permitted to carry out off-sales beyond that time under the new permission either. This amendment is a further safeguard to help to ensure that this measure works for local communities and not against them.

I thank again the noble Lords with whom I have engaged inside and outside of this Chamber, who have helped to bring forward these constructive amendments that the Government have tabled today. I look forward to further debate. I beg to move Amendment 29 and look forward to responding to the other amendments in this group.

Lord Paddick (LD): My Lords, I will speak to Amendment 40, in my name and that of my noble friend Lady Pinnock, and to the other amendments in this group. For the benefit of those who may have just joined us, let me summarise. The Government have got themselves into a right two and eight. Amendments 29 to 41 deal with bars, pubs and restaurants that have licences to sell alcohol on their premises and which will temporarily be allowed to sell alcohol for consumption off the premises as result of this Bill.

The Bill does not redefine the area covered by pavement licences as being part of the licensed premises. As a consequence, drinks served within the area covered by pavement licences will be off-sales. To enable alcohol, such as glasses of wine and beer, to be served at tables within pavement-licensed areas, the Government have had to lift the current restriction on alcohol off-sales being only in sealed containers. The unintended consequence of lifting this restriction is to allow the unrestricted sale of alcohol from these premises in wine and beer glasses, for example, to people who can then walk down the street, drinking where and when they want.

[LORD PADDICK]

Local residents do not want people drinking outside their homes, away from licensed premises, with the potential for disorder, violence and urinating in the street, particularly late at night. In addition, broken straight beer glasses can cause horrifying injuries, whether when deliberately broken and used as a weapon or when people fall on to broken glass.

This brings me to the amendments. The Liberal Democrats' Committee amendment, which sought to restrict off-sales to no later than 11 pm, has been given effect by government Amendments 29, 31 to 34 and 36 in this group, which obviously we support. I thank the Minister for securing this—albeit limited—concession. However, these amendments do not prevent street drinking away from pavement-licensed areas and neither does Labour's Amendment 39 in this group, albeit that it restricts it to street drinking from plastic cups.

Our Amendment 40 restricts off-sales in open containers to pavement-licensed areas, beer gardens and the like, but also supports businesses by allowing alcohol to be taken away from restaurants, pubs and bars in sealed containers. If the restaurant or pub is too full when you get there—because of social distancing, for example—it allows you to take alcohol home from those premises in an unopened bottle, can or other sealed container, as currently applies to existing off-licences, supporting hard-pressed businesses as a result. Amendment 41, tabled by the noble Baroness, Lady Stowell of Beeston, does not allow alcohol to be taken away from the premises under any circumstances, which would hinder trade.

In a meeting with Ministers last week, the Government agreed to discuss Amendment 40 with us before Report but they have failed to do so. I explained in Committee why existing provisions and the provisions in the Bill are inadequate to deal with street drinking and disorder. As a consequence, I give notice that I intend to divide the House on Amendment 40.

The Deputy Speaker: The noble Baroness, Lady Stowell of Beeston, has withdrawn, so I call the noble Lord, Lord Mann.

Lord Mann (Non-Afl): My Lords, I thank the Government for the way in which they have listened on the amendments that have been tabled, particularly in relation to late licensing and the problem that occurs in many communities of police forces being overstretched by over-late licensing for tiny numbers. That seems to be a bit of a tradition going back three or four Governments. It was not just the disruption to local residents that was a problem, it was the huge distortion—in areas such as the one I live in—in how the police budget was used.

I recall an example where a late licence was given to one premises until 5 am. Tiny numbers would be drinking there but the danger of some form of anti-social behaviour between, say, the hours of 1 and 5 am was disproportionately high. Therefore, police rosters for an entire area had to be altered. It took a good two years of argument and pressing to begin to work that backwards. The consequential impact on other policing, when police numbers were very low, was great. I commend the Government on their approach and commend noble Lords who have proposed amendments that would have a similar impact on timing. The foreseeable consequence in relation to police resources, particularly in smaller communities, is huge. That displacement at the moment would be critical.

On the amendment tabled by the noble Lord, Lord Paddick, I propose to the Minister that the question of miners' welfares always needs to be borne in mind. Whenever there is licensing, I always think miners' welfares are a good litmus test of whether the law is any good. The miners' welfares that I know very well are in a range of locations. Some have licences that fall comfortably within the concept of gardens and that kind of space. Some have at great expense designed spaces to capitalise on that. Others do not have that opportunity but have a similar kind of clientele—a highly responsible clientele who have been better in the responsibleness of their behaviour over the last three or four months and are able to drink sensibly and rationally.

What the Government propose seems far more sensible than the amendment. If there were to be an amendment, the one proposed by the noble Lord, Lord Kennedy, seems the more rational option. It seems to me that, for some businesses that are on the cusp at the moment, simply restricting in would have unforeseen consequences for their business planning. I encourage those miners' welfares to survive by providing an additional service. Despite the fact that I had great fears about potential late-night drinking, I have no fears about that in communities such as the one I live in. I think the Government have listened and commend their approach on this. I would be interested to hear the debate on what the noble Lord, Lord Kennedy, has to say. He seems to have struck a middle ground but does not appear to be pushing his amendment to a vote.

Lord Balfe [V]: I have one question for the Minister and one point to make. In the city I live in, there are a number of licensed premises near the centre of town for which the local authority has made the licence to sell alcohol cease at 10 pm. Will that still be permissible under the provisions here? I confess that I cannot work it out. It did it to stop people coming out of local pubs and doing what is known as preloading—in other words, getting alcohol from nearby off-licence premises and either trying to take it back into the pub or drinking outside the pub. Will licences earlier than 11 pm still be able to be imposed?

The second point is that the banning of glasses is really quite important. Anyone who has been to the accident and emergency department of Addenbrooke's Hospital in Cambridge will know that scarcely a Saturday night goes by without some sort of incident that has involved alcohol and broken glass—a bottle, a mug or a glass. I am concerned about this and would like the Government to rehearse why they feel they cannot agree to what seems to be a quite reasonable amendment from the noble Lord, Lord Paddick.

Baroness McIntosh of Pickering: My Lords, I am most grateful to my noble friend the Minister for accommodating the concerns expressed, both at Second Reading and especially in Committee, with regard to the noise and nuisance associated with late-night drinking.

I welcome the fact that the cut-off will be fixed at 11 pm. This allows bars and restaurants to adapt to these new temporary measures, given the challenge they face and the loss of trade they have suffered, but also recognises the rights of residents, who obviously want to have a good night's rest and peace and quiet after 11 pm.

I have one question for my noble friend about Amendment 40 in the name of the noble Lord, Lord Paddick. I have some sympathy with what he is proposing, but currently if you walk home on a sunny evening you see the general spillover on to the pavement of regular bars. I assume these are glasses carried out from the bar on to the pavement, so I am not quite sure why we will have two rules—one that will apply to this temporary piece of legislation, while the permanent situation will carry on as normal. Perhaps we should look at what other countries do and learn from them. I have great difficulty in seeing how this would apply in practice.

6.15 pm

Lord Shipley [V]: My Lords, I will speak to Amendment 40 and support the case for it made so clearly by my noble friend Lord Paddick. I have had two concerns about off-sales during the passage of this Bill: first, off-sales being permitted after 11 pm and, secondly, the use in off-sales at any time of open glass or other containers that could easily be used to cause injury to another person.

The Government have agreed to restrict off-sales to before 11 pm and that is right, but the issue of the containers allowed for off-sales has not been agreed. My noble friend Lord Paddick has made a very persuasive case about the unintended consequences of the Government's position. The Government so far seem to have failed to put forward a logical case that would prevent an unnecessary extension to street drinking. My noble friend Lord Paddick's amendment has the advantage of allowing the use of appropriate containers for off-sales but reducing the risk of injury through the use of open glass or other potentially dangerous containers. I think all parts of the House could agree on that compromise. The Government have got themselves into a very difficult position and my noble friend Lord Paddick has proposed a way out of it.

Lord Sheikh [V]: My Lords, I was due to speak on Amendment 27, which restricted the times of alcohol sales off the premises, and after the timely intervention of my noble friend Lady Williams the matter was dropped. I therefore support Amendment 44 and agree with restricting off-sales to 11 pm.

Although we are allowing off-sales, they must be controlled to avoid crime, disorder and disruption. I realise that under Section 76 of the Anti-social Behaviour, Crime and Policing Act 2014, the police can issue an immediate closure notice to any premises if there are "reasonable grounds" to believe

"that the use of particular premises has resulted, or … is likely … to result"

in problems of crime, disorder or disruption.

Having said this, we must take into account areas with clusters of licensed premises in certain parts of London and elsewhere. Four local authorities have over 37% of all licensed premises in London, and there are similar situations in other cities and towns. The point to emphasise is that crime, disorder and nuisance cannot be associated with any particular premises, and therefore the powers to issue closure notices would be difficult to exercise in view of the cluster of licensed premises. I am therefore sure that the police and local authorities will welcome the restrictions set out in Amendment 44.

If we do not restrict the hours of alcohol sales, as proposed by Amendment 44, it will allow people who have already had a lot to drink to take alcohol away with them, drink in the streets and cause problems in the neighbourhood at night. It will also enable people to have late parties in their home or garden, causing nuisance and disturbances to their neighbours.

In regard to the amendment tabled by the noble Lord, Lord Paddick, although I supported his similar amendment in Committee, I am unable to support Amendment 40 because I do not see that it will do anything. I cannot see there being a problem.

Lord Bhatia (Non-Afl) [V]: My Lords, I support the amendment proposed by the noble Lord, Lord Paddick. It will be dangerous to allow the sale of alcohol in beer glasses, as they could be used as a weapon. The police regularly have to intervene when fights break out once a consumer has drunk a few glasses of beer or spirits. A glass container is a dangerous weapon, often used by those under the influence of alcohol. Innocent people walking near these premises can get hurt and could be hospitalised, thereby putting pressure on the NHS during this difficult time. The amendment would prevent the premises selling to customers in beer glasses. I hope that the proposal of the noble Lord, Lord Paddick, will be carried.

Baroness Pinnock [V]: There are two related but separate amendments in this group concerning off-sales. The first, to limit the time for off-sales, was the subject of extensive debate in Committee and a commitment from the Minister to bring forward a government amendment on Report. The government amendments achieve that by limiting to 11 pm the latest time by which off-sales can be made. As this exactly replicates the proposal from these Benches in Committee, obviously we support these amendments and thank the Minister for responding so positively to the arguments made.

The second element is that of off-sales in open containers. My noble friend Lord Paddick has made another powerful case for limiting off-sales to closed containers, be it in cans or bottles. The reason is to prevent unruly scenes that may follow drinking from beer glasses in the street. Broken glass in the hands of those worse for wear is a nasty weapon. The amendment in the name of the noble Lord, Lord Kennedy, seeks to limit such off-sales to non-glass containers, but that misses one of the critical arguments entirely, which is that off-sales in open containers, whether glass or plastic, can lead to anti-social behaviour. There have been plenty of such incidents before sporting events that resulted in drinking limits being made. My noble friend Lord Paddick's amendment seeks the same protections for local communities and, indeed, other

[Baroness Pinnock]
sensible drinkers. We do not wish to see a Bill designed to help businesses becoming one which, as a side-effect, encourages irresponsible and unsafe drinking. My noble friend's amendment is important for individuals, communities and policing, and it clearly has the full support of these Benches.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I thank the noble Baroness for tabling the government amendments. As other noble Lords said, a convincing case was made for the ending off-sales at 11 pm under these new licences. This was first raised in the other place by my honourable friend the Member for Hackney South and Shoreditch, Meg Hillier. She raised the problem she is having in her constituency even before these powers will come into play. There were huge problems in London Fields, and she raised the concern that if the Bill as it was then had been passed, it would have exacerbated the problem. I thank the Government for listening to that. I also thank the Covent Garden Community Association and the Soho Society. Weymouth Town Council was also concerned about this, as was everybody else who got in touch with me. It was also pleasing to see that we had the leaders of the Royal Borough of Kensington and Chelsea, the City of Westminster, Camden and Southwark, two Conservative and two Labour boroughs, coming together because they had a number of premises that would be affected by these proposals. It is good that the Government listened and I thank them very much for that.

On the question of containers, I see the point that the noble Lord, Lord Paddick, is making, but there is also the issue of buying beer to drink outside, which the noble Baroness, Lady McIntosh, touched on. I sometimes go to the Shipwrights Arms in Tooley Street, and if you go in there and ask for two pints of bitter, they will ask, "Inside or outside?" If you say "Outside", you will get it in two plastic containers—you do not get glasses outside. You will meet a big, burly security guard, and you will not get past him if you are carrying glasses. I take the point that glasses are dangerous and can be used as weapons, and we need to be mindful of that. However, in many cases we have those plastic containers, which you often see at sporting venues. However, I see the point the noble Lord is making.

My noble friend Lord Mann made a point about policing resources. I remember being a young councillor in Southwark in the 1980s. At that point, the council gave the music and dance licence, and the magistrates gave the alcohol licence—of course, that has all changed now. I remember that the police came along to us, exasperated, and said, "You've granted all these music and dance licences, then of course the pubs are getting all these licences. On the Old Kent Road on a Friday and Saturday night, we have to put in a huge amount of resources when we do the weekly rosters. Then at the same time you're moaning at us that you want more officers on the beat. We can't physically manage it all." I remember how that was important at the time.

However, I am grateful to the noble Baroness for the government amendments that she has spoken to, I am delighted that the Government have listened, and I look forward to her response to the debate.

Baroness Williams of Trafford: My Lords, I am grateful to all those who have spoken on this group of amendments and to those who have welcomed the government amendments. I take the opportunity to reiterate to the House that the government amendments in this group will introduce a standard cessation time of 11 pm for operators to trade under the new off-sales permissions or—I reiterate to my noble friend Lord Balfe—until the current licensing hours for that premises end, whichever is earlier. If that is 10 pm in Cambridge, that is the time it will be. As has always been the case with this measure, the new provisions will not affect premises' underlying licences. They provide for new permissions that will apply to the holders of on-sales-only licences, and more restrictive dual licences that allow for off-sales under more restrictive conditions than are provided for under the new permission.

Amendment 45 will further help to ensure that the new permissions work for and not against local communities, as I said. It will do this by limiting the ability of premises to carry out off-sales under the new permissions where they are already limited from selling alcohol for consumption in an outdoor area of the premises. That is, if a premises cannot use its outdoor area beyond a particular time, it will not be permitted to carry out off-sales beyond that time under the new permission either. Where such restrictions apply, it is likely that a licensing authority has imposed the conditions to reduce the risk of noise nuisance or anti-social behaviour to local residents. These conditions should therefore remain in place. I hope that noble Lords will welcome these amendments, and again I thank those who led to their tabling today.

Amendments 30, 35 and 37 from the noble Lord, Lord Kennedy, seek similarly to restrict the hours when the new off-sales permissions apply. I thank the noble Lord for his constructive engagement as the Bill has moved through the House and hope that, given my explanation of our amendments, he will feel that he does not need to move his amendments when they are called.

Briefly, I know that my noble friend Lady Stowell did not move her amendment, but I will relay some of the points that we have discussed. For the sale of alcohol for consumption in outside areas already part of the licensed premises, such as a beer garden, those sales are defined as on-sales and premises will therefore not require a new permission to carry out this function. However, if premises wish to sell alcohol for consumption in bordering outside areas that are not on the premises plan as part of the existing licensed premises, they will still require an off-sales permission in order to do so. That might include an area they seek to occupy following the successful application of a pavement licence.

6.30 pm

However, not every business will be able to take advantage of the Bill's provisions relating to pavement licences. Some businesses are located on streets that are simply too narrow or too busy to accommodate street furniture. These businesses may wish to carry out either deliveries of alcohol, or off-sales for consumption elsewhere; for example, by selling alcohol as part of a picnic. As a result, the legislation does not and should not prescribe the area within which alcohol should be consumed.

Amendments 39 and 40, tabled by the noble Lords, Lord Kennedy and Lord Paddick, relate to the type of vessel or "container" that may be used for off-sales under the new permissions. These amendments seek to prevent takeaway drinks in glasses and make provisions for drinks served in containers such as wine glasses or pint glasses to be served in areas that either are covered by pavement licences or the premises otherwise have some right over.

The Government recognise the noble Lords' concerns. This is why container types will be addressed through the guidance that accompanies this measure. The guidance has been informed through government liaison with the LGA, the police and other alcohol licensing stakeholders. It is fit for purpose and does not need to be replaced by legislation in the Bill itself. Indeed, specifying restrictions on the types of containers that premises can use for the off-trade permission in legislation would be very prescriptive and potentially place burdens on businesses. I hope noble Lords agree that the guidance is the most appropriate place for these provisions and that they will choose not to move their amendments.

As my noble friend Lady McIntosh of Pickering said—the noble Lord, Lord Kennedy, also alluded to it—in practical terms, publicans are already minded to ensure that they serve alcohol in appropriate containers that are safely used and safely returned. The alcohol licensing measure in the Bill is being made in the context of an effective and long-standing regime that works to ensure that licence holders act responsibly, and in a way that considers their customers and local communities. The new measure will be implemented in the context of this regime.

The noble Lord, Lord Mann, talked about police resources. He is absolutely right. As the noble Lord, Lord Kennedy, said, the police are already consulted in any consideration of a licence being granted. I have spoken to the police throughout the pandemic and while some of these measures have been brought in; they have made it very clear to me that there are many responsible stakeholders—licensees, the public and the police. This is a multi-effort arrangement, because if any one of these things goes amok, licences might well be revoked. I hope that the noble Lords will not press Amendments 39 and 40.

Amendment 29 agreed.

Amendment 30 not moved.

Amendments 31 to 34

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

31: Clause 11, page 9, line 8, after "a" insert "pre-cut off"

Member's explanatory statement

See the explanatory statement for the Minister's amendment at page 8, line 33.

32: Clause 11, page 9, line 11, after "conditions" insert "applicable to pre-cut off times"

Member's explanatory statement

See the explanatory statement for the Minister's amendment at page 8, line 33.

33: Clause 11, page 9, line 14, after "conditions" insert "applicable to pre-cut off times"

Member's explanatory statement

See the explanatory statement for the Minister's amendment at page 8, line 33.

34: Clause 11, page 9, line 22, after "a" insert "pre-cut off"

Member's explanatory statement

See the explanatory statement for the Minister's amendment at page 8, line 33.

Amendments 31 to 34 agreed.

Amendment 35 not moved.

Amendment 36

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

36: Clause 11, page 9, line 26, after "off-sales" insert "at a pre-cut off time"

Member's explanatory statement

See the explanatory statement for the Minister's amendment at page 8, line 33.

Amendment 36 agreed.

Amendment 37 not moved.

Amendment 38

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

38: Clause 11, page 9, line 31, after "off-sales" insert "at a pre-cut off time"

Member's explanatory statement

See the explanatory statement for the Minister's amendment at page 8, line 33.

Amendment 38 agreed.

Amendment 39 not moved.

Amendment 40

Moved by ***Lord Paddick***

40: Clause 11, page 9, line 34, at end insert—

"(5A) Where subsections (4) and (5) apply, off-sales must be made in—

(a) an aluminium or tin-plated steel can;

(b) a sealed glass container; or

(c) a plastic container.

(5B) Subsection (5A) does not apply where the sale of alcohol is for consumption—

(a) in accordance with a pavement licence as defined by Part 1 of this Act; or

(b) in an outdoor space directly attached to the premises and under the control of the licensee."

Member's explanatory statement

This amendment would prevent the sale of alcohol off-premises in a beer glass or other container that could easily be broken and used as a weapon.

Lord Paddick: My Lords, I thank the noble Lords, Lord Balfe and Lord Bhatia, and my noble friends Lord Shipley and Lady Pinnock for supporting the amendment. To answer the question from the noble Baroness, Lady McIntosh of Pickering, provided drinking

[LORD PADDICK]
takes place outside a pub within the curtilage of the premises—that is, on the licensed plan—it is legal. Once it goes beyond that, drinking in open containers is illegal. This is to prevent people walking down the street and consuming alcohol in pint glasses or wine glasses without restriction, which this allows.

The Minister said the appropriate place for this to be addressed is in guidance, not legislation. With the greatest respect, that is complete and utter nonsense. The rules around current off-licences are set down in legislation. The legislation says that off-licences are not allowed, in law, to sell alcohol in open containers. She talks about an effective and long-standing regime. The effective and long-standing regime to prevent the sort of disorder the amendment seeks to prevent is exactly the same as it is for off-licences.

I do not know whether the Minister has seen the irresponsible participants in street parties and block parties that the police have had to deal with during lockdown. Without this amendment, we will see even more of that sort of thing. Therefore, I wish to test the opinion of the House.

6.36 pm

Division conducted remotely on Amendment 40

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Amendment 40 disagreed.

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6.55 pm

Amendment 41 not moved.

The Deputy Speaker: We now come to the group beginning with Amendment 42. I remind noble Lords that Members other than the mover and the Minister may speak only once and that short questions of elucidation are discouraged. Anyone wishing to press this or anything else in the group to a Division should make that clear in debate.

Amendment 42

Moved by ***Lord Holmes of Richmond***

42: Clause 11, page 10, line 3, at end insert—

"( ) The Secretary of State may grant authorisation of off-sales for a period ending no later than 30 September 2021 to qualifying businesses."

Lord Holmes of Richmond [V]: My Lords, it is a pleasure to introduce this group of amendments. When we think about what is required for the economic rebuild, the small independent breweries have demonstrated exactly those necessary qualities, particularly over the past decade. They now find that in many ways they are being shut out of the emergency powers being put in place to get the economy motoring again. For this reason I have tabled Amendments 42, 43, 50 and 51.

Amendment 42 is a minor amendment that will enable the small independent breweries to make off-sales to their customers. These businesses are known to HMRC because they will have passed the fit and proper person test and they have shown innovation during this crisis. They want this link on the temporary basis that is set out in the Bill to allow them to be economically self-sufficient and not need to come to the Government for support.

The breweries have had no sales to speak of during the Covid crisis, given that the pub sector has rightly been shut down for public health reasons. I ask my noble friend the Minister to consider these minor amendments to the licensing laws for the temporary period covered by the Bill. This will allow small breweries in particular to be rewarded for the innovation they have shown in the past that has enabled them to grow great businesses. Like all small businesses, they want to be part of the backbone of the British economy.

[Lord Holmes of Richmond]
Will the Government support these amendments, which seek merely to provide economic independence for this sector so that it does not have to draw on public money? If not, can my noble friend set out the support that the Government are looking to provide for this sector of the licensed trade?

I look forward to listening to the speeches of those Members who have signed up to these amendments and others in the group. With that, I beg to move.

Lord Addington: My Lords, I thank the noble Lord, Lord Holmes, for moving his amendment. He has raised an interesting subject, but I will speak to my own Amendment 46. When one debates amendments in Committee one probes the Government, but on Report one tries to clarify a few points.

Amendment 46 seeks to give sports clubs the same rights with regard to the sale of alcohol from their bars as other venues. Why is that important? Virtually all of these institutions are dependent upon their bar receipts to function. I am speaking on behalf of rugby, which may be the last sport to come back. In any small rugby club and even some quite big ones, a huge percentage of the money they generate comes not from match fees or membership dues, it is from their bar receipts. They are what keep the junior teams ticking over. They provide for the bus to play away games. They are important because they ensure that the pitch can be maintained and the shirts can be provided. Can we bring sports clubs in with those concerns that may benefit from this possible revenue and thus allow them to derive some benefit from it?

Why have I brought this amendment back? It is understandable, given the rapidly changing nature of this Bill, with Ministers from other departments coming in, but I was told at Second Reading that sports venues could get a special licence but in Committee I was told that that will not happen at all under this legislation. It is possible that both those statements are correct, but I rather doubt it. The Minister has been very helpful on this issue and I know that she has been looking at what I am talking about. She may regret having done so now, but she has taken action.

7 pm

First, why are we not allowing these venues to provide a public good, given that they will probably not even be open for more than a couple of days a week? It would be silly if this provision was not included in the Bill. The second point is this: what is the exact legal position of these venues? If there is a way for them to get a special licence, particularly if that can be done reasonably quickly, they might be able to develop on that. However, if they cannot do that, the question is: why is this sector being excluded from benefiting from this source of revenue? I do not need to say any more.

Baroness Neville-Rolfe [V]: My Lords, I shall speak to Amendment 52 on digital ID and I thank the noble Lords, Lord Clement-Jones and Lord Stevenson of Balmacara, as well as my noble friends Lord Bourne of Aberystwyth and Lord Arbuthnot of Edrom—who was squeezed out by the limit of four proposers. I also thank the British Retail Consortium for its advice. The members are old friends because for many years during my Tesco days, I was the consortium's deputy chair. It turns out that digital ID is a subject that garners great interest right across the House and indeed, despite her rather discouraging comments in Committee, I discover that it is also of considerable interest to my noble friend the Minister, and her response today will be critical.

There are two key issues. The first is the urgent need for digital ID to complement the system of physical ID on which we currently rely for sales of alcohol, whether in shops or in pubs. This, as the Minister explained in Committee, is because there is no industry standard for digital ID. Ironically, the work on developing it has been delayed by the pandemic until next year, as we heard from the Minister. That seems to be very slow given the security technology that exists and our proficiency in such matters here in the UK.

The situation with alcohol contrasts with that on verifying sales of knives—which is surely more dangerous—tobacco, lottery tickets and fireworks. Digital ID is in regular use in all these areas, despite the lack of this standard. Operators are ready and willing to use this for alcohol too, and it would bring benefits through productivity, fraud control and—this is the second key issue for today—infection control under coronavirus. Its use would remove the need for customers or staff to wash hands or resanitise. There would be no requirement to show paper ID or carry a passport, as some youngsters do when they go out, sometimes leading to loss in my experience. That is a serious matter, given current Passport Office delays. It is especially helpful at automatic check-outs and could speed up queues at pubs and elsewhere.

Our Amendment 52 permits the use of digital verification, provided the licence or certificate holder reasonably believes, with all reasonable precautions and due diligence, that the individual purchasing alcohol is under 18 years old. The amendment is drafted, in effect, to allow the Government a trial for digital ID. It would end after six months, in January, and could be extended once only, by which time we expect the industry standard to be in operation and Covid to be behind us.

We need both a firm commitment from the Government to make this standard happen in the first half of next year and a temporary arrangement to permit the use of digital ID during Covid. For some other requirements, for example at the CMA and ICO, regulators are operating an easement programme during Covid. Another approach that occurs to me is for the Government to give guidance to trading standards that the requirement for paper checks for age ID for alcohol will not be enforced, where there is a reliable digital verification method in operation, until the new standard is adopted. We all want proper enforcement. We must make progress on this, and I look forward to hearing what the Minister says before pressing my amendment.

Lord Clement-Jones: My Lords, Amendment 52, which I have signed and strongly support, is similar but different, in a crucial respect, to the one which the noble Baroness and I tabled in Committee. I am

delighted that we are joined by even heavier artillery on Report. In Committee, the noble Baroness, Lady Williams, said:

"At present it is not possible to use a digital ID as proof of age for the purchase of alcohol in the UK because there is no industry standard for digital ID… Until such a standard is agreed, the current restrictions should be upheld. I hope that my noble friend will not press her amendment. I shall finish there."—[*Official Report*, 13/7/20, col. 1435.]

I am not going to repeat what I said in Committee—for which I am sure the Minister is grateful—but I know she is always open to sound argument. I want to show why her brief in Committee was not entirely accurate.

It is rather misleading to say baldly that there is no industry standard for digital ID. Back in 2016, the age verification group of the Digital Policy Alliance—which has some distinguished and knowledgeable present and former parliamentarians among its members—sponsored a publicly available specification, PAS, code of practice standard number 1296 on online age checking. This was adopted by the British Standards Institution and the independent regulator, the Age Check Certification Scheme. It is now PAS 1296:2018.

A publicly available specification is a voluntary standard intended to assist providers of age-restricted products and services online with a means to adopt and demonstrate best practice and compliance. There are easily available audit processes and services to check conformity with the PAS, involving policy, quality and technical evaluation, and an enormous number of reputable companies provide age-verification services through digital ID systems. As the noble Baroness said, in many ways the UK is leading the way in digital ID. It is active across the range of age-restricted products and services, such as DVDs, gambling, lottery tickets and scratchcards, knives, air weapons, fireworks, petrol, solvents and cigarettes, but not—perversely and uniquely—alcohol.

This is the digital ID marketplace that the Government said they wanted to build, in their call for evidence last year. Most of these companies are UK-based and many are global. Nearly all work to the standard set by PAS 1296:2018. Many of them have other forms of certification and security standards in place, such as ISO 27001. There is an active trade body, the Age Verification Providers Association, whose members—as the Minister probably knows—have just had good news from the High Court in an important judicial review case involving non-implementation of the age-verification provisions of the Digital Economy Act.

Another government department, BEIS, through its Office for Product Safety and Standards, together with the Chartered Trading Standards Institute, provides training that

"will enable participants to confidently apply the PAS 1296:2018".

Not only is there a form of auditable standard in place, but reputable training in compliance with PAS 1296.

As we pointed out in Committee, this is a strongly deregulatory measure. Retailers have noted that almost 24% of supermarket baskets contain an age-restricted item. As a result of current rules, many customers are waiting longer than necessary. This would ease any congestion, mitigate the risks of queuing, reduce the need for continual sanitisation by staff—as the noble Baroness said—and be for the benefit of all in infection control. Rather than being the last ship in the convoy, can the Home Office not steam ahead on this? The noble Baroness, Lady Neville-Rolfe, explained that it is essentially a pilot period only. I urge the Government to accept our amendment.

Lord Stevenson of Balmacara [V]: My Lords, I speak in support of Amendment 52. I very much hope that the Government welcome the spirit of what was said by the noble Baroness, Lady Neville-Rolfe, even if they cannot accept the amendment today—although I hope they can. There are a number of areas in public life where we urgently need a proper age-verification system that deals directly with what an individual can and, on occasion, cannot do. Gambling and access to legal pornography are two that come to mind, but access to alcohol, whether consumed on or off the premises, is under direct consideration today.

The noble Baroness, Lady Neville-Rolfe, spoke convincingly in Committee and again this evening on the benefits that a digital ID system would bring. This was echoed by the noble Lord, Lord Clement-Jones, who also explained what is happening in the digital marketplace. If, as the noble Baroness says, this boils down simply to putting ID cards, passports or driving licences on mobile phones, it is hard to see why the Government do not grab this initiative. It is already widely used, particularly for verifying age for knife sales.

There may be other work going on in the Home Office on digital ID, but I would be satisfied if the Government today confirmed that they are aware of the benefits of digital ID, supportive of the technology in principle and prepared to work with the industry to resolve any outstanding issues in the near future.

Baroness McIntosh of Pickering: My Lords, I too will address Amendment 52. I thank my noble friend Lady Neville-Rolfe for the interest she has shown in digital ID. I again declare my interest as chairman of the board of PASS, the Proof of Age Standards Scheme. I welcome the opportunity to again put on record my support for digital age verification. I am proud of the work PASS does; it has stood the test of time well in providing assurance through a set of national standards and an independent audit of physical proof-of-age cards. However, we are determined that PASS will not stand still. In an age when so many young people own a smartphone—according to Ofcom data in 2018, 95% of 16 to 24 year-olds own a smartphone—it is only pragmatic for proof-of-age schemes to adapt to the technology most widely used by young adults.

That is precisely why PASS launched a consultation to seek views on its proposals to develop a set of standards to underpin digital proof of age. The PASS proposals will offer a seamless transition from physical to digital verification, continuing to support the many thousands of physical proof-of-age cards currently in use while mirroring those high standards for a new generation of digital proof of age. It will create a universal solution that will work in any number of outlets that sell or provide age-restricted products, as

[Baroness McIntosh of Pickering]
well as for alcohol licence holders. It will avoid additional costs for retailers and pubs, which are, as we all recognise, experiencing unprecedented challenge and change—that is why this Bill, and its measures to help businesses as the economy starts to reopen, are so welcome. It will allow for a level playing field of competition and choice for the new market of digital-age providers, where retailers and licence holders will not be reliant on a single supplier.

I do not believe that we want to prejudge the findings of the consultation: it closes this week, on 24 July, and the responses so far run into hundreds. However, there is support for the direction of travel set out by PASS from retail trade bodies, including the Association of Conveniences Stores, the National Federation of Retail Newsagents, the Retail of Alcohol Standards Group, and the Wine and Spirit Trade Association, and high-street supermarket brands, some of which are members of the British Retail Consortium. There is support within the hospitality sector, including from some well-known pub companies, and from the majority of card issuers, including CitizenCard and Young Scot. There is also support from the Age Verification Providers Association, which includes many of the new generation of tech companies, specialist in digital solutions, and the Government's very own commissioned expert panel on age restrictions.

I pay tribute to the hard work and responsibility of the retail and hospitality industries over recent years. That we talk less today than in the past of the scourge of underage drinking and the dangers of age-restricted products is a great tribute to their hard work and responsibility. But let us not lose sight of the importance of preventing the sale of such products to minors; the protection of children from harm is a vital licensing objective. Regulation is important in managing risk, and accreditation against agreed and independently audited national standards is vital.

7.15 pm

We have no quarrel with digital age verification, but rather are convinced that it is part of the way forward. However, the problems with Amendment 52 are these. Digital age verification must be underpinned by robust, practical and universal standards. It cannot be right or helpful to leave matters to the vagaries of reasonable belief about what might be reasonable precautions. As the noble Lord, Lord Carlile, said earlier, any regulation peppered with "reasonable" leaves him in a great quandary as to what its effects will be.

Nor is there any evidence at all to suggest that in any way are physical cards less safe than mobile phones. There is no clamour from retailers of any shape or size to commit, right now, new time and money to training staff in how to scan QR codes from one phone to another or in new electronic points of sale and other till systems. It is important to note that the PASS-accredited digital proof of age will be free to users. I believe that what is set out in Amendment 52 is a step too far, too fast.

It is extremely important that the need for a set of standards is established before the guidance and mandatory conditions on age verification are amended. Digital age verification must be universally available as a platform, and not to the commercial benefit of one provider or another.

The Deputy Speaker (Lord Russell of Liverpool) (CB): I call the noble Lord, Lord Naseby. Oh, as he is not there, I will move on to the noble Lord, Lord Harris of Haringey.

Lord Harris of Haringey [V]: My Lords, this is a slightly strange group of amendments. We have talked about microbreweries and so on, but most of the debate has focused on Amendment 52 in the name of the noble Baroness, Lady Neville-Rolfe. I support what has been said on it. Of course there is no industry standard yet for digital ID; the whole process has been very slow. However, as a number of noble Lords have commented, security technology has been moving very rapidly and there is no doubt that this could be delivered without any great difficulty.

The reality at the moment is that, when young people go out to pubs or bars for an evening of entertainment, they have to take a physical card with them; often, it is a passport or a driving licence. In the nature of things, those physical documents get lost, which brings extra costs and security issues that we should all be wary of. However, people's ability to safeguard their mobile phone is always very high.

The noble Lord, Lord Clement-Jones, gave us probably more detail than any of us ever wanted to know about this particular topic and the standards being adopted and agreed. However, I think that the approach taken by my noble friend Lord Stevenson of Balmacara is the way forward, and I hope that the Minister can agree something this evening.

I listened with great interest to the speech of the noble Baroness, Lady McIntosh of Pickering. She was clearly concerned that if this amendment were to pass tonight, it would somehow favour one or other of the current developers of the technology for digital age verification. However, if you listen to her speech, you will find that she seemed to be defending the right of PASS—a scheme which she chairs, and which has done noble service to age verification over the years—to continue as is for several more months.

I hope that when the Minister looks at this, she can find a way forward along the lines of Amendment 52, in the name of the noble Baroness, Lady Neville-Rolfe.

Baroness Pinnock [V]: [*Inaudible*.]—and related amendments, including one tabled by my noble friend Lord Addington that seeks to give sports clubs, which often rely on bar takings, the same facility as pubs and other bars to provide off-sales. An amendment in the name of the noble Lord, Lord Holmes, seeks to achieve the same extension for small breweries. These amendments support small businesses and give essential support to community clubs, and as such we on these Benches support them both.

Another very important amendment, Amendment 52, would enable digital age verification. It is surprising that that does not already exist. A very strong case has been made for this change by the noble Baroness,

Lady Neville-Rolfe, and my noble friend Lord Clement-Jones. In the light of the experience throughout this crisis of a significant shift being made across society to digital means of providing services, this proposal should surely be accepted by the Government. Perhaps the Minister will be able to indicate when that move to digital age verification will be enabled—as come it will.

Lord Kennedy of Southwark: My Lords, I support the amendments in the names of the noble Lords, Lord Holmes of Richmond and Lord Addington, relating to small breweries and sporting clubs. I am a bit disappointed that the Government have not found a way to do something here. We hear lots of talk about supporting small business, but we seem to be in a rigid situation, where we cannot move out of where we are. I do not see why we could not do something and it is regrettable that we could not find a way. I accept that breweries do not have licences now, but they could be given something temporarily. The noble Lord, Lord Addington, made the point that sports clubs are often open only a couple of nights a week. Why have we not sorted them out? In this emergency Bill to deal with Covid-19, we have chosen to ignore them, and that is regrettable. I do not see why the Government have done that. They could have moved a bit more on that. I support the amendments, and it is regrettable that there will be no progress on them.

A convincing case has been laid out for Amendment 52, in the name of the noble Baroness, Lady Neville-Rolfe, and other noble Lords. I supported the idea in Committee. Equally, I see some of the points made by the noble Baroness, Lady McIntosh, and I accept that this is a temporary Bill; perhaps doing something permanent in a temporary Bill may be a problem, but the least we should get tonight is a commitment. Technically, this can be done and the Government should get on and make sure that it happens.

Baroness Williams of Trafford: My Lords, I thank all noble Lords who have spoken in this debate, particularly for the interest in Amendment 52, tabled by my noble friends Lady Neville-Rolfe and Lord Bourne and the noble Lords, Lord Stevenson and Lord Clement-Jones, on digital age verification. I could agree with virtually everything said in the debate on this amendment. I am very keen to progress this agenda, and it was in discussing this that my noble friend and I realised that we had a mutual interest in moving this agenda forward—she as a former Digital Minister and me dealing with data and identity in the Home Office.

The Government have carefully considered the concerns raised by this amendment. We support its aims, and we believe that a more holistic approach is needed to enable the use of digital identity in compliance with age-verification requirements in the Licensing Act for the sale of alcohol. As I explained in Committee, the protection of children from harm is an objective that all licensed premises should promote. Age verification plays a critical role in this and it is essential that we have confidence in the forms of identification presented as proof of age to promote this licensing objective. As my noble friend Lady McIntosh of Pickering said, the PASS accredits a number of national and local suppliers of ID cards, offering retailers flexibility to choose an appropriate card to fit their needs and fulfil their licence condition.

At present it is not possible to use a digital ID as proof of age for the purchase of alcohol in the UK due to the lack of an agreed industry standard for digital ID. Without trusted digital identity standards in place, licence holders cannot know that market solutions are fit for purpose. This would make it very difficult for them to meet the reasonable precautions and due diligence requirements described in Amendment 52. The lack of an equivalent national standard for digital ID would lead to uncertainty.

The noble Lord, Lord Harris of Haringey, was correct in saying that movement on this is slow. I share his frustration and I know that my noble friend, a former Digital Minister, does too, but we do not think it is right to place licence holders in a position in which they are being asked to accept proof of ID without a set of agreed standards, even on temporarily. To do so may place them at risk of committing a criminal offence.

Although the Government are resisting this amendment, we do not disagree with—in fact we are very supportive of—the principle of digital ID. I set out in Committee some of the steps we are taking to progress work in this area. A call for evidence was launched last summer and the responses overwhelmingly agreed that the Government have a role in developing a framework for digital ID use in the UK. Respondents stressed the need for legal certainty on how to use digital identity. The Government will consult on developing legislation to set provisions for consumer protection relating to digital ID, specific rights for individuals, an ability to seek redress if something goes wrong and where responsibility for oversight should lie. The Government will also consult on the appropriate privacy and technical standards for secure digital identity. Sufficient oversight of these standards needs to be established to build trust and to facilitate innovation, which will provide organisations with a handrail to develop new, future-facing products, which I know is exactly what my noble friend seeks.

The Government plan to update existing laws on identity checking to enable digital ID to be used in the greatest number of circumstances. However, it is only when the framework and, most importantly, the standards are in place that we can expect industry and citizens to trust and have confidence in using and accepting digital IDs. Now, knowing our mutual interest in this subject, I hope that the Government and I will be able to draw on my noble friend's considerable experience in this area as plans develop. I invite her to engage with Ministers and officials on this work as it develops. I am happy to give a commitment, on behalf of my noble friend Lady Barran, that we will work together with my noble friend towards our shared aspiration. To be honest, after four years in the Home Office I am glad that I have found someone interested in my policy area of digital ID and data. I hope that, with that commitment, my noble friend will support me in my longer-term vision for digital identities and will not move her amendment when it is reached.

I now turn to the amendments tabled by the noble Lord, Lord Addington, and my noble friend Lord Holmes. As noble Lords will be aware, the provisions in the Bill

[Baroness Williams of Trafford]
add permission for off-sales to most premises with an existing on-sales premises licence. It is not a mechanism to amend the process by which premises licences are granted.

I shall deal with Amendments 42, 43 and 50, tabled by my noble friend Lord Holmes, first. My noble friend has spoken passionately in support of small breweries. He is right to say that they have thrived over the past few years and we do not want to lose that. They are important. I note his point that his amendments could help breweries to sell alcohol to the public. However, as I said in Committee, we feel that any proposal that a business should be given a full premises licence without proper scrutiny by the local licensing authority, the police or the public is a step too far.

Similarly, with regard to Amendment 51, we are not currently seeking to make changes to the number of temporary event notices available for application in one year. Temporary licences granted for a limited period should not be used as a route to a permanent licence. As I have set out, there are crucial scrutiny mechanisms in place for granting them to ensure that all premises are selling alcohol responsibly.

7.30 pm

This amendment would provide that some premises could hold up to 50 events per year under temporary event notice licensing provisions—almost one a week. While I am sure that many businesses would use such provisions responsibly, I am also sure that the police, local residents and neighbourhood businesses would be concerned about this level of activity taking place without proper scrutiny. Any business seeking a premises licence can make an application under existing provisions in the Licensing Act 2003.

The need to put in place Covid-19 restrictions has had a significant impact on the hospitality sector, including small breweries. Like many other businesses across the economy, small breweries have benefited from schemes such as the CJRS, the BBLS and the local authority discretionary grant fund, but the only way of returning businesses to sustained profitability is to get them trading again, as I know my noble friend would agree, and to restore consumer confidence. Recently announced measures—for example, the VAT reduction, "Eat Out to Help Out", and other regulatory easements, such as changes to town and country planning regulations, which will make it easier for local authorities to establish food and retail markets—will help the hospitality sector operate more normally. This can only help small businesses. In addition, small breweries, like other businesses supplying the hospitality sector, will be assisted by the changes in the Bill, which seek to reduce unnecessary burdens, increase profitability, and help the sector recover from the hardship it has suffered through the Covid-19 restrictions.

Amendment 46, tabled by the noble Lord, Lord Addington, proposes to modify the prescribed application form which is to be used to apply for a summary off-sales review, to include the addition of club premises certificates. However, it will not have the effect of allowing club licences to benefit from the new off-sales permissions in the Bill. As currently drafted, businesses with a club premises certificate are not entitled to take advantage of the provisions in Clause 11, and allowing premises with CPCs to take advantage of those provisions would necessitate a fundamental change to their licensing regime, and one which would need to follow proper process and scrutiny. I add that the measures in the Bill are aimed at businesses that trade to the public—establishments which hold CPCs trade to members and their guests, and so are not subject to the same rules about on- and off-sales. They are, however, able to apply for variations under existing legislation if they so wish.

I feel I have gone on slightly too long, but I hope that noble Lords feel that they have had a fulsome explanation of these amendments, and will feel happy to withdraw or not move them.

The Deputy Speaker: My Lords, I have received one request to speak after the Minister. I call on the noble Baroness, Lady Neville-Rolfe, to ask a short question for elucidation.

Baroness Neville-Rolfe [V]: My Lords, I was a little disappointed by my noble friend the Minister's response, especially given our shared aspiration to get digital ID to come in. Will she agree to either a meeting or a letter to talk in a little more detail about the timing of digital ID—recognising that there are some difficulties but that she has made some good progress with her call for evidence? We could also discuss whether there is anything to be done on the enforcement of age verification for alcohol during the Covid-19 period, perhaps using an easement of the kind that I mentioned to her has been used by some other departments.

Baroness Williams of Trafford: My Lords, I would be delighted to meet my noble friend to discuss making progress on this. As I say, I am very glad to have a friend in digital identity.

Lord Holmes of Richmond [V]: My Lords, I thank all noble Lords who participated in this group of amendments. I am very attracted to Amendment 52, along with many noble Lords who both spoke and signed up to the amendment. My only reason for not signing was that it already had the support that it needed. It illustrates the need across Government to up the activity of all potential digital applications. We have world-leading businesses in digital. We need to look at every possible opportunity and means of enabling them to flourish and solve problems which have dogged our society for decades. We have the tools to do so, and Amendment 52 is but one clear and effective example of that.

I thank my noble friend the Minister for, as she said, her fulsome response. As always, she addressed all the issues which were raised with her. I am slightly disappointed that we could not go further to assist innovative businesses in our country. I understand the points that she raised, and I accept them, but would she be prepared to join me on a visit to a small independent brewery to hear at first hand the issues such businesses are facing? Through that discussion, perhaps we could consider whether there is anything

else we could do to help this vibrant, innovative sector of our economy and society moving forward. With that, I beg leave to withdraw the amendment.

Baroness Williams of Trafford: I can tell my noble friend that I would love to come with him to a brewery.

Amendment 42 withdrawn.

Amendment 43 not moved.

Amendments 44 and 45

Moved by ***Earl Howe***

44: Clause 11, page 10, line 20, at end insert—

"(11) In this section "pre-cut off time"—

(a) in relation to licensed premises and a day, means any time between when the premises first open that day for the purposes of selling alcohol for consumption on the premises and 11pm (but this is subject to paragraph (b));

(b) in relation to licensed premises and a day throughout which the premises are open for the purposes of selling alcohol for consumption on the premises, means any time between when the premises are first open that day for the purposes of selling alcohol for consumption on the premises and 11pm."

Member's explanatory statement

See the explanatory statement for the Minister's amendment at page 8, line 33.

45: Clause 11, page 10, line 20, at end insert—

"(12) Where a premises licence authorises the sale by retail of alcohol for consumption in an outdoor area of the licensed premises at some, but not all, of the times when it authorises the sale by retail of alcohol for consumption elsewhere on the premises, times when the premises are not open for the purposes of selling alcohol for consumption in the outdoor area of the premises are to be regarded for the purposes of this section as times when the premises are not "open for the purposes of selling alcohol for consumption on the premises"."

Member's explanatory statement

This amendment ensures that certain new permissions for off-sales do not apply to times when the premises licence does not allow sales of alcohol for consumption in outdoor areas of the premises.

Amendments 44 and 45 agreed.

Amendment 46 not moved.

Amendment 47

Moved by ***Earl Howe***

47: Clause 11, page 20, line 29, at beginning insert "If the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus,"

Member's explanatory statement

This amendment provides that the Secretary of State's power to extend the date on which Clause 11(1) to (10) expires, and another date in that Clause, can only be exercised if the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus.

Amendment 47 agreed.

Amendment 48 not moved.

Amendment 49

Moved by ***Earl Howe***

49: Clause 11, page 20, line 33, at end insert—

"(14A) In subsection (14) "coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)."

Member's explanatory statement

The amendment is consequential on the Minister's other amendment to page 20.

Amendment 49 agreed.

Amendments 50 to 52 not moved.

7.38 pm

Sitting suspended.

8.12 pm

The Deputy Speaker (Lord McNichol of West Kilbride) (Lab): We now come to the group consisting of Amendment 53. I remind noble Lords that Members other than the mover and the Minister may speak only once and that short questions of elucidation are discouraged. Anyone wishing to press this amendment to a Division should make that clear in the debate.

Clause 12: Removal of powers of court in relation to unfair relationships

Amendment 53

Moved by ***Baroness Bowles of Berkhamsted***

53: Clause 12, page 21, line 8, at end insert "insofar as such an order would relate to affordability."

Baroness Bowles of Berkhamsted [V]: My Lords, I thank the noble Baroness, Lady Altmann, and the noble Lords, Lord Carlile and Lord Stevenson, for supporting this amendment, which limits the disapplication of the Consumer Credit Act in Clause 12 to being only in so far as it relates to affordability.

There is no disagreement over disapplying affordability criteria, given that the Government have asked banks to speed up loans and dispense with the usual due diligence on affordability. However, we can see no reason for disapplication for unfair treatment, such as in default measures, which have been at the centre of more than one SME banking scandal. This is not an unreasonable amendment, because disapplication for affordability is exactly the same measure that has been introduced throughout the Lending Standards Board's voluntary lending code. Why do the Government have to go further in disapplying remedies for all unfair treatment under this Bill rather than limiting it to affordability?

Apart from for micro-businesses, there is no regulatory protection for business loans or recovery procedures other than the measure the Government now seek to disapply. This was excruciatingly elaborated in the Financial Conduct Authority's report on RBS's Global Restructuring Group, which said that the FCA had no regulatory power. It also said that it was unlikely the behaviour would have been caught by the senior managers regime, had that applied. Andrew Bailey has since

[Baroness Bowles of Berkhamsted]
spoken before committees in Parliament and at many other meetings, explaining how business lending and debt recovery are outside the regulatory perimeter.

In Committee, the Minister said that

"the Government have retained Financial Conduct Authority oversight for debt collection, meaning that lenders must comply with the Financial Conduct Authority rules on arrears, default and recovery."—[*Official Report*, 13/7/20; col. 1516.]

Those rules are only for loans up to £25,000 made to sole traders, unincorporated associations and partnerships of fewer than four people—that is, micro-businesses. The Bill deals with removing protection from loans up to £50,000, which is by far the majority of bounce-back loans, given that the average loan is £37,000. Why, when there is more restrained disapplication for micro-businesses, and in the voluntary code, are the Government so resistant to a similar compromise in the Bill? Why are the Government depriving most bounce-back borrowers of the courts' protection, at least for debt recovery?

8.15 pm

Why do I care so much about this, especially when the Government are being generous with loans? I am not disputing good intentions, but the high-profile government publicity surrounding the loans can be misleading. There is constant reiteration of the good things about bounce-back loans: 100% guaranteed by government; try again if the first lender declines you; you cannot be asked for personal guarantees. This is encouragement to apply and gives the impression that the government guarantee is coming into play for the benefit of the borrower.

That is not the story, though. The Government back the lender; they are not a guarantor for the borrower. That is not stated on the GOV.UK website, although I am not sure that everyone would understand the significance even if it were. The British Business Bank website says that

"the collection of these loans will be regulated, meaning that, should businesses encounter financial difficulty, lenders will have to comply with relevant regulations."

That is the non-existent regulation for the majority of the loans that are over £25,000.

The BBB website also says that

"lenders are not permitted"

to take personal guarantees, or

"take recovery action over a borrower's personal assets (such as their … home or personal vehicle)",

whereas, in her replies, the Minister stated that it is only the main home and main vehicle that are protected. Hence, it seems that the bailiffs can go in and take everything else: tools of the trade, or maybe the kiddies' bikes.

The Minister also said in reply to me in Committee that

"lenders must not require borrowers to pay any lender-levied fees of any description, including on default, or any default interest."—[*Official Report*, 13/7/20; col. 1516.]

That also appears to be contradicted by, for example, the terms of bounce-back loans published by the Co-op and others, which say that the bank may,

"charge a fee to the Borrower representing the cost to the Lender of the additional monitoring of the Borrower and its financial position".

That is where the rot started with GRG.

Other standard terms also apply, such as that any default, anywhere, on any other loan, with anyone, can trigger default. A bank can also take the view that the position of the borrower has declined since the making of the loan agreement. Given that a loan condition for a bounce-back loan is that the business has suffered from the effects of coronavirus, just about every loan is at risk of being defined as in default.

Of course, not many defaulting people or companies can go to court, so what does it matter if that route is blocked? Well, the principle matters; the deterrent matters; and the comparison matters. It gives away that the Government care little about those that go under; the focus is on the economic benefit of survivors. That view was reinforced during the meeting we had with the Minister and Treasury officials. In the future, the story of bounce-back loans will be one of borrowers thinking that the Government have backed them. The usual debt-recovery operations will be a sorry tale, even without bad behaviour, but in that event the law has been changed and that has consequences.

Helpful though it is, borrowers should not have to rely on the ombudsman as the only arbiter. In 2018, the Channel 4 programme "Dispatches" uncovered poor understanding and practices in the ombudsman service, with employees saying there was never a recommendation for debt forgiveness. Further, a primary reference for the ombudsman is the law of the land, and deliberately cutting that away for everyone other than micro-businesses with smaller loans alters the balance. Is that the Government's intention—to move the goalposts on fairness?

I return to the Statement the Business Secretary made in the Commons. Yes, forbearance is part of these measures, and we would expect that to apply. I ought to know what the Government are intending. When will they step in with the guarantee to the banks? Will it be before or after the bailiffs have been sent in? And why, when both the voluntary code and the under-£25,000 consumer credit debt collection regulations have been amended to meet the same ends that I suggest, will the Government not do something in this Bill? Not to do so implies a specific intent.

The underlying message behind this deliberate and unnecessarily wide disapplication of the law, especially to debt collection, is a dire one. For that reason, I intend to call a vote. I beg to move.

Baroness Altmann (Con) [V]: My Lords, I have added my name to this extremely important amendment. However, I congratulate the Government on their introduction of the bounce-back loans and their enormous efforts to try to help businesses survive this crisis, which was not of their making or anybody else's.

I am sure that my noble friend is sympathetic to the circumstances that could arise, and hope that she can reassure the House that the intention of this measure is not to change the balance of what is fair in circumstances where debts are being recovered by the lenders of these bounce-back loans. I find it difficult to understand why the Government have only really preserved the regulations relating to default and debt recovery for those loans up to £25,000, and only for micro-businesses. I would appreciate it if my noble friend could help the

House in this regard. Restaurant owners and hairdressing salons which are limited companies may find that their equipment is subject to seizure when banks try to recover these bounce-back loans.

The banks do not need to recover the loans—indeed, they have expressed reservations and discomfort about being asked to take these borrowers to court. I believe there will be consultation with Ministers over the summer about how this is going to work. If they have a guarantee, they do not need, in theory, to press too hard to recover the loans. But if there are some attractive assets, it may be tempting for them to do so. I hope the Government will be able to state clearly that they want reasonable debt recovery only, and the intention is not to change the balance of fairness in these circumstances.

Forgive me if I am asking too much at this late stage of the Bill and with the emergency nature of the legislation, but I ask my noble friend to consider whether the Government might accept that they could take the power to make regulations, reapplying the Consumer Credit Act to debt recovery should that prove a popular and necessary measure, or whether they can include the range of £25,000-£50,000 in some other way so that we can avoid the reputational damage that may go along with this. Nevertheless, I welcome the bounce-back loans and I encourage my noble friend to give us some clarification.

Lord Carlile of Berriew [V]: My Lords, the noble Baroness, Lady Bowles, whose amendment this is—and I am very pleased to be a signatory—is a considerable expert on the subjects under discussion, as is the noble Baroness, Lady Altmann. I have enormous respect for them both, and for their skills in this area. I am but a mere lawyer and feel, to an extent, inadequate to parry on the financial details under discussion.

I have spent a lot of my time in recent decades dealing with fraud cases in which people often got themselves into financial difficulty, through no fault of their own, and were then under huge pressure from the banks. We have recently heard cases in which the Post Office prosecuted people who pleaded guilty to criminal offences which they had not committed. We have heard about the remedial action that is having to be taken, very expensively, to put those wrongs right.

The bounce-back loans are of course very welcome, but they bring a whole new cohort of people into, what is for them, often very substantial borrowing. Many of the businesses we are talking about do not have substantial overdrafts in the ordinary run of things. They are able to live on a cash balance, albeit often small, and they do not have to enter into sophisticated agreements with banks. This applies particularly to family businesses, which have either been created recently or are long established. The debt picture and the debt threats for such companies are frighteningly great compared to the time before coronavirus.

Therefore, over the years, there are plenty of examples, as mentioned by the noble Baroness, Lady Bowles, of banks being sometimes very oppressive towards customers who are put out of business without understanding what redress they may have against those banks. Unfortunately, these provisions remove some of that redress, which they might discover they have against the banks.

In my view, some simple legal remedies with flexibility are needed, so that if, for example, a company defaults on a loan but can demonstrate that, within a couple of years, it can haul itself back to not only profitability but the ability to repay the loan, we would be in a much better position. Surely that would be a far better outcome. The amendment we are considering is one solution to that problem, and that is why I support it.

I am grateful to the noble Baroness, Lady Penn, with whom I have exchanged emails, at her instigation, about this amendment. I said to her yesterday in an email that the Government really should produce some kind of arbitral procedure which would enable loans in the range we are debating to be discussed, a solution to be found that would satisfy the banks in the long term, and the businesses concerned to carry on trading. These loans have of course been introduced in an emergency, but it is actually less of an emergency for the banks than for the people who take out the loans, and about whom we are talking. Unless something better is offered, this amendment would rebalance fairness so that there is a level playing field between the lender and the borrower.

8.30 pm

The Deputy Speaker: I now call Lord Naseby.

Let us go to Lord German and then we will try to return to Lord Naseby.

Lord German [V]: My Lords, I support this amendment, tabled by my noble friend, because, put simply, it would do two things. First, it would put beyond doubt the protection which borrowers of bounce-back loans have against their lenders pursuing punitive action if they default. Secondly, given the relatively low take-up of these important loans, it would give reassurance to companies seeking to use the facility provided by the Government as essential finance to keep them in business and retain employment.

Companies may have been, or are, hesitant to take out these loans for a variety of reasons. For example, they might be worried about repayment, the ongoing viability of their business or whether they wish to continue trading. But to respond to these fears, the Government must assist by providing the maximum level of certainty on what happens if the borrower cannot repay the loan. The guarantee to the lenders is that the Government will bear the cost of defaulting. This is very welcome, but that guarantee is given to the lender and not to the borrower. There is some protection in place to prevent the lender taking further actions against the borrower, but the legislation before us takes away most of the ultimate protections for a borrower—to have recourse to the courts.

My noble friend has outlined these issues in great detail. I am grateful to her for the forensic manner in which she laid out the borrower protection arguments for this amendment. I will not repeat the detail on the missing protections that she has given.

Taking the two reasons I have outlined for supporting this amendment separately, on the first it is clear that many lenders, mostly large high-street banks, will already have banking arrangements with those who are seeking

[LORD GERMAN]
or have taken out these bounce-back loans. In Committee, I quoted examples of this relationship possibly being used to influence the behaviours of lenders. Put simply, they have financial power over their borrowers through that continuing relationship with them. Other lenders, many of them now trying to lend money under these schemes, have difficulty in getting their hands on the 0.5% interest cash that the Government have made available to lend, largely because the big banks will not funnel these funds through to them, on the "Why should we help our competitors?" principle. This means that the big banks will have a bounce-back loans advantage, most frequently with their existing customers.

On the second reason, the Government estimate that many more of these loans will be needed—perhaps four times as many—to protect small companies from going under, given the consequent unemployment that would cause. These loans need to provide protection for the borrower in a way which will not deter them from proceeding. The fallback of court protection from the poor behaviour of the lender provides a higher level of reassurance to borrowers, in line with the current legislation.

I share the Government's hope that these loans can provide a lifeline to many companies. They are a very good response to the pandemic. This amendment would support the Government's ambition and strengthen the case for businesses considering taking out these loans by removing the concern that default could lead to unfair sanctions being imposed on them.

Baroness Kramer (LD) [V]: My Lords, first, I thank the noble Baroness, Lady Penn, for her willingness to talk virtually to a number of us who have been focused on this issue; however, I came away from those discussions almost more confused than I went into them. This House will be aware that the financial regulators—certainly the FCA—do not regulate institutions but activities. One of the activities it cannot regulate is commercial lending, which is on the far side of what is generally called the regulatory perimeter. A slight sleight of hand is, to some extent, made available to sole traders, micro-companies and the very small end of small businesses so that they do merit some protection, that typically coming in the form of an appeal to the ombudsman. Although the ombudsman has very limited power to actually make sure that any remedy is effected, there is at least one to go to.

For companies that do not fall into this category—my noble friend Lady Bowles provided the detail, so I will not repeat it—there is no form of protection; the FCA has no standing. Therefore, when those companies are put into default and the banks come to collect on their debts, their only resort has been to the courts. Under this arrangement, that is now removed from those companies if they have taken out a bounce-back loan. I really do not understand why the ability to go to the courts to protest unfair treatment has been removed.

The Government have full knowledge that the FCA cannot act under these circumstances. I suppose that, occasionally, somebody in government will argue that the FCA can turn to the Senior Managers Regime, but, as we all know, having listened frequently to the testimony from Andrew Bailey, only in very rare instances would the regime apply. Indeed, the FCA has been very reluctant to use it, even in some very egregious cases; in fact, I would be interested to hear from the Minister the number of times the FCA has actually used it. It is not a workable mechanism for trying to force the banks to provide fair treatment to the larger end of SMEs if they go into default under their bounce-back loans.

The Bounce Back Loan Scheme is brilliant, but I am very concerned that it will end up with a stain on its character when, in 18 months' or two years' time, we have a chain of companies that are clearly being treated unfairly by the banks and both the Government and the regulators stand back and say, "There is nothing we can do. This was an unregulated activity, only contract law applied, and we have disallowed these companies' ability to go to the courts to seek any form of redress". Frankly, it is a tragedy and a scandal in the making.

I am not sure it has been made clear to companies that when they apply for bounce-back loans, it is caveat emptor and they will be without even the normal range of protections should they go into default. If I understand correctly, the Government have decided to disapply the right to turn to the courts as part of an enticement to the banks to participate in the Bounce Back Loan Scheme. I cannot believe that that concession should be given; and if it was asked for by the banks, I am even more worried because, as we know, the banks seek opportunities to make profit—that is the business they are in.

Perhaps the Minister is not that familiar with the RBS and GRG scandals. The GRG was a profit centre. The RBS staff who were part of the GRG were looking not only to get loans and interest repaid but to make an additional profit, particularly by seizing assets. Under the various contract terms, they could identify firms that would value those assets. The owners or borrowers could argue that the assets were being valued at well below market value, but had no means of enforcing that, and of course we know from the various reports that followed that it was not infrequently the reality that assets were valued very low, triggering the default, and months later, having been seized by the bank, were resold for multiples of the valuation.

The mechanisms that the banks use when they have the opportunity to put a company into default are frequently outside the boundaries of what any of us would consider fair and appropriate. I do not understand stripping away from companies any possible route to a remedy under those circumstances.

Lord Stevenson of Balmacara [V]: My Lords, my name is on this amendment, and I am in general support of the points powerfully made by the noble Baroness, Lady Bowles, in Committee and today, and by others who have spoken. They have made the main arguments, which I will not repeat.

The Government argue that the key driver for this initiative is to get the bounce-bank loans out to as many small businesses as want them and can use them, and to reduce barriers to that effect. I sympathise—it is very hard to be against that aim—but there are clearly risks here, as we have heard. While my concerns

are not identical to those of the noble Baroness, Lady Bowles, they are very similar, and I would like to make three points on the issue.

First, there is general agreement that the Consumer Credit Act 1974 urgently needs bringing up to date, to be fit for purpose regarding the changed regulatory landscape of different lending practices and the tighter financial circumstances of the 2020s, now and post Covid-19. The current lender/borrower relationship envisaged under the Act does not work but, as others have said, it is very risky to remove all the court protections, and I sympathise with that.

Secondly, the Government have put on record the very tight constraints that they are putting on lenders who wish to engage with bounce-back loans, including banning fees, banning punitive interest and forbidding reach-through sanctions to personal assets such as houses and vehicles, but is that enough? There is a powerful tool in the Government's armoury.

Thirdly, the 100% guarantee that we have been talking about is on the lender, not the borrower, but that gives the Government considerable powers which they say they will use to drive good behaviour. For me, the key question is whether, in removing access to the courts under the unfair trading clauses of the 1974 Act, the Government have put the bounce-back loan borrowers in a worse position than if they had left it all in place, or—as suggested in the amendment—just the affordability issue. It is a close call.

I would be very grateful if the Minister, when responding, could deal fully with the following points. First, will she confirm that the Government will undertake to overhaul the Consumer Credit Act 1974 in the near future, taking full account of the issues raised in this debate? Secondly, can she list concisely the limits on lenders' ability under the bounce-back loan to penalise borrowers who are in default or otherwise transgress, irrespective of the amount of money borrowed, and the statutory and non-statutory opportunities for borrowers to protect themselves and their possessions if lenders attempt to penalise them absent the core protection of the 1974 Act?

Thirdly, can the Minister set out what she called "the steely determination" of the Government to use their power to reduce or cancel the 100% underwriting of loans made under the BBL scheme, if lenders transgress? This could be a very powerful weapon. It would be useful to know who will have the power to trigger certain sanctions, and how borrowers will be informed about the process. The noble Lord, Lord Carlile, suggested that an arbitration structure was needed, and he may well be right. If the Minister can confirm that these points are in play and give assurances on them, then I suggest that the noble Baroness, Lady Bowles, does not press her amendment to a vote this evening, as we will not support her.

8.45 pm

Baroness Penn (Con): I thank the noble Baroness, Lady Bowles, my noble friend Lady Altmann and the noble Lords, Lord Stevenson and Lord Carlile, for tabling the amendment. I also thank them for the discussions that we have had on this matter since a similar amendment was tabled in Committee. I have listened very carefully to the concerns of the noble Baroness, Lady Bowles. I stress at the outset just how seriously the Government take the protection of those who have taken out a bounce-back loan. I will set out what form those protections take, as the noble Lord, Lord Stevenson, asked me to do.

We have integrated significant protections into the Bounce Back Loan Scheme. I point towards the obligations that the scheme imposes on lenders to act honourably. I set out many of those terms in Committee. Loans are capped at 25% of turnover and the interest rate for the scheme is capped at 2.5%. The Government will cover interest and repayments for the first year of the loan. That helps to address the point made by the noble Lord, Lord Carlile, that businesses might not be able to afford to repay the loan now due to current circumstances but, with a bit of time to get back up and trading, will be able to meet those payments in future.

The lender may not levy any fees or interest beyond the fixed interest rate of 2.5% a year, including any fees on default. I reassure the noble Baroness, Lady Bowles, on this point. Lenders are required to adhere to the scheme rules as set out in this agreement. They may use their standard terms and conditions for documenting the loans. This might be where the confusion has come from, but there is no ability to charge any fees or interest beyond that 2.5% a year.

We will get more into the detail of some other protections, but a number of noble Lords raised the question of the balance of fairness in these loans. These loans set out to be a very standardised product. Protections such as no lender levy fees whatever and a fixed interest rate of 2.5% a year are also factors that need to be taken into account when we look at the balance of fairness and include in that the government guarantee at 100%.

Further protections include the provision of clear information before and during the life of the loan, which was an issue a number of noble Lords raised. In response to the noble Lord, Lord Carlile, I say that lenders are obliged to make it clear in the terms of the loans that the protections under the Consumer Credit Act do not apply to these loans. That is also stated up front.

The noble Baroness, Lady Bowles, asked about the question raised at Second Reading on forbearance of these loans. That is provided for in the terms of the guarantee agreement. There must be forbearance on missed payments, allowing the customer a reasonable time to remedy defaults without consequence. There must also be signposting of appropriate assistance where businesses experience payment difficulties.

We come on to the retention of Financial Conduct Authority oversight for debt collection by lenders of loans that would be regulated credit agreements but are exempt by virtue of them being bounce-back loans, and the right for eligible borrowers under the scheme to access the Financial Ombudsman Service to resolve disputes. I will go into more detail on FCA and Financial Ombudsman Service oversight a bit later, because I know noble Lords will want it. A point was raised in our discussions outside the Chamber on the reservation that, despite the specific protections, the

[Baroness Penn]
unfair loans provisions in the CCA provide a very broad and general protection so that, if some of these protections that we have specified turn out not to be enough or banks might find a further loophole, the broad provisions provide further protections.

I reassure the noble Baroness that there is also a general, overarching commitment in the guarantee agreement. The lenders have an overarching obligation that they must always act in good faith and not behave in a manner that could reasonably be expected to bring the scheme or the guarantor into disrepute, or in a way that contravenes any applicable law or regulation. This includes all actions in respect of servicing and enforcement of the loan. The lender's performance of such obligations is subject to audit by the British Business Bank, and the obligations of the guarantee agreement are legal, valid, binding and enforceable obligations. Failure to comply with these terms in the guarantee would mean lenders risk not being able to make a claim under it, which would provide an exceptionally strong incentive to firms to conduct themselves properly. I assure the noble Lord, Lord Stevenson, that if such behaviour that contravened the terms of the guarantee agreement were brought to light, the Government would have no qualms about using their power to withdraw the guarantee.

The Financial Ombudsman Service, raised by a number of noble Lords, also has a more general obligation and duty in cases brought to it to make decisions on what it thinks is fair and reasonable in all circumstances of the case. The noble Baronesses will know that in 2019 the Government expanded eligibility to access the Financial Ombudsman Service so that small businesses with an annual turnover of less than £6.5 million and either an annual balance sheet total of less than £5 million or fewer than 50 employees can access the Financial Ombudsman Service. This means that an estimated 99.5% of SMEs can access the Financial Ombudsman Service. I make the point to the noble Lord, Lord Carlile, that for very small businesses that are inexperienced in taking out credit, a free-to-access ombudsman service—rather than a law suit—is often by far the preferred way to resolve a dispute.

As has been previously noted, the collection of debts under the bounce-back loan scheme remains a regulated activity for loans of less than £25,000 to sole traders, partnerships of fewer than four people and unincorporated associations. That means lenders under the scheme must comply with the FCA's consumer credit conduct of business standards, rules and guidance on arrears, default and recovery in chapter 7 of the FCA's *Consumer Credit Sourcebook*, as well as the FCA's high-level principles, when collecting debts related to those agreements. As the noble Baronesses will know, this protection reflects the position for business lending more broadly and the fact that all business lending over £25,000 is not FCA-regulated.

I say to the noble Baroness, Lady Bowles: it is not that we were restricting FCA regulation of debt collection in bounce-back loans to loans under £25,000. That is the cut-off point—the threshold—where we regulate that lending activity, and that has not been changed in this. What has happened is that when we removed other provisions in the Consumer Credit Act, which we did via secondary legislation, we reinserted or kept the FCA regulation of debt collection for debts under £25,000 but did not extend it, and nor would we. We think that is the right threshold for FCA regulation of activity, as the noble Baroness, Lady Kramer, said.

To address the point from the noble Baroness, Lady Altmann, about limited companies, it is worth noting that the provisions in this clause would never have applied to limited companies. The protections in the Consumer Credit Act do not apply to limited companies and so, by disapplying these parts of the Consumer Credit Act, we are not changing their position in regulation at all.

A few further points were raised. On the point made by the noble Lord, Lord Stevenson, in Committee and again today more broadly about the Consumer Credit Act 1974, he is right to highlight that that legislation dates back nearly 50 years. Through subsequent amendments, it has become increasingly complex and challenging to navigate. That is reflected in the fact that, in addition to Clause 12 in this Bill, the Government used secondary legislation so that bounce-back loans would not be regulated credit agreements and are now exempt unregulated agreements.

We have made some progress in modernising the consumer credit regulation. In 2014, the FCA took over responsibility for regulating consumer credit. Part of the transfer of the provisions in the Consumer Credit Act 1974 was repealed and those provisions were replaced by FCA rules. However, there was more to do and, since then, the FCA has reviewed the remaining provisions and it published its final report into the matter in March 2019. The Treasury has been undertaking a programme of work to consider the FCA's findings in detail. It is currently focused on our response to the Covid-19 crisis but, once the urgency of the crisis has subsided, the Government hope to set out in more detail the next steps that they will take on the Consumer Credit Act 1974.

The second point that I would like to make is about the impact of this amendment, should it be agreed. Lenders have made over £30 billion-worth of loans under the scheme in anticipation of Sections 140 to 140C of the Consumer Credit Act 1974 being disapplied. Borrowers have entered into those agreements in the knowledge that the usual protections will not apply. I point out to the noble Lord, Lord German, that over 1 million businesses have benefited from this measure, and that take-up is not insignificant.

Lenders have informed us that, should the amendment be agreed, it is likely that they would cease to offer any new lending under the scheme, thus depriving small businesses of the vital finance they need to weather this crisis. I understand the concerns expressed by noble Lords, but it is not possible to be in favour of the Bounce Back Loan Scheme but not in favour of this part of it—a part that has been crucial in getting the lending going.

My colleagues in the other place have been grateful for the constructive discussions that they have had with the Opposition during the development of the scheme and for the agreement that these measures, although extraordinary, were necessary to rapidly provide

small businesses—the lifeblood of our economy—with the funding that they have needed in these extraordinary times. In developing the scheme, we have also worked closely with the FCA.

In response to those noble Lords who asked this question, there is an ongoing programme of work to look at the recoveries process for these loans. The Treasury has convened recoveries workshops with all accredited lenders, along with the FCA, the PRA and the British Business Bank, aimed at ensuring a consistent industry-wide approach to the collection and recovery of bounce-back loans. These discussions will follow the customer journey throughout the lifetime of the loan and ensure that lenders understand the type of support that they can provide to borrowers.

The legislative changes already made in secondary legislation and which we are now seeking to make in primary legislation are integral parts of the design and functioning of the scheme. They have been worked through carefully but also at pace, given the urgency with which small businesses have needed this support. The changes have been made alongside targeted protections built into the guarantee and, where possible, regulations. Without this scheme, lenders would not be able to provide the finance at the necessary pace and scale in response to the huge economic disruption caused by Covid-19.

I hope that I have given the noble Baroness reassurance that borrowers have robust protections under this scheme and that she will feel able to withdraw her amendment.

The Deputy Speaker: I have received no requests for speakers to come back after the Minister, so I now call the noble Baroness, Lady Bowles.

Baroness Bowles of Berkhamsted [V]: My Lords, I thank all those who have spoken in this debate. The noble Baroness, Lady Altmann, reminded us how attractive assets might tempt a bank or that companies' equipment could be seized when they ended up in default after a period of forbearance. The noble Lord, Lord Carlile, with reference to the Post Office cases, reminded us how bad things can happen and that sometimes things that perhaps start off looking reasonable get very much out of hand. My noble friend Lord German reminded us that companies need the confidence to borrow. Perhaps we need four times as many bounce-back loans as have already been applied for, but they need protection.

9 pm

My noble friend Lady Kramer reminded us that the senior managers' regime seems not, perhaps, to be as strong a disciplinary tool as was originally hoped—certainly not in the generic way that was hoped. The noble Lord, Lord Stevenson, drew attention again to the fact that the CCA has been split up and is out of date.

I regret that the Opposition feel that they will not be able to join us in a vote. There seems to have been a certain amount of timetable pressure on this, but I am afraid I cannot put a recess ahead of what I think is the right thing to do. I thank the Minister for her detailed replies, many of which were just, perhaps, an extension of what was said in Committee. I fully understand what the protections were before there was any disapplication. I fully understand the £25,000 limit, and I do not accuse that it has been reduced. The fault I find is that, at this moment, a chunk of law on debt recovery, relating to fair treatment, is being taken away. In statute, nothing extra has been done. The law is diminished from what it was pre-coronavirus and pre-bounce-back loans. I accept that an attempt has been made to make the loans fair. In the recitation about interest and everything else, the guarantee of 100% was again mentioned, but this guarantee does not help companies that cannot repay; they go into default procedures, out of which there will ultimately have to be some kind of recovery, and possibly even profit, even if it is just a covering of costs, because these processes are expensive for the banks.

I hear what the Minister says about there being conditions within the agreements with the banks, but this is rather lacking in transparency. I think it would be a lot more helpful if those were embedded in statute. Ultimately, they rely on the Government saying, "Well, you haven't got a guarantee anymore". The net result of that will be many things; it will certainly not help those who have loans, who will possibly find the banks being altogether more oppressive than they were before. It will be extremely doubtful in law, I would think, what terms are supposed to apply to something that was a bounce-back loan but has now had the guarantee jerked away from it.

A piece of law about fairness is being removed. I welcome the notion that, according to the Minister, they are not trying to change the balance of fairness but, ultimately, if the ombudsman asks, "Among other things, what is the law on fairness?", that piece has gone. I do not believe that that is necessarily without effect. I suspect that in due time there may be remorse. I cannot in good faith say that I am reassured. I wish it were so, but it is not. Therefore, I wish to record that I am not reassured by pressing my amendment to a vote.

9.04 pm

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9.23 pm

Amendment 54 not moved.

The Deputy Speaker (Lord Russell of Liverpool) (CB): We now come to the group consisting of Amendment 55. I remind noble Lords that Members other than the mover and the Minister may speak only once, and that short questions of elucidation are discouraged. Anyone wishing to press this amendment to a Division should make that clear in the debate.

Amendment 55

Moved by ***Baroness Doocey***

55: After Clause 15, insert the following new Clause—

"Amendment of the Package Travel and Linked Travel Arrangements Regulations 2018

(1) The Package Travel and Linked Travel Arrangements Regulations 2018 (S.I. 2018/634) are amended as follows.

(2) In regulation 2(3) leave out "at least two different types of" and insert "the carriage of passengers with at least one other".

(3) In regulation 2(5) leave out "at least two different types of" and insert "the carriage of passengers with at least one other".

Member's explanatory statement

This new Clause seeks to amend the Package Travel and Linked Travel Arrangements Regulations 2018 make transport a mandatory component of package travel. This would allow small local businesses to make a combined offer without incurring the responsibilities of a package holiday operator.

Baroness Doocey (LD) [V]: My Lords, Amendment 55 standing in my name aims to modify the package travel regulations, retaining protection for consumers travelling abroad but removing barriers which stop small businesses working together in the domestic market. The amendment does so by stipulating that, for something to constitute package travel, an element of travel must be part of the package.

Visitor numbers in the domestic tourism industry are down by 30% to 50%, and research shows that only a third of families intend to take a domestic holiday this year. Tourism in the UK is by definition a feast and famine industry—a feast in summer and a famine in winter. What small businesses in the sector face this year is the famine of the lockdown, followed by the seasonal famine of winter. The industry therefore desperately needs to attract trade and to persuade people to start taking holidays in the UK.

The primary purpose of the package travel regulations is to protect consumers who take package holidays overseas by making the tour operator legally responsible for the package and ensuring that the holidaymaker can be repatriated if the tour operator goes bankrupt. These are very valuable protections. The problem for small domestic tourism businesses is that the definition of a package holiday has been poorly drafted so that the smallest B&B working with a local pub or a local golf course to offer a discounted deal ends up being deemed to be a package tour operator. The consequence is an intolerable legal jeopardy for the small business concerned, because the regulations make the B&B owner legally responsible for what happens to the customer while they are at the golf club or in the pub. If the customer suffers any injury there, it is the B&B owner who is sued. Small businesses simply cannot get insurance to cover them, which makes the financial risk of offering deals too great. The customer then loses access to discounts and the businesses are unable to stimulate sales.

In addition, the regulations require the B&B owner to be a bonded travel company, which is expensive, or to use a trust fund so that payments can be withdrawn only after the customer has visited. Anyone who has ever run a small business knows that this is not a sustainable way to operate. These problems are why most accommodation businesses in the UK do not offer discounted deals. The Government have said that the significant component element of the package travel regulations guards against the problems I have outlined. These provisions are totally unsatisfactory, because they require a business to guess whether a consumer would or would not have bought their product without the additional benefit of the deal. Furthermore, the 25% element is both inadequate and invidious because standard deals can easily exceed the 25% level, and a percentage threshold disadvantages those parts of the country with the cheapest accommodation.

This simple amendment preserves all the protections for customers taking holidays overseas while freeing up small businesses here in the UK to provide discounted added-value deals to their customers. A survey by the Tourism Alliance estimated that this modest change would increase domestic tourism expenditure by £2.2 billion per annum, which is enough to protect 40,000 jobs. This is not a boost that our domestic tourism industry can afford to wait for. We cannot wait out the winter while the Government consider this further. The famine is now, so the time to change the law is now. I beg to move.

Lord Redesdale (LD) [V]: My Lords, I have added my name to this amendment and I will speak in support of it. I shall be brief, considering the time of

[Lord Redesdale]
night. I am pretty certain that my noble friend will not press this amendment, but I hope that the Minister can give some assurance that, although changes to the legislation will not come about through this amendment, he will agree to meet with representatives of the travel industry to look at how the law can be reformed. The regulations that underpin this area are part of European Union law and, as we leave the EU and start to look at British iterations, this is the perfect time to address the issue. I hope that the Minister can give an assurance that his officials will meet with members of the travel industry to discuss these matters.

The Deputy Speaker: I call the noble Baroness, Lady Pinnock. I think we have a problem with the noble Baroness's sound, so I suggest we move on to the noble Baroness, Lady Wilcox of Newport.

Baroness Wilcox of Newport [V]: My Lords, this amendment has the noble aim of boosting local tourism and raises questions about the package travel regulations. We are still awaiting the Government review of the package travel rules and I am reluctant to accept the Minister's previous suggestion that we cannot consider this issue until we have left the EU. The Government should do whatever is possible to support the domestic tourism industry through this tough time, so I would welcome it if the Minister were able to expand on what support they will offer.

9.30 pm

A survey conducted recently by UKinbound, whose members represent 50% of all international visitors to the UK, found that most businesses in the industry intend to make further redundancies in the coming months. Can the Minister explain how the Government will prevent this? Should these redundancies take place, the industry might never recover. The Minister may wish to wait and see until we have left the EU, but I warn that the industry may be unrecognisable by then. The result will be ruined livelihoods across the four nations of the UK.

Baroness Pinnock [V]: Noble Lords, I apologise for the technical fault that rendered my audio not working. My noble friend Lady Doocey again made a very persuasive case for giving a lift to our local tourism sector by enabling an innovative approach whereby local businesses combine to provide additional benefits to the local tourist economy. What an easy way that is to support regions that depend on tourism, such as the Lake District, Devon and Cornwall. The Minister needs to respond positively to give hope to these businesses that have gone through such a hard time.

Earl Howe: My Lords, Amendment 55 tabled by the noble Baroness, Lady Doocey, and the noble Lord, Lord Redesdale, seeks to alter the package travel regulations in a manner similar to the amendment tabled in Committee. The noble Baroness is right to identify the difficulties facing the UK tourism sector, in particular the many SMEs in the sector. It is therefore right that we do all we can to support this sector through the crisis.

On 3 June, we announced a £10 million kick-starting tourism package, which will give small businesses in tourist destinations grants of up to £5,000 to help them adapt following the pandemic. As of last week, the VAT rate applied to most tourism and hospitality-related activities has been cut from 20% to 5% for six months to help the sector get back on its feet. We have launched the "enjoy summer safely" national marketing campaign to encourage British people to enjoy UK tourism. Ministers and officials have been meeting representatives from the tourism sector regularly via the Tourism Industry Emergency Response Group. We are actively considering all the recovery ideas suggested to us by stakeholders, including schemes to promote domestic tourism.

In that spirit, I would like to follow this up by arranging a meeting with the sector representatives that the noble Baroness, Lady Doocey, has met to explore the points she has made about domestic tourism and package travel. I hope that offer is welcome. As confirmed in Committee, the Government have indicated that we will undertake a further review of the package travel recommendations. As these are EU laws, this review is better conducted when the transition period with the EU is over. I say that with some emphasis, as the EU Commission has recently commenced infraction proceedings against several member states that have amended laws in contravention of the package travel directive.

It is also important to reflect, as the noble Baroness recognised, on the balance to strike between business flexibility and consumer protection, so it is important to consult a wider range of interests. For the reasons I have given, I am not able to accept this amendment, and I hope the noble Baroness feels able to withdraw it.

Baroness Doocey [V]: I thank the Minister for his response, for offering to review the regulations and for the meeting that he suggested. It will definitely be followed up. If we wait until January 2021 in order to start reviewing the regulations, I fear that tourism will be pushed to the back of the queue behind so many other issues that the Government will need to resolve after Brexit is complete. I therefore suggest that the review should take place now in readiness for legal change as soon as possible in the new year. I hope the Minister will consider this, that we can discuss it further at the meeting he suggested and that he will engage further with me and the industry on this critical point of timing. However, at this stage I thank the Minister for the constructive way in which he has engaged with this issue, and I beg leave to withdraw the amendment.

Amendment 55 withdrawn.

The Deputy Speaker: We now come to the group beginning with Amendment 56. I remind noble Lords that Members, other than the mover and the Minister, may speak only once and that short questions of elucidation are discouraged. Anyone wishing to press this, or anything else in this group, to a Division should make that clear in debate.

Clause 16: Modification of conditions relating to construction working hours

Amendment 56

Moved by ***Baroness Pinnock***

56: Clause 16, page 24, line 23, at end insert—

"( ) The application must also include—

(a) an assessment of the impact of the modifications on the local community, and any mitigation plans that would be put in place to minimise disturbance; and

(b) an assessment of the impact of the modifications on the environment and local conservation interests, and any mitigation plans that would be put in place to minimise disturbance."

Member's explanatory statement

This amendment would require an application to include details of the impact on the local community and environment, and how these disturbances could be mitigated.

Baroness Pinnock [V]: My Lords, just to make it quite clear, we on these Benches support the moves the Government are seeking to make in the Bill to provide additional flexibilities to the construction industry. We support the proposed extension in the time given for planning applications and listed building applications with the provisos included.

However, with regard to the proposal to enable construction firms to extend their hours of work, even 24-hour working, we have a number of concerns. Amendment 56, which is tabled in my name and that of my noble friends Lord Campbell of Pittenweem and Lord Shipley, concerns establishing a fair balance between the needs of construction on the one hand and those of local residents, the wider community and the environment on the other. One of the key conditions in every planning application is restricted hours of working. It is also often the factor that worries local people. Residents often ask me in my role as a councillor about construction traffic that frequently arrives well before the regulated start time for working. They ask about noise nuisance from heavy machinery early in the morning and late at night and ask why they should have to tolerate disturbance for the sake of profit-making companies. The answer is, of course, that there is a balance to be reached between the two needs, and that is the purpose of our amendment.

It is likely that there will be pressure on planners making decisions to comply with requests from construction in order to help the local economy. Our amendment would require planners to ask the applicant for mitigation measures. They would simply ask the construction businesses to stop and consider others. The best will. Those who have little regard for the needs of others will not. The amendment would put the best and the worst construction companies on a level playing field. There is a need to respect our environment and nature's cycle of life, to limit noise and dust pollution and to consider others. That is why we are continuing to press these issues and hope that the Minister can provide some safeguards for residents and the environment. I beg to move.

Lord Lansley: My Lords, I will speak to Amendment 61 in my name. Indeed, in this group, there are nine amendments, Amendments 61, 62, 64, 68 to 70, 72, 76 and 77, which, in relation to Clauses 17, 18 and 19, all have the effect of moving the extension of planning permissions and listed building consent from three months to four months. I will not, at this late hour, repeat what I said at Second Reading and in rather more detail in Committee. All I want to say is that I very much appreciate that my noble friend the Minister took very seriously what I said in Committee.

We have had some extremely productive conversations on a practical level about what the construction industry's difficulties might be with the delays in the pipeline. In pursuance of those conversations, I tabled these amendments in the hope that the Minister will tell the House that he is able to accept them. Were he to do so in response to the debate, when the time comes, I will formally move those amendments in my name.

Lord Campbell of Pittenweem (LD) [V]: My Lords, I propose to speak only to Amendment 56, tabled by my noble friend Lady Pinnock and to which I have added my name. It is approximately seven hours since this stage of proceedings began. Throughout, I have been reminded endlessly of two lines of a poem by Robert Frost:

"But I have promises to keep,
And miles to go before I sleep."

However, noble Lords should not be apprehensive, because I hope only to make some comments in addition to those of my noble friend, to underline what I believe is the very strong case for this amendment.

At Second Reading and again in Committee, I raised the question of the impact on amenity of extending construction hours. I hope the noble Lord, Lord Greenhalgh, will forgive me if I say that I have been a little disappointed in the responses, both from him and his noble friend the Minister who has dealt with other parts of the Bill. It is worth reminding ourselves that an extension could go on until 1 April 2021, could be seven days a week and could extend to a whole day. It does not take much to realise that there is considerable potential for impact on the amenity of households, churches, hotels, hospitals and care homes.

It is helpful to ask why planning authorities imposed conditions for working hours. As my noble friend has already indicated, the purpose is to provide a balance, and part of that balance is the protection of amenity. In every instance, an authority will have been required to reach a judgment about how that balance should be constructed. It seems to me that it follows logically that any increase in hours will tilt that balance against amenity and in favour of the applicant.

The difficulty with what we are considering is that we do not know to what extent that may occur on any one of the occasions in which an extension is sought. That is why I believe it is a matter of necessity to require applicants to produce an impact study to the planning authority, together with plans for mitigation. I believe it can reasonably be argued that that is in the interests of both the planning authority and the applicant. First of all, the planning authority is working against a very tight timetable, and, so far as the applicant is

[Lord Campbell of Pittenweem]
concerned, it is obviously in their interest that as much information as possible can be provided to the planning authority. I believe therefore that an impact study is a necessity.

Indeed, I go further than that: the decision of the planning authority is an administrative one, and any administrative decision of this kind could be subject to judicial review. It would be much easier to resist any such application for judicial review if it could be demonstrated that the applicant had produced the impact assessment to which I have referred and that the planning authority had taken it into its considerations.

The Deputy Speaker: The noble Baronesses, Lady Kennedy of Cradley and Lady Neville-Rolfe, have withdrawn from the list. I call the next speaker, the noble Baroness, Lady Kramer.

9.45 pm

Baroness Kramer [V]: My Lords, I will speak very briefly to government Amendment 54 to say thank you. The Government have made the amendment that was required by the mayoral development corporations and Transport for London to be able to hold virtual decision-making meetings and meetings which the public can attend. They have done what was needed, and I and many others are grateful.

It would be helpful if the Government could confirm that the relevant clause will come into effect on Royal Assent and no later than Royal Assent. This is also a request to the Government to amend the relevant flexibility regulations—SI 2020/392—as soon as possible after Royal Assent, and then bring those regulations into effect as soon as is practical, perhaps in less than the normal 21-day period, because that will ensure that the most use can be made of the new method of working that has been approved by this amendment. Again, my thanks.

Lord Balfe [V]: This legislation, which we are almost at the end of, is caused by the Covid crisis. It is, in many ways, a panic Bill, since we are trying to write things we may or may not succeed in.

I make two points. First, please let us not throw away environmental gains which mean a lot to communities, and particularly to residents. Many of them have fought for years to get decent standards for starting and ending developments and ending working days. Secondly, please keep it temporary: make sure that the provisions that we are told will lapse will do so in due course. I support what my noble friend Lord Lansley is doing, but I hope the criticisms aimed at local authorities for their slowness, often wrongly, are also taken on board by developers, who are sitting on massive land banks and need to get on with things. They did not need this legislation; they had been able to build hundreds of thousands of houses, but have not managed it, so let us keep a sense of perspective, and not throw the proverbial baby out with the legislative bathwater.

The Deputy Speaker: The noble Earl, Lord Clancarty, has withdrawn from the list, so I call the noble Lord, Lord Shipley.

Lord Shipley [V]: My Lords, I shall speak briefly to Amendment 56. I spoke in Committee on the need to avoid any unintended consequences of extending construction hours. There will be cases where an extension is entirely justified, and we should support that. But it is reasonable to expect that an impact assessment from the applicant with a description of how any adverse impact can be mitigated is provided. Secondly, an assessment of any impact on the environment and how that can be mitigated should be produced. Thirdly, there could be an explanation of any mitigation that would be put in place to minimise disturbance, particularly where a construction site is close to houses and other local buildings. To be clear, these need not be complex requirements and they should in practice speed up the process if that process is followed effectively. That would help the planning authority.

As the noble Lord, Lord Balfe, said, we do not want to undo the good that has been achieved by the planning system. Where there have been agreed planning permissions and where restrictions have been put in place, those restrictions and conditions will have been justified and should not be undone.

Lord Kennedy of Southwark: My Lords, when I first spoke this evening, I should have mentioned that I am a vice-president of the Local Government Association, so I mention it now for the record. I will be very brief. If the amendments of the noble Lord, Lord Lansley, are successful, I will be the first to congratulate him.

In respect of meetings of mayoral development corporations, I am pleased that the Government listened to the points that I and other noble Lords made, and I thank them. I have only one question: can the Minister confirm that, when we agree the government amendments tonight, they will come into effect on Royal Assent and the required regulations will be laid quickly so that we do not have to wait for weeks and weeks before they can take effect? With that, I am happy to give way to the Minister.

Lord Greenhalgh: My Lords, I rise to speak to government Amendments 84, 88 and 89—tabled by my noble friend Lord Howe—which are grouped with Amendments 85 and 86, tabled by the noble Lord, Lord Stevenson, Amendment 56, tabled by the noble Baroness, Lady Pinnock, and the noble Lords, Lord Campbell and Lord Shipley, and Amendments 61, 62, 64, 68, 69, 70, 72, 76 and 77, tabled by my noble friend Lord Lansley.

I turn to Amendments 84, 88 and 89, government amendments tabled by my noble friend Lord Howe, and Amendments 85 and 86, tabled by the noble Lord, Lord Stevenson. The purpose of these amendments is to secure that mayoral development corporations, Transport for London, urban development corporations and parish meetings are subject to the power in Section 78 of the Coronavirus Act 2020, which enables the making of regulations to allow these bodies to meet remotely until 7 May 2021.

They correct the omission of these bodies from the Coronavirus Act, which was an accidental oversight due to the pace at which the Act was drafted. It is wholly consistent with the current policy of the

Government that bodies such as local authorities—in the broadest sense—should be able to meet remotely, carrying on their business while protecting the health and safety of members, officers and the public. The Government have received representation on this matter from, among others, the Mayor of London—particularly on behalf of the London Legacy Development Corporation—Transport for London and the National Association of Local Councils with regard to the inclusion of parish meetings.

I will answer both the noble Lord, Lord Kennedy, and the noble Baroness, Lady Kramer, by saying that the Government's intention is to make the amended regulations with urgency following Royal Assent. In fact, Amendment 89 specifically allows early commencement of Amendment 84 and, in addition, we will move at pace to ensure that the regulations are in place in a matter of days, as opposed to the typical 21 days. This is a similar pace to the laying of regulations following the passing of the Coronavirus Act.

I note Amendment 85 in the name of the noble Lord, Lord Kennedy, which would have put the change to Section 78 of the Coronavirus Act in the Bill in respect of mayoral development corporations, and Amendment 86, which seeks to include a specific reference to the highway authority for the Greater London Authority in the local authority remote meetings regulations. We support the spirit of these amendments but, in the light of the government amendments, we hope that noble Lords will not move those amendments. I hope that will also be the case for the amendments in the name of the noble Lord, Lord Stevenson.

I thank the noble Baroness, Lady Pinnock, and the noble Lords, Lord Campbell and Lord Shipley, for Amendment 56. We agree that local planning authorities should have sufficient information about the impact of extended construction hours on the community and environment to enable them to make a timely decision. We believe that the most appropriate way of ensuring that this happens is through guidance. There is likely to be a range of possible responses from the construction industry to this measure and variation in what will be requested—from an additional hour or so on some sites, so that workers can have staggered start and finish times, to longer evening extensions on others. Therefore, we need a flexible and proportionate approach that can be tailored to the circumstances.

However, we listened to noble Lords' views during Committee and we hear their concerns. We recognise the need for balance and to ensure that safeguards are in place to protect amenity, as the noble Baroness, Lady Pinnock, and the noble Lords, Lord Campbell and Lord Shipley, have asked for. We have strengthened the draft guidance so that it also lists an assessment of impacts of noise on sensitive uses nearby as something that local planning authorities may wish to encourage an applicant to provide to aid swift decision-making. This is in addition to providing a justification for extended hours and mitigations to aid swift decision-making, which were already covered in the guidance.

We have also taken the advice of the Institute of Acoustics, the Association of Noise Consultants and the Chartered Institute of Environmental Health, and gone further still to make other changes to strengthen the guidance, including that applicants provide information on the primary construction activities expected to take place during the extended hours, including the plant and equipment expected to be used. Taking into account these changes, I beg noble Lords not to press their amendment. I also assure my noble friend Lord Balfe that the legislation is temporary and we will not see any diminution to the environmental gains that have been achieved by the planning system.

I turn to the nine amendments tabled by my noble friend Lord Lansley, which relate to Clauses 17, 18 and 19, and the extension of planning permissions and listed building consents. These amendments would extend the time limit for relevant planning permissions and listed building consents to 1 May 2021, instead of 1 April as currently drafted. I note that he has tabled these amendments as a compromise given my concerns about accepting his amendments in Committee, which would have introduced an extension to 1 June 2021.

I agree with my noble friend that any extension of unimplemented planning permissions or listed building consents needs to be of sufficient length to aid the development industry, given the impact that Covid-19 has had on development. We certainly think that it will take time for many developers to commence new residential and commercial development. I thank him in particular for his insightful points during the debates on these measures, particularly on the potential impacts of the winter months on the productivity of the development industry.

I am pleased to say that the Government will accept my noble friend's nine amendments. They will provide a modest extension into the more accommodating spring months. I also recognise that this additional time would be welcomed by developers and local planning authorities, given that the development industry is experiencing a slow and cautious return to full operating capacity. We accept that this is appropriate in the circumstances.

The amendments would, in effect, give any eligible planning permissions and listed building consents nine months, or three-quarters of a year, from now to take steps to implement the permission. We will, as previously mentioned, keep the use of powers to extend certain dates in the legislation under review if the impact of the coronavirus continues.

These are modest amendments, but I agree that they will give additional certainty to developers in these exceptional times. I trust that they will be well received by your Lordships' House, as well as by the industry. On this basis, I am happy to accept my noble friend's amendments.

Baroness Pinnock [V]: I thank all noble Lords who contributed on this group of amendments. I am pleased that the Government's administrative oversight in connection to the mayoral development agency in London has been put right. I very much thank the Minister for his reply and the information that government guidance will be strengthened regarding applications to extend construction hours to protect communities and the environment. With those assurances, I beg leave to withdraw my amendment.

Amendment 56 withdrawn.

Amendment 57 not moved.

Amendment 58

Moved by ***Earl Howe***

58: Clause 16, page 26, line 46, at beginning insert "If the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus,"

Member's explanatory statement

This amendment provides that the Secretary of State's power to extend the date on which Clause 16(1) to (5) expires, and certain other dates in that Clause, can only be exercised if the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus.

Amendment 58 agreed.

Amendment 59 not moved.

Amendment 60

Moved by ***Earl Howe***

60: Clause 16, page 27, line 5, at end insert—

"(8) In subsection (7) "coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)."

Member's explanatory statement

The amendment is consequential on the Minister's amendment to page 26.

Amendment 60 agreed.

Clause 17: Extension of duration of certain planning permissions

Amendments 61 and 62

Moved by ***Lord Lansley***

61: Clause 17, page 27, line 23, leave out "April" and insert "May"

Member's explanatory statement

This amendment will extend the time limit for planning permissions to which subsection (1) applies to 1 May 2021 instead of 1 April 2021.

62: Clause 17, page 28, line 6, leave out "April" and insert "May"

Member's explanatory statement

This amendment would extend the time limit for commencement of development for those relevant planning permissions under section 93B to 1 May instead of 1 April 2021.

Amendments 61 and 62 agreed.

Amendment 63 not moved.

Amendment 64

Moved by ***Lord Lansley***

64: Clause 17, page 30, line 41, leave out "April" and insert "May"

Member's explanatory statement

This amendment provides for subsections (1) to (5) to expire at the end of 1 May 2021, rather than 1 April 2021.

Amendment 64 agreed.

10 pm

Amendment 65

Moved by ***Earl Howe***

65: Clause 17, page 30, line 42, at beginning insert "If the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus,"

Member's explanatory statement

This amendment provides that the Secretary of State's power to extend the date on which Clause 17(1) to (5) expires, and certain other dates in that Clause, can only be exercised if the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus.

Amendment 65 agreed.

Amendment 66 not moved.

Amendment 67

Moved by ***Earl Howe***

67: Clause 17, page 31, line 1, at end insert—

"(7A) In subsection (7) "coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)."

Member's explanatory statement

The amendment is consequential on the Minister's amendment to page 30.

Amendment 67 agreed.

Clause 18: Extensions in connection with outline planning permission

Amendments 68 to 70

Moved by ***Lord Lansley***

68: Clause 18, page 31, line 41, leave out "April" and insert "May"

Member's explanatory statement

This amendment provides that a relevant outline planning permission with a reserved matter application time limit as specified under subsection (1) is deemed to have that time limit extended to 1 May instead of 1 April 2021.

69: Clause 18, page 32, line 21, leave out "April" and insert "May"

Member's explanatory statement

This amendment provides for the extension of a time limit for an outline planning permission, to which subsection (1) refers, to 1 May 2021 instead of 1 April 2021.

70: Clause 18, page 33, line 3, leave out "April" and insert "May"

Member's explanatory statement

This amendment provides that where an additional environmental approval is granted, or deemed to be granted, the time limit is extended to 1 May 2021 instead of 1 April 2021.

Amendments 68 to 70 agreed.

Amendment 71 not moved.

Amendment 72

Moved by ***Lord Lansley***

72: Clause 18, page 35, line 32, leave out "April" and insert "May"

Member's explanatory statement

This amendment provides for subsections (1) to (5) to expire at the end of 1 May 2021 instead of 1 April 2021.

Amendment 72 agreed.

Amendment 73

Moved by ***Earl Howe***

73: Clause 18, page 35, line 33, at beginning insert "If the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus,"

Member's explanatory statement

This amendment provides that the Secretary of State's power to extend the date on which Clause 18(1) to (5) expires, and certain other dates in that Clause, can only be exercised if the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus.

Amendment 73 agreed.

Amendment 74 not moved.

Amendment 75

Moved by ***Earl Howe***

75: Clause 18, page 35, line 41, at end insert—

"(7A) In subsection (7) "coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)."

Member's explanatory statement

The amendment is consequential on the Minister's other amendment to page 35.

Amendment 75 agreed.

Clause 19: Extension of duration of certain listed building consent

Amendments 76 and 77

Moved by ***Lord Lansley***

76: Clause 19, page 36, line 32, leave out "April" and insert "May"

Member's explanatory statement

This amendment provides for listed building consents to which subsection (1) applies to have their time limit extended to 1 May 2021 instead of 1 April 2021.

77: Clause 19, page 36, line 42, leave out "April" and insert "May"

Member's explanatory statement

This amendment provides for subsection (1) to expire at the end of 1 May 2021 instead of 1 April 2021.

Amendments 76 and 77 agreed.

Amendment 78

Moved by ***Earl Howe***

78: Clause 19, page 36, line 43, at beginning insert "If the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus,"

Member's explanatory statement

This amendment provides that the Secretary of State's power to extend the date on which Clause 19(1) expires, and certain other dates in that Clause, can only be exercised if the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus.

Amendment 78 agreed.

Amendment 79 not moved.

Amendment 80

Moved by ***Earl Howe***

80: Clause 19, page 37, line 4, at end insert—

"(4) In subsection (3) "coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)."

Member's explanatory statement

The amendment is consequential on the Minister's amendment to page 36.

Amendment 80 agreed.

Clause 21: Mayor of London's spatial development strategy: electronic inspection

Amendment 81

Moved by ***Earl Howe***

81: Clause 21, page 38, line 5, at beginning insert "If the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus,"

Member's explanatory statement

This amendment provides that the Secretary of State's power to extend the date on which Clause 21(1) expires can only be exercised if the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus.

Amendment 81 agreed.

Amendment 82 not moved.

Amendment 83

Moved by ***Earl Howe***

83: Clause 21, page 38, line 6, at end insert—

"(4) In subsection (3) "coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)."

Member's explanatory statement

The amendment is consequential on the Minister's other amendment to page 38.

Amendment 83 agreed.

Amendment 84

Moved by ***Earl Howe***

84: After Clause 21, insert the following new Clause—

"Local authority meetings

Power to make provision relating to local authority meetings

In section 78(7) of the Coronavirus Act 2020 (meaning of local authority: England), after paragraph (r) insert—

"(s) a Mayoral development corporation established under section 198 of the Localism Act 2011;

(t) an urban development corporation established under section 135 of the Local Government, Planning and Land Act 1980;

(u) a parish meeting constituted under section 13 of the Local Government Act 1972;

(v) Transport for London.""

Member's explanatory statement

This new Clause secures that Mayoral development corporations, urban development corporations, parish meetings and Transport for London (which all have functions relating to planning) are subject to the power in section 78 of the Coronavirus Act 2020 to make regulations in relation to local authority meetings.

Amendment 84 agreed.

Amendments 85 and 86 not moved.

Clause 22: Regulations

Amendment 87

Moved by ***Earl Howe***

87: Clause 22, page 38, line 15, at end insert—

"(2A) A statutory instrument containing regulations under section 5(6) is subject to annulment in pursuance of a resolution of either House of Parliament."

Member's explanatory statement

This amendment provides for the negative resolution procedure for regulations under the power proposed by the Minister's amendment to Clause 5.

Amendment 87 agreed.

Clause 23: Extent

Amendment 88

Moved by ***Earl Howe***

88: Clause 23, page 39, line 8, leave out subsection (3) and insert—

"(3) In Part 3—

(a) sections 16 to 21 extend to England and Wales only, and

(b) section (Power to make provision relating to local authority meetings) extends to England and Wales and Northern Ireland."

Member's explanatory statement

This amendment is consequential on the Minister's new clause inserted after Clause 21.

Amendment 88 agreed.

Clause 24: Commencement

Amendment 89

Moved by ***Earl Howe***

89: Clause 24, page 39, line 20, leave out "and 21" and insert "to (Power to make provision relating to local authority meetings)"

Member's explanatory statement

This amendment secures that the Minister's new clause inserted after Clause 21 commences on Royal Assent.

Amendment 89 agreed.

Business and Planning Bill

Third Reading

10.03 pm

Motion

Moved by ***Earl Howe***

That the Bill do now pass.

Earl Howe (Con): My Lords, this Bill has passed through your Lordships' House at greater than usual speed, and all noble Lords understand the reasons for treating it with such urgency. I am grateful to all noble Lords for their constructive engagement with the Bill and for raising many important topics. I hope that your Lordships will agree that the Government have considered and responded to the concerns of noble Lords and have made suitable changes to provisions where appropriate. We have had good debates and the Bill is now in a much better form than it was when it entered your Lordships' House.

I thank the other members of the ministerial team: my noble friends Lady Penn, Lord Greenhalgh, Lady Williams and Lady Vere. I congratulate especially my noble friend Lord Greenhalgh, who made his first Second Reading speech when introducing the Bill to the House. As my noble friend said in that speech, the Bill supports businesses in four key areas of the economy. It has been a pleasure to work with this team on such a wide-ranging set of measures.

I also extend my appreciation to the Front-Bench spokesmen and spokeswomen on the Benches opposite —for the Liberal Democrats, the noble Baronesses, Lady Pinnock, Lady Doocey, Lady Northover and Lady Kramer, and the noble Lords, Lord Shipley, Lord Addington and Lord Paddick; and for the Official Opposition, the noble Lords, Lord Tunnicliffe, Lord Stevenson and Lord Kennedy, and the noble Baroness, Lady Wilcox—whose constructive and consensual approach has ensured that the Bill is fit for its intended purpose.

Once again, I extend my thanks to all noble Lords throughout the House for scrutinising the Bill with such care, and for their constructive engagement. The Bill is needed urgently, before the summer, so that its provisions can reach their full potential. I hope, therefore,

that the other place will promptly accept the amendments we have passed so that the Bill can come into force without delay. I beg to move.

Lord Kennedy of Southwark(Lab-Co-op): My Lords, I thank the noble Earl for his kind comments and join him in thinking that the House has worked very well in dealing with this important Bill. We send it back to the Commons in a much better state. Members from all around the House raised important issues; the Government considered them carefully and listened. We have passed many good amendments over the last few days. I am very grateful to the noble Earl and all his ministerial team for their work.

Standing Order 46 having been dispensed with, the Bill was read a third time and passed and returned to the Commons with amendments.

House adjourned at 10.05 pm.