

Vol. 804
No. 96



Friday
24 July 2020

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

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

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House of Lords

Friday 24 July 2020

The House met in a Hybrid Sitting.

11 am

Prayers—read by the Lord Bishop of Chichester.

Arrangement of Business

Announcement

11.07 am

The Deputy Speaker (Lord Lexden) (Con): My Lords, the Hybrid Sitting of the House will now begin. 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. The usual rules and courtesies of debate apply. We come first to two Motions in the name of Lord Bethell. The time limit is one and a half hours.

Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020

Motion to Approve

11.08 am

Moved by Lord Bethell

That the Regulations laid before the House on 3 July be approved.

Relevant document: 22nd Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, I beg to move that these regulations on the Order Paper, in the name of my right honourable friend the Secretary of State for Health and Social Care, be approved. I will start with a short summary of the social distance regulations, because there are numerous regulations, some amendments and some overlapping timelines, which it is helpful to clarify.

The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020—the major lockdown regulations—were introduced, as noble Lords will remember, on 26 March. These regulations outlined restrictions on gatherings and required a number of businesses to close. The regulations have been amended four times to facilitate easements as we opened up the economy and to allow for technical clarifications.

The regulations made by the Secretary of State on 3 July, which came into force on 4 July and which we are debating today, were a significant set of updates. Rather than amending the 26 March regulations again, we have revoked them, replacing them with the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020. Today we are debating the amendments to those 4 July regulations as well. These amendments were made on 9 July and came into effect on 11 and 13 July. These amendments allowed for businesses such as nail bars, spas, tattoo parlours and outdoor swimming pools to reopen. I will give more detail later on additional changes taking place today.

Since then, there have been further changes. The regulations being debated today do not cover the recent announcements of making face coverings in shops, supermarkets, cafes and enclosed shopping centres mandatory from today, 24 July. On this matter, I pay tribute to the campaigning on this issue by the House and in particular by the noble Lord, Lord Campbell-Savours, who I know will speak later today.

The Government have scheduled this debate as quickly as possible following committee scrutiny to allow for timely parliamentary scrutiny. I know that noble Lords have voiced concerns in relation to parliamentary scrutiny, and we are listening and working to ensure that debates take place as soon as possible after legislation has been laid. We have needed to use the emergency power to amend these regulations, as they place great restrictions on individuals, society and business. For these same reasons, we have looked to ease restrictions as soon as it is safe to do so. I also acknowledge that noble Lords may have concerns in relation to the possibility of many debates having to take place on return from the Summer Recess. As I have mentioned, we are working to have debates as soon as reasonably possible and, if we need to have further debates on returning, that is what we shall do.

Thanks to an immense national effort to slow the spread of the virus, we have been able to restore some of the freedoms cherished by us all. Sectors to reopen include hospitality and leisure, and more contact between families and friends has been allowed. As my right honourable friend the Health Secretary set out in a Statement in the other place on 16 July, we are moving from blanket, national measures to targeted, local measures, supported by our NHS Test and Trace system. Often this is on a very small scale, such as in an individual farm or a factory. To allow this shift from national to local action, we have provided local authorities with new powers to enable them to put in place local restrictions on individual premises, organised events and access to public outdoor spaces through the regulations that came into effect on Saturday. This includes the ability to require premises, events or public spaces to close if necessary.

However, when needed, we also act on a broader basis, as we have in Leicester. Draft regulations have been published which set out a non-exhaustive set of options, illustrating the ways government might legislate under the Public Health (Control of Disease) Act 1984 as part of a targeted approach that responds to the particular circumstances of a local outbreak in England. These powers include: closing businesses and venues in whole sectors, such as food production or non-essential retail, or within a defined geographical area, such as towns or counties; imposing general restrictions on the movement of people; imposing restrictions on gatherings; restricting local or national transport systems—closing them entirely, or introducing capacity limits or geographical restrictions; and mandating the use of face coverings in a wider range of public places.

As our response to Covid-19 and circumstances in local areas evolves, we may develop new categories of intervention and would develop draft regulations accordingly. The measures in the draft regulations will allow for effective, targeted interventions, while seeking to avoid a return to a national lockdown. In the event

[LORD BETHELL]

that the Government need to make a significant intervention, they would do so in a way that targets the transmission of the virus while minimising the disruption to individuals, society and the economy.

In Leicester, we have moved towards a position where we can relax some, but not all, of the restrictions that were in place. We are removing them in order to enable the reopening of non-essential retail, childcare and education establishments from today, 24 July. It is vital that this is done in a way that makes local businesses Covid-secure. We will continue to review the measures regularly, with the next review taking place on 30 July.

I turn now to the regulations that we are debating today. From 4 July, many businesses across different sectors have been allowed to reopen, including hospitality, leisure, tourism, recreation and sport. We have also relaxed the legal restrictions on overnight stays and on gatherings. The regulations still require some businesses which were considered too high-risk at the time to remain closed. They also provide new powers to close public open spaces where it is considered necessary to do so to prevent, protect against, control or provide for a public health response to any incidence or spread of the coronavirus. The amendments to the regulations will allow outdoor facilities at water parks and outdoor swimming pools to reopen. Guidance has been published for these sectors, outlining how they can reopen safely.

Along with the changes to the regulations, guidance has also been issued on how organised, outdoor, grass-roots team sports and participation events can begin again and how outdoor performances with audiences can take place. This is an important milestone for our performing artists, who have been waiting patiently in the wings since March. The regulations and subsequent amendments do not apply to the city of Leicester and the borough of Oadby and Wigston.

Noble Lords will be aware that we have announced plans for future changes to the restrictions, and the legislation for these changes was laid on 23 July. These are important and valuable changes. As a nation, we have made huge strides in getting the virus under control. I am grateful to parliamentarians for their valuable scrutiny and I commend the regulations to the House.

11.16 am

Lord Reid of Cardowan (Lab) [V]: My Lords, I have one minute in which to make one simple point. These are very detailed regulations, but whatever the level of detail, they will not have the intended effect unless the Government's communication and messaging is clear, concise, unambiguous and constant. Sadly, I am afraid that until now, on lockdown, testing, quarantine, technology, face masks and many other things, Ministers have often appeared to equivocate, dither or delay, and that only confuses the public with mixed messages. I ask the Minister simply that we should please avoid doing that this time. Can we ensure that there is consistency and clarity in messaging, otherwise the effect of these detailed regulations will be lost?

11.17 am

Baroness Jolly (LD) [V]: My Lords, these regulations go some way towards easing the coronavirus restrictions and I am grateful to the Minister for the clarifications.

Many people will now be glad of the opportunity to eat out, but I know that some owners feel that the time is not yet right to open, and some diners may be happier staying at home. The regulations include a new power for the Health Secretary to restrict access to a specified public outdoor space. That could include public gardens, open country and access land. Can the Minister confirm whether it could include beaches? How will a repeat of the Bournemouth mass occupation be avoided? Can the Minister also tell the House how the testing of wastewater is being used to identify outbreaks across the country?

We are debating these measures retrospectively as the restrictions were imposed before we could have our debate. We are in strange times, but we do live in a parliamentary democracy, and that should not mean that we have to accept a loss of parliamentary oversight.

11.19 am

Baroness Bull (CB): My Lords, I should like to highlight the implications of these regulations for people with disabilities or impaired decision-making capacity and for those who support them. Once again, new regulations have come into effect that offer no clarity on how they should be applied when someone lacks the capacity to understand that they are in contravention of the law, or on the responsibilities of a person using these powers in regard to those with impaired decision-making capacity. The Oxford University Disability, Law and Policy Project at the Bonavero Institute of Human Rights recently reported on the impact of coronavirus-related law, policy and practice on people with disabilities. It found a failure on the part of the Government to implement properly their legal duties with respect to these people's rights.

Last week, charities called on the Prime Minister to prioritise the national disability strategy and factor the needs of disabled people into every change in regulations going forward. Can the Minister confirm that the Government will respond positively to this plea? If they act now, there may still be time to mitigate the immediate impacts of this crisis and its long-term consequences for people living with disabilities.

11.20 am

Lord Blencathra (Con) [V]: My Lords, I wish to comment on the enforcement provisions set out in SI No. 684. Regulations 7 to 10 set out all the offences and penalties, and these are to be welcomed. However, I ask: will they ever be enforced? We have seen illegal demonstrations and raves with people blatantly breaking the law, Asian sweatshop owners in Leicester not just breaking Covid-19 laws, but those on the minimum wage, health and safety and human slavery. The police are saying that these abuses are too big to stop. The message we are getting from the police is: "Don't commit a small crime because we'll pursue you, but make it big enough and we'll be scared to act."

When we see people getting away with it and there is no enforcement, more and more people will break other laws as well, and that will destroy society. I therefore urge my noble friend the Minister to tell the police to stop wasting time chasing after people alleged to have insulted a transsexual on Twitter and to get out there and enforce the law of the land, as they are paid to do.

11.21 am

Lord Hain (Lab) [V]: My Lords, I thank the Minister for his hard work, but I ask him: why are pubs opening while schools remain shut? Why, after children in Wales returned safely to school a month ago, can the Government not even guarantee that that will happen in England in September? Why are theatres and concert halls unable to open when passengers can spend hours crammed together on flights? Why can you take an overnight ferry to Spain, but not a cruise around the UK? Why is England's test and trace system contacting far fewer than 80% of the close contacts of infected people—in Luton just 47% and in locked-down Leicester under 65%? Why does Germany, a similar north European country with an even larger population, have so many fewer deaths and infections than the UK, which has one of the worst records in the world?

11.22 am

Baroness Walmsley (LD) [V]: My Lords, plenty of virus is still in circulation. At the Science and Technology Select Committee this week, witnesses emphasised that we have two months to prepare for winter, when we are likely to have a second wave alongside flu and other seasonal respiratory ailments. They recommended that, in preparation for winter pressure on the NHS and the Test and Trace programme, we must suppress the amount of virus circulating by September. The committee has written to the Prime Minister about this. How will the easing of restrictions in these regulations achieve that? Will government ensure that the planned walk-in test centres will be located in the vicinity of all these newly opened venues and every airport?

I am also concerned about the criminalisation of peaceful protest. I would like to see peaceful protest exempted and protesters given access to a pop-up test centre.

11.23 am

Lord Holmes of Richmond (Non-Aff) [V]: My Lords, I thank my noble friend the Minister for the way in which he introduced these regulations, not least for his commitment that we will have more real-time consideration of legislation. We need to put an end to this regulation retrospection.

Has he seen the global research that came out this week, strongly suggesting that—tragically—lockdown has had no positive impact on mortality rates? To this extent, we need to be smarter going forward. It seems that there is no purpose in even considering another major lockdown in future. We need different ways to deal with this crisis. Obesity seems a significant piece of this jigsaw. What more will the Government do to tackle obesity?

Finally, I associate myself wholeheartedly and full-throatedly with the comments of the noble Baroness, Lady Bull. Disabled people have suffered at the extreme jaw in this Covid crisis. Imagine a blind person locked down in a flat, not even able to look out of the window for something to do. I ask my noble friend to go back to the department, consider all policies concerning Covid and ensure that they do not fall disproportionately on disabled people. Can he push to ensure that we have a national disability strategy across all government policy?

11.24 am

Baroness Anelay of St Johns (Con) [V]: My Lords, I welcome the regulations and have one question for my noble friend the Minister about process. When the “made affirmative” procedure was introduced, it was expected to be used very rarely, but the exigencies of responding to Covid-19 have caused a torrent of such SIs across many government departments. That has caused confusion on two levels: people often believe that, when the changes are announced, they take effect immediately; and they are not sure whether they are guidance or a legal requirement carrying a penalty for non-compliance. It is confusing. The Government need to adopt clear and consistent messaging.

The regulations require that there is a review every four weeks, with Parliament informed of any changes by Written or Oral Statement. That time limit runs out during the parliamentary Recess. How will the Government keep Parliament informed in our Recess?

11.25 am

Baroness Andrews (Lab) [V]: My Lords, these regulations expose both the way the management of the pandemic is being improvised day in, day out and the failure to provide Parliament with proper time to scrutinise. Inconvenience is hardly an excuse.

We are also debating them in the knowledge that, such is the loss of trust in this Government's ability to plan safely, people are deciding for themselves not to take risks. Our streets are still silent, shops and restaurants are still empty and people do not feel safe returning to work. The wider and fundamental failure behind these regulations was, amazingly, not including the economic fallout in the risk scenario planning.

Finally, these regulations are being introduced without certainty as to how social behaviour has already been affected by the relaxation of controls to date or whether risk is increasing. Indeed, where is the R number in all this? What will the Government be guided by in their decisions on review? At what point does the science kick in again? What would count as success on 31 July? I look forward to the Minister's responses.

11.27 am

Baroness Randerson (LD) [V]: My Lords, others have talked about the chaotic decision-making by government that has made delays inevitable in bringing this legislation to the House—or maybe the Government think they are being clever in trying to marginalise Parliament. Whatever the cause, it has led to contradictory government messaging, confused the public and made the police's job very difficult. I raise a specific point that flows from this. Some 35% of fixed penalty notices issued as a result of these regulations have apparently been served on the black community, who form only 3.5% of the population. Can the Minister explain this?

Buried in here are powers to ban public gatherings of over 30 on health grounds. Can the Minister explain why gatherings of, say, 35 people indoors for elite sports coaching carry less risk than 35 people gathering outdoors in, say, Parliament Square?

11.28 am

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, like many other Peers, I am furious about the way the Government seem to be ruling by diktat; it is not democratic. To describe what we have today—a minute per Peer—as debate is absolutely ludicrous. Can the Government please get back on some sort of democratic footing?

I have some very specific questions for the Minister and would like some answers. What do the Government believe the current law is on people protesting? In what circumstances are protests allowed or not allowed? Is socially distanced protest allowed? What advice are the Government giving to police and local authorities on dealing with protests? These are all incredibly important questions. People are understandably confused. There does not seem to be any information or answers on GOV.UK. Can the Minister please undertake to put specific advice on the right to protest on that website?

11.29 am

Lord Moynihan (Con) [V]: My Lords, I declare my interests as set out in the register. I welcome the exemptions made for elite sportspersons in Regulation 5 and have a number of questions in this regard. First, these regulations apply to England. Is it the case that, for example, a Scotland-based athlete who is a member of or recognised candidate for the British team looking to compete in the Tokyo 2021 Olympics might not receive the same legal treatment regarding their ability to train with their team in Scotland, but would be permitted so to do in England? It is a British and Northern Ireland team for the Olympic Games, yet these regulations apply only to England.

There is also mention in the regulations of Scottish and Welsh teams competing in the Birmingham Commonwealth Games. Do these regulations apply to those resident in Wales, Scotland and the other countries mentioned, since they are named in the regulations? No doubt this has been taken into account through bilateral negotiations with the devolved Assemblies, but it would help all concerned if the Minister could clarify how matters stand on this for British athletes normally resident outside England.

11.30 am

Lord Hunt of Kings Heath (Lab) [V]: My Lords, I know we are working under difficult circumstances, but to have one minute to debate these important regulations does not do them justice. We need more time to consider these regulations in a more timely fashion. Even now, further regulations have been made: SI 750, made on 17 July, enables local authorities to restrict access to close premises events; and SI 754, made on 20 July, amends the Leicester lockdown arrangements, which we have not even debated yet. We still have not debated two regulations on the restrictions on people travelling to this country, SI 567 and SI 568. As the Minister said, new regulations on lockdown generally were laid on 23 July. Last month, the Secondary Legislation Scrutiny Committee pleaded with the Government to ensure that legislation more closely follows any announcement. We really must do better.

11.31 am

Lord Willis of Knaresborough (LD): My Lords, I understand the difficulty the Minister has in dealing with these regulations and have great sympathy for him, but I hope the Government note what has been said about having a better way of scrutinising them. The current system is clearly not fit for purpose and we need something different for September.

However, my key frustration is the almost total lack of published evidence to support any of the regulations at all. Those on 17 and 20 July still have no published evidence. Those coming out today, on face masks, and particularly those on visitors to care homes, have no evidence whatever. I ask the Minister to commit to publishing evidence for ministerial announcements alongside those announcements. This is clearly possible; he does not need to come here to do it. That gives confidence to the public and to those who want to adhere to the regulations.

11.32 am

Lord Singh of Wimbledon (CB) [V]: My Lords, while the regulations are generally welcome, greater attention should have been given to the importance of soft play areas for children. The present ban could be adjusted, with imaginative controls, to allow young children healthy and enjoyable exercise, and mothers and carers a little respite from the ceaseless demands of energetic children.

The real difficulty with implementing demands on freedom of movement and mixing is wider public acceptance. Does the Minister agree that faith communities can do much to remind their members to put the need for social action and concern for the safety of others—taught by all our faiths—to the fore, in these unprecedented times?

11.33 am

Baroness Uddin (Non-Afl): My Lords, in my precious minute, I express my gratitude, mindful of the difficult journey we have collectively experienced, responding in our own ways to the harm caused financially and to our personal well-being. As a community health advocate of 40 years, I ask the Government to produce immediately a lucid and unambiguous public health campaign, translated and bilingual where appropriate, targeting communities detrimentally impacted by this crisis, about, first, the use of masks and their benefits; and secondly, the critical matter of social distancing and its benefit.

Finally, as I have said before in this Chamber, I see no justification, benefit or public good for penalties that can exceed £3,000 for non-compliance. Will the Government concede these charges, for the sake of building trust and confidence while our country is recovering from this dramatic pandemic? I agree with the noble Baroness, Lady Bull, and the noble Lord, Lord Holmes. When will a national strategy on disability, as well as on race equality, be published by the Government?

11.35 am

Lord Robathan (Con) [V]: My Lords, I will not divide the House, but I oppose these regulations. My noble friend said that it would be helpful to clarify

the situation, but I regret that there is very little clarity. Having argued against the lockdown in March, I now see confusion. The most egregious example is face masks. We were told that they were ineffective, possibly dangerous. Now they are mandatory. We were told to go back to work, but it is too dangerous to go back without a face mask. Surely this is contradictory.

The truth is that nobody knows much about this virus still, but we do know that 45,000 deaths have been attributed to it. Possibly that number is too low, possibly too high. Nobody really knows. We do know that, on average, around 11,000 people die normally—if I may put it that way—each week. We have had four weeks of normal deaths attributed to coronavirus, every one a tragedy, in four months. They have mostly been elderly and frail, or with underlying health conditions. Those with risks such as these should shield themselves and take care. Perhaps we should all wear masks in public places, but lift all other restrictions, especially on the young—by which I mean the under-40s or under-50s—to get the country back to work, to education and to normality.

11.36 am

Lord Clark of Windermere (Lab) [V]: My Lords, under official definitions, taxis are defined as public service vehicles. They are probably among the most dangerous of our public service vehicles, being small and enclosed, yet the Government have seen fit not to require the wearing of face masks in taxis. That is a very dangerous move. It is dangerous specifically to taxi drivers, some of whom have died following the government regulations. Many of our citizens have no alternative but to use taxis. Will the Government protect them by insisting on the wearing of face masks in taxis, as for other public service vehicles?

11.37 am

Baroness Tyler of Enfield (LD) [V]: My Lords, I find it deeply troubling that, yet again, we are debating regulations that came into effect weeks before they received scrutiny in either Chamber. They have often been repealed or overtaken already. It makes a mockery of the parliamentary process and gives the unfortunate impression that Ministers are actively trying to avoid in-depth scrutiny. At the start of this pandemic, it was easy to understand why it was not possible to debate these regulations straightaway, but that is no longer the case. It follows a disturbing pattern of regulations and guidance coming far too late, with too little scrutiny. I cite the guidance that came out yesterday on face coverings, 12 hours before it came into effect, and to care home visiting, which caused such distress because it was so late. Like the noble Baroness, Lady Anelay, I want to know when and how this Chamber will be informed of the next review of these regulations. It is due on 30 July, when we will be in recess.

11.38 am

Baroness Kennedy of Cradley (Non-Affl) [V]: My Lords, I thank the noble Lord, Lord Bethell, for his explanation of these regulations. I will ask a few questions in the short time I have. Has the regime of fines already put in place by the Government been effective? How many fines have been issued to date?

What amount has been collected and where does the money go? Does the Minister think it fair to fine an individual £100 for not wearing a face mask when the Government's advice on this issue has been so confusing? Finally, what is the Government's advice for shop workers, who are confused and worried about their role in enforcing these fines?

11.39 am

Baroness McIntosh of Pickering (Con) [V]: My Lords, the original regulations, which we are amending today, had a dramatic effect on the reduction of excess deaths within a three-week period, so have worked extremely well. That is a matter of note and congratulations.

I ask my noble friend to consider a campaign on two issues—the two Gs, as I call them. It was abundantly clear from the passage of emergency legislation, the Business and Planning Bill, that guidance for those to which it must apply, such as the hospitality and tourism sector, must be clear from the earliest possible time. Secondly, have the Government formed a view on the use of gloves? We are all following the guidance on washing our hands, but surely the correct use of gloves outdoors and indoors could prevent the virus being passed on.

11.40 am

Lord Oates (LD): My Lords, I have four questions for the Minister.

First, why were face coverings not mandated at the same time as the relaxation of these rules or the earlier decision to allow non-essential retail to open? Indeed, why were they not mandated from the outset when the medical advice from south-east Asia, which had the most experience of the pandemic, was that they were a key element in tackling the coronavirus?

Secondly, on 14 July, when the Secretary of State announced that they would become compulsory, he told the House of Commons:

“The death rate of sales and retail assistants is 75% higher among men and 60% higher among women than in the general population.”—[*Official Report*, Commons, 14/7/20; col. 1395.]

Was he aware of those statistics when these regulations, and those allowing shops to open, were being considered? If not, what assessment was made of the risks to staff?

Thirdly, in the light of these shocking figures, can the Minister explain why it has taken 10 days for the mask mandate to come into effect? Finally, what assessment has been made of the number of deaths that could have been avoided if face coverings had been compulsory from the start of lockdown?

11.41 am

Lord Harris of Haringey (Lab): My Lords, for us to move safely from lockdown, there must be effective testing, tracking and tracing. We are told today that the Government are abandoning self-testing administered by those who cannot attend a test centre. Such tests require the subject to insert a swab up the nose and into the back of the throat, obtain a suitable sample and return it by post for analysis. In an earlier debate, I pointed out that this requires a degree of precision and dexterity that not all of us will have, and means overcoming the natural reaction of the body if something is inserted up the nose or put to the back of the throat.

[LORD HARRIS OF HARINGEY]

I submitted a topical Question on 14 May on this. It should have been answered a week later; it has still not been answered 10 weeks on. So I ask the Minister again, what proportion of the tests sent out were returned within three days and were returned but unusable, and what is the Government's estimate of the proportion of false negatives? Will the Minister agree that self-testing, like the track and trace app, is another expensive but predictable failure?

11.42 am

The Earl of Clancarty (CB) [V]: My Lords, I will make two points. The first is that, for the first time, I feel uncomfortable that these policy decisions are made by the UK Government, rather than being decided within the framework of an English Parliament by England. The latest data show that England appears to be diverging significantly from the devolved nations in terms of deaths and new cases.

Secondly, these are essentially business regulations and, while people want to get back to work, while Covid is still prevalent this will not be possible for all, because of the direct effect that health measures which still need to be applied will have on the financial viability of some sectors. These include the performing arts, which will not come properly out of lockdown until next year at the very earliest and will be caught in a cleft stick between Covid on the one hand and the assumption by the Government that there will be a functioning economy on the other. Most workers in the performing arts are freelancers. It is vital that the self-employed scheme is extended to the end of the year.

11.44 am

Baroness Sheehan (LD) [V]: My Lords, just this morning the Lords Science and Technology Committee published an open letter to the Prime Minister reflecting sobering evidence from lauded health and science professionals. Clearly, we must get ahead of the virus before a resurgence of Covid-19 and winter flu overwhelm a health service already on its knees. We have heard that symptomatic testing and its follow-through is inadequate. Granular data is still not reaching local authorities and no targeted regime for asymptomatic testing is in place. We have heard that it is essential that infection rates come down, but the latest ONS data tells us that the numbers testing positive in England have stopped coming down, and those figures do not include the impact of loosening lockdown from 4 July. Essentially, winter is coming and we are not ready. Trust in our leaders is fading fast.

This is no way to deal with a fast-moving killer pandemic. A minute's speaking time—let alone a review of these regulations due the day after Parliament rises—makes a mockery of parliamentary scrutiny and the gravity of the situation.

11.45 am

Lord Wei (Con) [V]: My Lords, I declare my interests and pay tribute to my noble friend Lord Bethell. It is not easy being a Minister in this situation, and he has been weathering it with great gravitas and perseverance.

I have just one question. Rather than arguing about masks, which are an important component in fighting this virus, what are the Government doing to fund and accelerate with industries—the beauty industry, for example—technologies and equipment that could make each space safer for the public? We will need this equipment over the winter and in future pandemics. Why do we not invest a little bit of money that might otherwise be going into bridges to help industries create screens, for example, perhaps with gloves through them? There are all kinds of ways in which, industry by industry, we can find bottom-up solutions rather than just blanket measures. We are moving away from national lockdown policy; how can we get more granular and work with industries to make the public and workers safe?

11.46 am

Baroness Ritchie of Downpatrick (Non-Aff) [V]: My Lords, I thank the Minister for his explanation of the statutory instruments—although we are approving some of them retrospectively.

I will ask the Minister one question. With the easing of restrictions, anxiety is emerging among people wanting to know about progress in relation to the development of a vaccine. Can the Minister provide us with an update on the development of a vaccine and an indication of the method of distribution? Will it be England first and then the devolved regions, and which groups will be considered eligible for vaccination?

11.47 am

Lord Campbell-Savours (Lab) [V]: My Lords, I thank Ministers for the progress to date on masks, which are tangential to these regs. Last week, I gave notice of an Oral Question on masks. Unfortunately, another Minister was unable to respond, so I ask again: can the Minister rule out N95s and other valved masks, apart from in clinical settings, since they protect only the wearer and not the aerosol-contaminated recipient. Also, why limit masks to transport and service premises, when risks exist in all covered communal areas?

Secondly, when China found that standard masks did not fully protect medical staff from infection, it started to use positive pressure systems that in combination provide a much higher level of protection for those medics on the front line. I understand that Imperial College is well versed in the use of positive pressure systems. Will the Government ask the appropriate questions and pursue these issues?

11.48 am

Lord Purvis of Tweed (LD): My Lords, since the first coronavirus SI was laid on 27 January, the Government have laid a total of 510 SIs covering all subjects; 154 of them have been coronavirus related. So if coronavirus-related SIs account for less than a third of all SIs, it is simply not true that there was no time to debate them earlier. Three-quarters of those SIs have breached the 21-day rule to allow for proper parliamentary scrutiny, and 12 came into effect even before they were laid before Parliament, including one this week.

Regulation 3 says that we are still in an emergency period. I will ask the Minister a clear question. If this is not extended next Friday, which under the regulation the Government must decide whether or not to do, how will we approve these SIs during our Recess? Also, if our national emergency for these powers is to be extended next Friday, why on earth are we going on a summer break the day before?

11.49 am

Lord Truscott (Ind Lab) [V]: My Lords, when history judges Her Majesty's Government's response to this pandemic, I am sure that they will be roundly condemned for their slowness to realise the gravity of the situation. At times, the expert advice to government has been very poor. Does the Minister accept that there is growing evidence that Public Health England, which has seen a 40% cut in its budget since 2013, has been unequal to the task asked of it? In particular, the PHE tracing system put in place last February was abandoned because there were not the resources to scale it up. The failure to involve more than 130 local directors of public health and their 5,000 expert staff in contact tracing was critical. Finally, will the Minister ensure that the promised inquiry into the failures in dealing with the pandemic is not only independent but public?

11.50 am

Baroness Gardner of Parkes (Con) [V]: My Lords, I note that if we do not approve these regulations today, they will cease to apply, and I would not want that to happen. I welcome them and would like to register the thanks of the dentists, who have now been allowed to work again, to the pharmacists, who have done such a good job during the pandemic. Another bit of good news is that relating to outdoor pools, as many people have approached me on that subject. I hope that this review will prove to be a basis on which we can build. Things have worked very well but it has not been easy for people to follow exactly what they have been meant to do. I strongly support these regulations.

11.51 am

Baroness Barker (LD) [V]: My Lords, had these regulations been provided in April with proper consultation, they might have been credible, but today, with our "world-beating" track and trace system, which fails to notify 20% of contacts of people who have tested positive, and with Public Health England releasing data to local authorities only once a week and without patient identification, they are highly questionable. When will local authorities be given real-time data and the powers that they really need—for example, to instruct the opening of facilities such as toilets? When will the Government release the scientific basis for treating different businesses in inconsistent ways? Will they monitor the differential impact of these regulations on black and minority communities, and will they act swiftly to end such discrimination?

11.52 am

Lord Loomba (CB) [V]: My Lords, it is to be welcomed that more businesses are opening, but more practical and financial help is needed for businesses to open at present or by the end of the furlough scheme. With the

public now able to board planes and go into pubs and restaurants, what specific help is being given to places such as theatres and concert venues, where productions are often not viable without over 65% of ticket sales being achieved—something that is not compatible with current social distancing rules?

11.53 am

Lord Foulkes of Cumnock (Lab Co-op) [V]: My Lords, sadly, we have all experienced the Government's inconsistent and confusing guidance throughout the whole pandemic. The continuous flip-flopping on whether, where and when we should wear masks has led to confusion and has hampered public confidence in returning to using public transport and going back to shops, restaurants and pubs. With a second wave possible, we urgently need the infrastructure and tools in place to ensure that our health service and our neglected care system are not in danger of becoming overwhelmed during the winter period.

Finally, we must also see an end to this confusing and ambiguous messaging coming out of central government, with Ministers regularly contradicting each other in one day. We must also see an end to the petty politicking between the Prime Minister and the First Minister of Scotland.

11.54 am

Baroness Northover (LD) [V]: My Lords, if we agree these SIs, one of my sons will be in the Olympic pool with his team at 5.45 am tomorrow. He is delighted.

I want to pick up on Regulation 5(6)(b) on places being smoke-free. We have debated temporary measures for the hospitality sector to use outside areas. Some 86% of people do not smoke and 1 million more have given up during the lockdown. If we are to encourage people back, we need to make it safe and pleasant. Where the outside is now being used as the new inside, whether for nurseries or anything else, it should be smoke-free. Individuals and gatherings must be protected. How is the Minister's department liaising with other parts of government so that their public health experience is effectively brought to bear on this? It was not for the Business and Planning Bill.

11.55 am

Baroness Altmann (Con) [V]: My Lords, I echo other noble Lords: these regulations seem to make a mockery of parliamentary scrutiny. I also express my deep concern at the level of micromanagement of people's everyday lives that they have represented. Can my noble friend comment on the implications for our western liberal democracies of constant government diktats about whom people can see, which family members they can hug and how they must live?

Does a plastic visor that covers the nose, mouth and eyes, while allowing the person's face to be seen, fulfil the requirements of these regulations? Finally, will my noble friend ensure that the needs of young adults with disabilities, including autism, who live in care settings but are not especially vulnerable to Covid, are fully considered?

11.56 am

Baroness Benjamin (LD) [V]: My Lords, it is widely acknowledged that black, Asian and ethnically diverse people have been hardest hit by the Covid-19 pandemic. They have experienced higher levels of depression and anxiety throughout the crisis. They have had greater mortality and infection rates than other groups, as well as fears about catching Covid-19. They are also more worried about unemployment and access to food, and they suffer more financial stress than other groups. We know that Bangladeshis are twice as likely to be affected. Many live in the most deprived areas, with high levels of poverty and cramped conditions with no gardens, and they face immense difficulties in home-schooling their children, which has a detrimental impact on those children's futures. Recommendation 7 in the *Beyond the Data* report states:

“Ensure that COVID-19 recovery strategies actively reduce inequalities caused by the wider determinants of health to create long term sustainable change.”

What are the Government's plans to get these regulations' messages out to this group of vulnerable people to protect and reassure them?

11.57 am

Lord Liddle (Lab) [V]: My Lords, here we go again: statutory instruments being debated after they have come into effect. This is not parliamentary scrutiny; it is government diktat. The Minister will argue that this is necessary in an emergency, and of course I accept an element of that, but it is part of a more general trend. The legislation going through the House on agriculture and immigration gives Ministers wide powers to set policy in the future by statutory instrument. I know that this is common practice in some southern European democracies but I thought that the whole point of Brexit was supposed to be to reassert parliamentary sovereignty, not to concentrate executive power in the hands of civil servants and hard-pressed Ministers. The British Parliament is becoming a helpless adult in old age by comparison with the growing authority of the European Parliament. We can force change. If we refuse consent to these SIs, the Government will have to agree to a more effective system of pre-implementation scrutiny with the power of amendment.

11.59 am

Lord Cormack (Con): My Lords, if we were in a proper Chamber, as we should be, I would be shouting “Hear, hear!” as the noble Lord, Lord Liddle, sat down. A series of one-minute statements is not parliamentary scrutiny, and we have to hammer that home through my diligent noble friend, for whom I have great admiration. He must tell his political masters that this is not acceptable. Retrospective endorsement of government fiat is inimical to parliamentary democracy, and of course it adds to the muddle, to which many of your Lordships have referred during this debate.

I end with one specific question about the muddle over masks. This morning there was much on the radio about those who are exempt from wearing them. Can we not have a system where they have to carry a card or wear a badge so that shopkeepers are not embarrassed and nor are they?

Noon

Lord Rennard (LD) [V]: My Lords, these regulations may be a sensible consolidation of previous ones, but we cannot pretend that this kind of debate subjects them to proper scrutiny. I hope that detailed questions such as those put by my friend Lord Oates will be properly answered. The process of approving new regulations that are already in place, in order to replace ones that expired before they were approved, does not inspire confidence.

So can the Minister assure us that, in the absence of Parliament meeting over the next month, the Government will make public where any of their policies on tackling the pandemic may diverge from medical advice, and for what reason? Will he agree that, in the event of the UK Covid alert level going back from 3 to 4 over the Recess, there should be a recall of Parliament, albeit virtually?

12.01 pm

Lord Alton of Liverpool (CB) [V]: My Lords, the Minister referred to the situation in Leicester. There is concern here in the north-west about the situation in Blackburn. I hope he will refer in his reply to local restrictions.

I want to underline the concerns raised about scrutiny. Under the cover of Covid, we are in increasingly grave danger of legitimising these kinds of proceedings and putting a thin veneer of respectability on the actions of the Government. The Minister's department should carefully study this week's critical report by the Delegated Powers Committee on its approach to the new Medicines and Medical Devices Bill. By now he must surely be aware that parliamentarians are outraged by the failure to answer Parliamentary Questions, sometimes for months on end, as referred to by the noble Lord, Lord Harris.

These regulations, which significantly eased the lockdown from 4 July, have already been in effect for three weeks prior to this debate, so this is retrospective, simply going through the motions, with one-minute speeches that are inadequate to explore the implications for dissent and protest. The Commons has not even had that opportunity and has now risen for the Recess. This simply will not do.

12.02 pm

Lord Balfe (Con) [V]: My Lords, I endorse everything that the noble Lord, Lord Alton, has said and the spirit of what the noble Lord, Lord Liddle, said. We really have got to get back to a system of proper parliamentary scrutiny because we are deteriorating into farce. The regulations as put forward confuse people even more. What is needed is a clear statement now that brings everything together as to what is and is not allowed.

We also need to know how the regulations are to be enforced. USDAW, the shopworkers' union, has grave reservations about the safety of its workers if they are asked to enforce them. If they are not, how are the regulations going to be enforced? How are they going to be enforced on the railways?

My final point is that the NHS is still effectively closed down. It is the last bit of Britain that has not been opened up. Waiting lists are growing and people are suffering. We are killing people because of Covid. Can the Minister get the sclerotic NHS back into action?

12.03 pm

Lord Snape (Lab) [V]: My Lords, I will confine my few words to a plea on behalf of local authorities throughout England for information gleaned under the Government's much-vaunted test and trace programme to be properly shared with those authorities. In the borough of Sandwell in the West Midlands, the public health director, Dr Lisa McNally, has been campaigning for weeks for better access for her team to original data about affected people, including names and workplaces. This would enable her team, and teams countrywide, to swoop in and contact trace in the community instead of having to rely on the flawed national test and trace operation.

So far, her calls and those made by other public health directors across the country have been rejected because of data protection. It is a strange system of data protection that shares information with private companies such as Serco yet refuses that information to local authorities. If that information is not shared, it is not a question of whether we will see a second wave but when.

12.04 pm

Lord Addington (LD): My Lords, I have always felt that Parliament was something of a reactive beast, but debating these regulations several weeks after they came in is taking things beyond a joke.

I have a question for the Minister. In light of the announcement that we are going to declare war on obesity, could he give us guidance as to when most winter sports will be able to commence training again and under what conditions? With reference to the comments by my noble friend Lord Willis, what levels of infection will be acceptable for training and the practice of the standard winter sports such as football and rugby? If we do not restart this type of activity, one of the methods of controlling the burning of calories in the body, how you actually order yourself and your lifestyle—that is, you do not eat or drink too much in order to be able to be fit enough to play—is removed. Can we please have a bit of cohesion on this?

12.06 pm

Baroness Hooper (Con) [V]: My Lords, as a former Health Minister in your Lordships' House, I offer my sincere congratulations to my noble friend Lord Bethell on the way in which he has approached and carried out this mammoth and seemingly never-ending task.

At this point, as the last Back-Bench speaker, I can only reinforce the remarks about the performing arts made by the noble Earl, Lord Clancarty, and refer again to the issue of the review on 30 July when Parliament is in Recess. How and when will we be informed of the review results? Can the Minister undertake that we will have a full debate as early as possible in September? These regulations and related guidance affect every person in this country and our personal behaviour as well, so clear communication is vital.

12.07 pm

Baroness Brinton (LD) [V]: My Lords, many Members have spoken again about the frustration at the delays of three weeks or longer in this House being able to

debate the regulations. All sides of your Lordships' House have repeatedly said that they understand the pressure that Ministers found themselves under earlier in the pandemic, but I respectfully remind the Minister that now that the urgency is easing, surely arrangements to debate regulations could begin to return to a more realistic timetable.

I add the frustration from these Benches that we are now three Statements behind the House of Commons, and it looks as if the usual channels—or the Government Whips—will not allow Statements, which of course explains why so many people spoke earlier in this debate on the regulations.

The noble Lord, Lord Robathan, spoke eloquently, in his brief minute, on contradictory advice, and my noble friend Lady Tyler referred to the last-minute guidance on face masks, published only one day before the new rules came into force this morning, despite the announcement about 10 days ago. The guidance seems much less definitive than the Prime Minister's announcement. This raises a recurring problem that lies squarely at the feet of Ministers: a blurring of distinction between what is law and what is guidance means that the all-important communications strategy once again lies in tatters. This is not just confusing to the public, shopkeepers and takeaway owners; it also puts the police in an invidious position about how to police this requirement. Surely, as other noble Lords have pointed out, we need people to wear masks to protect the wider community from either local spikes or a second wave.

There remain other contradictions. For those who are shielding, and therefore not able to take advantage of the regulations that we are looking at today, all formal support ceases on 1 August, yet the letter to shielders says that

“you can go to work, if you cannot work from home, as long as the business is COVID-safe”.

Three bullet points later, it says that

“you should remain cautious as you are still at risk of severe illness if you catch coronavirus, so the advice is to stay at home where possible and, if you do go out, follow strict social distancing”.

However, from 1 August there are no emergency food packages and no financial support for those who cannot return to work nor work from home. Worse, this has not been communicated more widely, so everyone else apart from shielders assumes that shielders will be just the same as everyone else. Saying that new guidance will be published on 1 August is too little, too late, and once again shows that shielders, especially disabled people, are being left isolated.

In his introductory remarks, the Minister referred to Leicester and Oadby and Wigston. I am sorry to say that the leader of Oadby and Wigston had to write to Matt Hancock on 22 July, saying:

“I would like you to correct the inaccurate statement you made in the House of Commons this afternoon. You stated that you had consulted all Council Leaders. This is clearly not true as you and I have never spoken. As you will see from the attached email I was not consulted by the Leader of the county council either. The decision not to include other areas of the county is flawed. Either there is an objective measure by which”

[BARONESS BRINTON]
the lockdown

“is judged or there is not. The Borough is in a better position regarding Covid than some of the areas you released today. If you release them so you should release us.”

This is extremely concerning. Once again, we have a Minister making Statements and talking about strong communications with local government while the reality is anything but.

I note that these and other regulations say regarding “Impact”—this is paragraph 12 in the Explanatory Memorandum on the first set of regulations—that there is no need for impact assessments, as these regulations are a short-term measure and have sunset clauses. However, on Monday 20 July, government lawyers admitted that the Government had been in breach of testing and tracing data protection laws since the test and trace system was introduced in May because they do not adhere to privacy regulations. Despite the Open Rights Group asking repeatedly for answers to questions, the Government came clean only after legal letters were sent. Government lawyers said on Monday that impact assessments were being worked on. Can the Minister tell the House when the DPIAs that meet legal requirements will be in place for testing and tracing?

I echo my noble friend Lady Benjamin’s concerns about protection for our BAME communities who are at such high risk, especially as the success rate for tracing in these communities is consistently lower than for others. In Leicester, it is down to 65%, whereas 80% is the level deemed necessary for safety.

Finally, in the last two hours, the ONS has released statistics with shocking mortality data, showing that from 1 March to the end of May, those living in the most deprived areas had a death rate of 139.6 per 100,000 whereas those in the least deprived areas had a death rate of 63.4 per 100,000. What specific resources are being given to councils, directors of public health and local resilience forums to ensure that they can support our people in the most deprived areas, most particularly the data that they, I and many other parliamentarians have asked for time after time?

12.13 pm

Baroness Thornton (Lab): Can I just say for clarification that as we were discussing these SIs, the news came through on my technology that we will have a ministerial Statement on Monday? I am sure that the Minister is aware of this, but we are indeed three Statements behind. The noble Baroness, Lady Brinton, is quite right that it is quite shocking. I need to give the Minister notice that I will take the Statement on Monday as if it is three Statements. I will address the questions that relate to all three Statements made in the Commons during the last three weeks.

A noble Lord: You want three times the time.

Baroness Thornton: I have asked for extra time for the Back-Benchers but it is not in my gift; it is probably not in the Minister’s gift either. However, I hope that the usual channels will take note of that and agree.

I thank the Minister for introducing these SIs. Let me say at the outset how much I agreed with the noble Baroness, Lady Bull, on the issue of disability, as I did with the noble Baroness, Lady Anelay, and my noble friend Lady Andrews on the points that they made.

Leading the news today, and this week, is the legal obligation to wear face masks in shops, takeaways and so on. This morning, the police, the CBI, retailers and many others expressed their astonishment, scepticism and anger that the regulations and rules were laid only yesterday, even though the announcement was made on 14 July. Even more ridiculously, Parliament will not discuss these regulations until September; in the case of your Lordships’ House, because it will go through normal scrutiny, possibly not until late September. Who knows, they may have changed even before we get to talk about them. Does the Minister recognise that delays in laying regulations have significant implications for enforcement, given that they are often unclear on what precisely is and is not permitted, according to the law, until they are in place? This is a confusing U-turn, particularly in relation to the wearing of face masks.

The regulations we are discussing and the issues of concern today are reflected in this debate. However, this is not a debate because, with one minute per Member, the Minister can choose whether he answers the questions in a meaningful way without any further challenge. He can read his prepared script and there is nothing that we in this House can do. The noble Lord, Lord Cormack, is quite correct: this is a travesty of parliamentary scrutiny. I am not saying that this is the responsibility of the Minister because I know that he works very hard. However, it is really unacceptable. This House is not carrying out its duty of scrutiny at the moment.

I have twice written to the Minister asking for answers to questions I asked that have not been answered. They remain unanswered and I put him on notice that I will continue to do that, because these are the issues that we face. It is very disappointing that we are only just considering these regulations. Yet again, we find ourselves in the absurd situation of having one set of regulations that amend another, and which are about to be amended again, given further policy changes that have been announced—and we are about to go into a month’s Recess. The House cannot be in any doubt that the responsibility for this delay lies with the Government, who may have made a deliberate decision to wait until the last possible moment to lay regulations before Parliament, using the affirmative procedure. It is deeply concerning and unsatisfactory to make regulations in this way, and is indicative of this Government’s cavalier attitude to parliamentary scrutiny. Will the Minister inform us when we will find a better way of ensuring that these regulations are debated in a timely fashion?

The Government’s decision to delay making regulations also has real-world implications. Many businesses are unable to open at the earliest opportunity; this includes outdoor swimming pools. Many of them, along with community groups and charities, have been very critical of the Government’s communication on lockdown relaxation measures. They say that the lack of preparation

time has made a short summer season unviable. Other businesses began preparations to open, following headlines on government announcements, only to find subsequently that they are unable to offer certain services. I hope that the Minister will apologise to these operators, their staff and the communities they serve for the Government's shambolic failure to communicate with industry and provide clarity and guidance in a timely fashion.

On Monday, my honourable friend Justin Madders said:

"As I said last Thursday, parliamentary scrutiny is not something that can be ditched because the timing is inconvenient".—[*Official Report*, Commons, Second Delegated Legislation Committee, 20/7/20; col. 5.]

He is absolutely right. The Secondary Legislation Scrutiny Committee has also called on the Government to ensure that the information is provided. We are not being given the scientific information we need to back up these regulations. We need full transparency so that we can have confidence that this Government's scientific advisers support the measures we are debating. A week or so ago, the Government's Chief Scientific Adviser said that there was "absolutely no reason" to change the Government's current guidance on working from home; the very next day, the Prime Minister announced that guidance on working from home would be changed. My noble friend Lord Reid referred to this; it is not acceptable.

The Opposition will again not oppose these regulations—of course we will not, as we welcome the opening up of our society and businesses—but we are concerned that we are entering another critical moment without having available the full information on which decisions are being made, without a clear understanding of the risks and with a test and trace system that is not working. My final question to the Minister is: where is R at the moment? Is it going up or down?

12.19 pm

Lord Bethell: My Lords, I want to say a profound thank you to those who have contributed to this debate. I know that it has been a frustrating experience but, for me, it is a meaningful event. The contributions made are heard. Influence has been made and it has had an effect. On the subject of letters that have not been replied to, I assure the House that we are working extremely hard to address them. A system has been put in place to try to address all out-of-date letters before the end of the recess. I am working hard to do that.

I will try to address as many of the specific questions as I possibly can, which will mean that some of the answers are very short. I apologise in advance if any of them seem to skate over serious subjects briefly. I will attempt to address each noble Lord in turn.

I start with the very serious subject of disability, which is a massive and important area that I cannot possibly do justice to from the Dispatch Box in the time given. However, I reassure the noble Baronesses, Lady Bull and Lady Uddin, and the noble Lord, Lord Holmes, that we take very seriously the effect of Covid on those with physical and mental health issues. I emphasise the £750 million of funding for charities providing key support for those groups.

I thank my noble friend Lord Blencathra, who is concerned about the enforcement of the law. I reassure him that we absolutely are enforcing the law. I pay tribute to the public, who have gone along with these regulations with great compliance. To the noble Baroness, Lady Jolly, I confirm that Regulation 6 of the No. 2 regulations gives the Secretary of State the power to close public outdoor spaces, and the No. 3 regulations give the same power to local authorities.

I reassure the noble Baroness, Lady Randerson, that the National Police Chiefs' Council is working hard to assess whether there is any evidence of disproportionality in the fines being given to minority groups.

On the important point about data raised by the noble Baroness, Lady Barker, I reassure her that local authorities receive all the information they need on Covid cases, and data sharing agreements have been signed with upper tier local authorities. They receive details of the number of cases and tests, data from 999 and 111 calls, postcode data and a large amount of specific data.

To the noble Lord, Lord Hain, I say that we are working hard to open schools, but we need to work with parents and teachers to get them both over the line.

I assure the noble Baroness, Lady Walmsley, that the location of walk-in centres is being chosen very thoughtfully and directly targeted at those who need them most.

The noble Lord, Lord Holmes, is absolutely right that obesity has been a key driver of illness. As noble Lords will have read, we are launching a major national campaign next week, which I am personally participating in. This will be a long-term campaign to change the health outcomes of the nation.

On the important point about debates, I reassure my noble friends Lady Anelay and Lady Hooper, and the noble Lords, Lord Tyler and Lord Purvis, that arrangements for recess will follow long-standing precedents, and any debates that need to happen will be prioritised when the House returns.

To the noble Baroness, Lady Andrews, I say that we are guided by the science. The CMO and the Government Chief Scientific Adviser are key advisers who intermediate between SAGE, the scientific community and policy-makers in government. I have already answered the question of the noble Baronesses, Lady Randerson.

My noble friend Lord Moynihan outlined a small discrepancy in the regulations. If he will write to me, please, I would be glad to clarify that. However, I make it clear that Scotland and England are heading to the same place but simply moving at different speeds on different items.

To the noble Lord, Lord Hunt, and the noble Baroness, Lady Tyler, I say that we have been asked to move quickly. That is why we are seeking as much parliamentary scrutiny as possible.

To the noble Lord, Lord Willis, I say that we publish as much data and scientific advice as we possibly can. I emphasise that the SAGE minutes, which were once kept secret, are now published promptly.

[LORD BETHELL]

I completely share the views of the noble Lord, Lord Singh, on the important influence of faith communities. We have worked hard with them on a number of key issues, including cremations. I am reminded of the work we are doing with faith communities on the forthcoming celebration of Eid, which is a delicate matter.

To my noble friends Lord Robathan and Lady Altmann, I say that there is much that is still mysterious about this disease, but one thing I do know is that the British public has thoroughly supported the lockdown.

To the noble Lord, Lord Clark, I say that masks are recommended in taxis. The regulations on this are very clear, and I pay tribute to the important work taxi drivers have done in the face of extreme difficulty.

I thank my noble friend Lady McIntosh very much indeed for reminding us of the profound and positive impact of these regulations, which is something that is sometimes overlooked. To date, gloves are not in the guidance, but they remain an area that we are looking at.

The noble Lord, Lord Oates, made important points on face masks that I cannot fully cover. As suggested by other Peers, the delay helped the public prepare for changes in regulations. Although it creates a hiatus, these preparations are important.

To the noble Lord, Lord Harris, I say that self-testing is accurate—our assessments have proved that—and is also extremely popular, particularly for those who cannot leave home.

To the noble Lords, Lord Loomba and Lord Clancarty, I say that I completely recognise the challenge facing the performing arts, which is recognised by DCMS. It has made a generous and profound contribution in this area and continues that work.

I do not share the gloomy assessment of the situation made by the noble Baroness, Lady Sheehan. I pay tribute to colleagues working on the test and trace programme, who have made an enormous amount of progress.

My noble friend Lord Wei makes important points on innovation in the workplace. The Government desperately need innovation from industry. I commend business leadership in this area and ask for more.

The noble Baroness, Lady Ritchie, talked about vaccines. My understanding is that the Cabinet Office has published a distribution hierarchy. I reassure her that it will be a four-nations approach and that there is no question of any nation being favoured over another.

Turning to the noble Lord, Lord Truscott, I pay tribute to colleagues at PHE, which has been at the eye of the storm and has taken a lot of flak. Having been on the front line with them, I reassure the House that they give thoughtful, scientific and sometimes challenging advice—we would not be in the shape we are in if it was not for their interventions.

Turning to my noble friend Lady Gardner, I personally pay tribute to the dental industry—I was at the dentist this morning and I used to live in the very house in west London where her late husband practised his

dentistry work. I will continue to pay tribute to the work of dentists, who face an important challenge, and likewise to pharmacists.

I reassure the noble Lord, Lord Foulkes, that the resources going into the NHS and the testing programme are massive. Our preparations for the winter are dogged, and we fully share both the efforts and resources with all four nations. I share the views of the noble Baroness, Lady Northover: we are at an inflection point in the National Health Service and we are working our hardest to make that impactful.

The noble Baroness, Lady Benjamin, completely and utterly nailed it: we are deeply concerned about hard-to-reach groups. That is why we are hugely focused on them and working hard.

The noble Lord, Lord Liddle, makes an assessment that I cannot possibly agree with—one that is a long way from where the public is. However, I pay tribute to those who have kept Parliament open under difficult circumstances.

To my noble friend Lord Cormack, I say that I am 100% in favour of baby-on-board-style badges, and we are assessing ideas of the kind he recommends.

To my noble friend Lord Balfe, I say that we are cognisant of the concerns of USDAW and we are engaging with its representatives on this important issue.

To the noble Lord, Lord Snape, I say that data protection is there to protect us all, but we are finding ways to get data to the DPHs, as I have previously discussed.

To the noble Lord, Lord Addington, I say that we welcome next week's obesity launch.

The noble Baroness, Lady Brinton, raised serious concerns about shielders. I will address those in correspondence as I do not have the details to hand.

Regarding the questions on DPIAs, the test and trace programme has had DPIAs in place. The overarching programme has not had one, but it is ironic that half the questions are on privacy and half are on the lack of data. I cannot help feeling that we might have landed in about the right place.

Finally, I very much hope that in that medley I have somehow answered all the questions of the noble Baroness, Lady Thornton.

Motion agreed.

Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) Regulations 2020

Motion to Approve

12.28 pm

Moved by Lord Bethell

That the Regulations laid before the House on 10 July be approved.

Motion agreed.

12.29 pm

Sitting suspended.

Arrangement of Business

Announcement

12.45 pm

The Deputy Speaker (Lord Duncan of Springbank) (Con): My Lords, the Hybrid Sitting of the House will now resume. Some Members are here in the Chamber, respecting social distancing, others participating virtually, but all Members are treated equally. If the capacity of the Chamber is exceeded, I will immediately adjourn the House. The usual rules and courtesies in debate apply

Barnsley, Doncaster, Rotherham and Sheffield Combined Authority (Functions and Amendment) Order 2020

Motion to Approve

12.46 pm

Moved by Lord Greenhalgh

That the draft order laid before the House on 29 June be approved.

Relevant document: 22nd Report from the Secondary Legislation Scrutiny Committee

The Minister of State, Home Office and Ministry of Housing, Communities and Local Government (Lord Greenhalgh) (Con): My Lords, the draft order that we are considering this afternoon, if approved and made, will implement the devolution deal agreed between the Government and the Sheffield City Region. It confers powers on the mayor and combined authority relating to transport; education; skills and training; and housing, regeneration and planning. It also amends certain of the combined authority's governance arrangements to reflect these powers and the role of the mayor.

The order, if approved and made, will unlock £30 million of annual investment funding for South Yorkshire for the next 30 years. It will also lead to devolution of the £35 million annual education budget. The mayor and the combined authority—not Whitehall—will decide how this money is spent, according to local priorities and needs. It is another sign of the Government's commitment to put power back into the hands of local people. Together, these powers and this funding will drive growth, create opportunities for people who live and work in South Yorkshire and contribute to the city region's economic and social recovery from Covid-19.

The order will give effect to the provisions of the devolution deal, namely: giving the mayor control over a consolidated and devolved transport budget; conferring duties on the combined authority to promote and provide education and training; giving the combined authority the same land acquisition and disposal powers that Homes England already has; allowing the mayor to establish mayoral development areas, a necessary step to establish mayoral development corporations in the future; and granting the mayor the general power of competence, which will enable him to prepare and

publish a spatial strategy for the combined authority area, subject to the unanimous consent of the constituent councils and the combined authority. The order also includes constitutional provisions reflecting the powers conferred on and the role of the mayor. The mayor must be in the majority of members in favour of any decision that the combined authority makes regarding the new powers conferred by this order. The combined authority may establish an independent remuneration panel to recommend the allowances of the mayor and deputy mayor.

This order will be made, if Parliament approves, under the Local Democracy, Economic Development and Construction Act 2009, as amended by the Cities and Local Government Devolution Act 2016. As required by the 2016 Act, along with this order, we have laid a report that provides details about the public authority functions that we are devolving to the combined authority, some of which will be exercisable by the mayor. The statutory origin of this order is in a governance review and scheme adopted in January 2020 by the combined authority with its four constituent councils, in accordance with the requirements of the 2009 Act. The scheme proposed additional funding functions to be conferred on the combined authority, as envisaged in the devolution deal, specified those that would be exercised by the mayor and proposed certain amendments to governance arrangements.

As provided for by the 2009 Act, the combined authority and the councils consulted on the proposals in their scheme, promoting the consultation through regional and local media, social media and posters in public buildings. Responses were accepted through the combined authority website, as well as via email, letter and hard copy form. This public consultation ran from 3 February to 15 March 2020 and 675 responses were received. As statute requires, the combined authority provided the Secretary of State with a summary of the responses to the consultation in April. The consultation results show that the proposals are strongly supported by the public and stakeholders. Almost 90% of respondents supported the principle of devolution from Whitehall to metro mayors and combined authorities. All seven questions posed in the consultation received clear majority support, with five receiving positive responses of 80% or above.

In laying this draft order before Parliament, the Secretary of State is satisfied that the statutory tests in the 2009 Act are met and that no further consultation is necessary. Furthermore, as required by statute, the mayor, the combined authority and the four constituent councils have consented to the making of this order.

This draft order, if approved and made, will devolve a range of powers to the mayor and combined authority for the benefit of people who live and work in South Yorkshire. It will drive growth, contribute to the city region's economic recovery and help deliver this Government's agenda to level up opportunity and prosperity across the United Kingdom. Reaching this point has not been easy—it has taken five years—and I pay tribute to the mayor and local leaders for coming together to provide their unanimous consent to this draft order. Today is a collective, cross-party milestone in South Yorkshire's devolution journey and I commend this draft order to the House. I beg to move.

12.50 pm

Lord Blunkett (Lab) [V]: I declare a non-remunerated interest as chair of the Sheffield City Partnership board. I very strongly welcome this order. As the Minister has spelled out, it has been a very long and winding road over the last five years. I am sorry that my video is not enabled on Zoom, but one of the challenges for South Yorkshire is to ensure that we have sustained and sustainable internet connection.

This order is crucial, not just in terms of the devolved powers that the Minister spelled out, nor even the limited resource that immediately goes with them, but rather because it is the beginning of an entirely new era for South Yorkshire and beyond. I congratulate Dan Jarvis, the elected mayor, on his patience and his skill in bringing people together, and the local authority leaders and councils for at last coming together and being prepared to see a way forward which is beneficial to our local residents. Combined, as it will be in the future, with the development of the West Yorkshire Combined Authority mayor, it is possible that we can build incrementally to real co-operation across the historic county of Yorkshire, with a population somewhat greater than that of Scotland.

We must be able not only to draw on the resources that the Minister has outlined, but also to see this as part of a broader regeneration programme and the fulfilment of promises made by the Conservatives in the December general election, when, in the area around Sheffield, Conservative MPs were elected for the first time. Holding the Government's feet to the fire is not just about devolution, it is about regeneration and the recovery programme from the Covid-19 hit. It is also about collaboration across the north.

Yesterday, the Northern Transport Acceleration Council was launched—launched, it has to be said, in Greater Manchester. It is time for those east of the Pennines to be able to match not just the collaboration that has been built over years in Greater Manchester, but to build the picture of the north of England combining the east and west of the Pennines together. We need Sheffield, Leeds, Bradford, Hull and beyond to punch their weight—to be able to come together in an action plan that will allow us to use the tremendous resource and research capacity of our universities for knowledge transfer into that regeneration programme. We must link, yes, Sheffield and Manchester, ensuring that the voice of the north can be heard clearly, but also the north as a whole, east and not just west of the Pennines. Together, building from the bottom, we can do it.

12.54 pm

Lord Greaves (LD): My Lords, the noble Lord, Lord Blunkett, and I will stand for the north of England together, but I think we might disagree about how to do it. I speak as a Liberal Democrat and many members of the party will support what I am going to say. This order is one relatively minor part of the Conservative Government's intentions to drastically reorganise local government throughout England; to do so at ridiculous speed and with little regard for the wishes of people in communities and local areas; and to effectively abolish local democracy in vast areas of England, notably in the shires but in a lot of other

places, too. I remind the House of my interest as a district councillor, not in Yorkshire but within spitting distance, just over the border in Pendle.

The Government are embarking on this ludicrous and disgraceful ambition in the middle of by far the biggest crisis that this country and its local councils have seen since the Second World War—one in which every sinew and every effort needs to be focused on clearing out Covid and rebuilding our economy, our society and our services, so many of which require the total attention of our elected local councils and councillors. Instead, we shall see the waste of many millions of pounds—every reorganisation costs millions and we are threatened with a large pile of them—the diversion of the time and energy of council staff and councillors, and enormous losses of skills and local and historical knowledge as people retire at the very time when they are desperately needed. But, of course, the people in Whitehall and Westminster always know best, as we have seen from the enormous success of the centralised, top-down schemes to tackle local Covid-19 outbreaks, while the local people with those skills and knowledge have repeatedly complained of being sidelined or ignored. For the benefit of *Hansard*, let me say that that sentence should carry an ironic emoticon. Why do the very clever but often ignorant people at the top never learn?

In spite of my origins in Yorkshire, I do not want to interfere in an internal Yorkshire dispute between One Yorkshire and this distinctly less ambitious proposal, except that I see no dispute. There is almost unanimity in support of One Yorkshire, except in the Government. Is this because One Yorkshire could be the start of genuine regional devolution in England, instead of this rather shoddy plan? This will not be devolution at all. The powers that are to be shared with local authorities will inevitably be gathered up by the combined authority from the councils. Proposals that will be concurrent—a sinister, bureaucratic word, in my view—with central government will inevitably be met by that Government with something like, “We hear what you say, and thank you for your ideas, but if you want the brass, this is what you will do.” We have seen this far too often.

We hear that they are coming next for Lancashire, in the near future. Let me warn them: in some areas of the country at least, if they press on with the destruction of local democracy, it will be nothing but pain for the Conservative Party in some of the very towns that have given it its majority in this Parliament. There will be battles ahead all over the country—all over England—and the Government must not think that they will easily win all of them.

12.58 pm

The Earl of Shrewsbury (Con) [V]: My Lords, your Lordships might find it a little strange that someone with the titles of Shrewsbury and Waterford would wish to speak on the Barnsley, Doncaster, Rotherham and Sheffield Combined Authority (Functions and Amendment) Order 2020, so it would seem that I have a bit of explaining to do.

It is a great privilege to follow the noble Lord, Lord Blunkett. His city, Sheffield, is a great city which has been an integral part of my family's history for more

than 600 years. George Talbot, sixth Earl of Shrewsbury, was born in 1528 and during his life, among many other achievements, he did two spectacular things. He married Bess of Hardwick and he was Mary, Queen of Scots' friend and custodian for more than 15 years, being present at her execution at Fotheringhay Castle on 8 February 1587. My noble friend—it gives me great pleasure to call him that, because he is a noble friend of mine—Lord McAvoy, the Opposition Chief Whip has never let me forget the fact that, in his words almost every time I meet him, “You dreadful so-and-so, you murdered the only true Queen of England.” A bit like those who cannot forget the Highland clearances, the noble Lord, Lord McAvoy, also has a very long memory.

Many years ago, when the noble Lord, Lord Blunkett, was leader of Sheffield City Council, I was invited to visit the Manor Estate in Sheffield—I have been back many times since—by a gentleman called Keith Cheetham. Keith was in charge of tourism at the council and was an enthusiastic expert on the Queen of Scots. I went with a television crew to remember the 400th anniversary of the queen's death. Walking up the staircase of the old lodge on the Manor Estate, I arrived at the top floor. It was completely bare of furniture except for what I thought was an effigy of the queen seated in a chair in the corner. I turned to my host and said, “My word, Mr Cheetham, Madame Tussauds makes the most lifelike wax effigies, does it not?”. At that point, the effigy stood up, moved towards me and said, “My Lord Shrewsbury, I have not seen you for all these years.” It was the closest I have ever been to having a heart attack.

George Talbot fell out with his wife, the redoubtable Bess, and spent the remainder of his days living with a young lady on his Manor estate in Sheffield. His magnificent tomb is in the Talbot chapel in Sheffield Cathedral, where I have the honour to be high steward. So I am pretty fond of Sheffield. It is the capital city of the Peak District and the surrounding area in South Yorkshire.

I welcome this order, which is a very positive move, and the plan to create an MIT of the north centred in Sheffield. There is huge potential there to unlock. The universities of Sheffield and Sheffield Hallam are centres of excellence, especially in engineering and manufacturing research. The work they carry out is of outstanding quality.

This order is good for Barnsley, Doncaster, Rotherham, Sheffield and the wider surrounding area. It has been a long time in the making. It has the potential to transform their economy and future. I wish them every possible success.

1.01 pm

Baroness Bennett of Manor Castle (GP) [V]: I must begin by declaring a very large interest in this order as a resident of Sheffield, from where I am speaking now, and by admitting that I am torn in my approach.

I welcome any devolution of power and resources, but that South Yorkshire has done remarkably badly from the stranglehold of distant Westminster is a statement of the obvious, whether you look at our average income, gross value added—which is less than half of London's—or whether I contrast the environment

I see walking along the Sheffield & Tinsley Canal to what I used to see walking along Regent's Canal near my old home in Camden, north London.

However, the stuttering, agonised birth of the combined authority could be taken as a case study for how not to do devolution—imposed from the centre, with the fractious involvement of a handful of local people, legal action and conflict. All of this was conducted largely out of sight and out of mind of the public. I doubt that if you stopped 100 people in the streets of Sheffield today, you would find one who knew that this order is now before Parliament. You would be lucky to find one who knows who the incumbent mayor of the Sheffield City Region is, although a few might know him from his other job as an MP.

This order is not a solution, and it cannot provide a long-term way forward. As we seek to rebuild from the shock of Covid-19 and face the climate crisis and the danger of social and economic collapse from poverty and inequality, we need to build back better. We should really start with democracy.

I am indebted to a local activist and philosopher, Simon Duffy, for a useful comparison between Iceland and the area of the combined authority, which are roughly equal in population. Iceland has a President, a 63-member parliament and scores of local government bodies with a powerful and recognised place in the constitution, with control over kindergartens, public schools, waste management, social services, public housing, transport, and services to senior citizens and disabled people. It also has an effective and fair welfare system and a much better performing economy—and it put 36 bankers in jail after the financial crash. Dr Duffy, like myself, is a campaigner for a Yorkshire parliament, for a widespread, deep consultation with the people of Yorkshire to create a genuinely democratic structure with real power and resources, which is not what this order does.

The failure of our creaking, antique, accidentally accreted constitutional arrangements are visible everywhere in the UK, from your Lordships' House outwards. However, there are few places where the human and environmental consequences are more obvious than Barnsley, Doncaster, Rotherham and Sheffield. We have to do much better than this. That means going to the people, finding out what they want and delivering it.

1.04 pm

Lord Adonis (Lab): My Lords, I strongly welcome this order, as did most of those who responded to the public consultation, as the Minister said. Many of us very much hoped that my noble friend Lord Blunkett would be the metro mayor after his outstanding record in government and as leader of Sheffield City Council, but I remember that, when I asked him whether he would put his name forward, he told me that the equally brilliant Dan Jarvis would do the job instead. Dan is excellent, and this order and the progress that has been made in devolution are a tribute to him too.

There is always a danger in this game that the best will be the enemy of the good. I agree that we should have more devolution and that there should be more

[LORD ADONIS]

local control. Whether it is possible for Sheffield to go wholly in the direction of Iceland is debatable; after all, Iceland is an island surrounded by sea, whereas Sheffield has the Peak District to its west, which I would say is more beautiful than anything Iceland can offer. None the less, it is not an independent state and will not become one any time soon. That goes to the heart of the issue of the powers to be devolved to the mayor of South Yorkshire, which is strategic. The strategic connectivity of South Yorkshire with its neighbouring regions and other parts of Yorkshire, and its ability to get strategic plans in place, particularly for skills, is vital.

I will highlight one issue in particular. The strategic connectivity of the Midlands and the north will be transformed over the next 20 years by HS2. How the regions and cities of the Midlands and the north integrate with HS2 will be a critical driver of their prosperity over the next generation. I am delighted that, on a cross-party basis, the first phase of HS2 from London to Birmingham and the West Midlands is currently being constructed. There are more than 200 construction sites at the moment. They are coping well with all the Covid-19 constraints and work is proceeding. The legislation for phase 2b of HS2, from Birmingham to Crewe, is currently before a committee of your Lordships' House, which is good as well. We hope that will become law this autumn.

The next critical issue is what happens to what is called phase 2b, going north-west through Crewe to Manchester, and going north-east through Birmingham to Sheffield and Leeds. This has been delayed for a review. As the Minister will know, I think it was a mistake to conduct the review. The Prime Minister has said that his mantra is "Build, build, build"; in respect of phase 2b, what is actually happening is "Delay, delay, delay". It has been rumoured in the media in recent weeks that the Government may pull entirely the Birmingham to Leeds section of HS2, going north-east, and that Leeds will be connected to HS2 instead by a route from Manchester. That would devastate the economy of South Yorkshire. I know the mayor takes a strong view that a key priority is that HS2 from Birmingham to Sheffield and Leeds should proceed. I invite the Minister in his reply to commit the Government to proceeding with this vital piece of connectivity, without which the mayor of South Yorkshire will be impotent to promote the interests of his region.

1.08 pm

Lord McColl of Dulwich (Con) [V]: My Lords, I welcome the Minister's statement on this order. Rotherham Council has recovered well from its dire problems, and we wish it well in its union with Barnsley, Doncaster and Sheffield. As has been mentioned already, Dan Jarvis, MP for Barnsley Central and Mayor of the Sheffield City Region, deserves great credit for all his hard work to make this happen. He was aided by Dame Louise Casey, South Yorkshire Police and many others. The Minister in another place, Simon Clarke, has played an important role in the negotiations, free of party politics.

We should also pay tribute to the staff of Northern College, who initiated important work to support victims of trafficking and modern slavery. We certainly

cannot pretend that what happened in Rotherham was unique. It was a wake-up call for many people who had no idea how prevalent this scourge is throughout the United Kingdom. According to official figures, as many as 100,000 victims are involved. When I first spoke on this many years ago in your Lordships' House, and elsewhere in the UK and abroad, very few believed it. Now we have to believe it. We have to broadcast it and continue to fight tooth and nail to do away with it.

1.10 pm

Lord Bhatia (Non-Affl) [V]: My Lords, in their 2019 manifesto the Government outlined their ambition for full devolution across England. In my view, the most important part of the SI is the appointment of a mayor with powers to lead to the development of significant budgets, including investment funds of £900 million over 30 years. It will also confer authority over planning, housing, transport, and skills and education functions, and devolution of the annual £35 million adult education budget.

I will speak specifically about the SI's impact on the education sector. Education is the key to the development of human society. A well-educated person has skills that enable her or him to earn, provide for their family and escape from a vicious cycle of poverty. The family's quality of life is protected and future generations will also get security. The appointment of a mayor with these powers will cut bureaucracy and benefit these communities.

1.11 pm

Lord Shutt of Greetland (LD) [V]: My Lords, this is a sad day for Yorkshire, ahead of Yorkshire Day on 1 August. This subregion order marks the first real formal act of wrecking the early prospect of serious regional government for Yorkshire, and indeed of breaking local government in much of Yorkshire.

The Government know that the overwhelming opinion in Yorkshire is for a devolution settlement for the whole of Yorkshire—a One Yorkshire deal. Sadly, the Government are frightened of a strong Yorkshire. I find that amazing, bearing in mind that that is such a popular position. They are keen to split the county.

It was, of course, a Conservative Government who introduced two-tier local government in 1974, bringing in metropolitan county councils, South Yorkshire and West Yorkshire, and Humberside. Again, it was a Conservative Government who abolished these bodies in 1987. Now there is a resurrection into metro bodies—South Yorkshire today and West Yorkshire coming, as a precursor to North Yorkshire and the east to follow.

This is governmental hokey-cokey, but now with a difference. The edict is "No devolution without local government reorganisation". The sights are next on North Yorkshire to produce one-tier local government, getting rid of seven district councils and creating a so-called local council from west of Settle, in sight of the Irish Sea, to Scarborough on the North Sea coast. It might be government, but it certainly will not be local—and the Government expect agreement about this in two months. This is going on at the same time as a reduction in democracy and democratic involvement in the national park authority.

We have in prospect a diminution of local involvement and local participation, and not a genuine region. It is a bad day for Yorkshire.

1.14 pm

Lord McConnell of Glenscorrodale (Lab): My Lords, I am not sure how to follow some of the speeches that have been made so far. They have certainly been diverse and entertaining—at times. I welcome the order and congratulate all those who have been involved in the very difficult negotiations around the establishment of the new combined authority. In particular, as my noble friend Lord Adonis mentioned, I praise the hard work of Dan Jarvis MP as the Sheffield City Mayor in pulling people together and finding a way forward. I hope that this is an initial step and that there will be further devolution of more power and more resources, perhaps to a bigger authority covering and combining more of Yorkshire in the future. But it is a step in the right direction and we should welcome it for that reason.

As the Government move further in this direction—rightly, in my opinion—to create more and stronger voices around the country, we can reflect on the fact that over recent months in both the West Midlands and Manchester we have seen the benefit of having strong local mayors who can speak on behalf of their region at a time of national crisis. We should encourage this development of stronger voices throughout the whole country to diversify political debate away from your Lordships' House, the House of Commons and Whitehall and into the regions and, of course, already, the nations of the United Kingdom.

However, we also need to have more energy in pushing this agenda—more ambition, perhaps. I welcome the fact that the Government are committed to more investment and diversification of jobs and institutions around the country, in particular to the north. Alongside that, there should be stronger recognition of the need for devolution of political power, so that power is diversified around the country and people are not just allocated benefits from Westminster and Whitehall but can take control of their own destiny and speak for themselves.

In line with that, I again urge the Government, as I have in the past—I recognise that this may now be in the longer term, since they have taken a stance against this in the short term—to look ahead and move away from a situation where those who speak for and work with the nations and regions of the country inside the UK Government are diversified between a Scotland Office that is largely redundant, a Wales Office, a Northern Ireland Office and the Ministry of Housing, Communities and Local Government. The creation of a proper department of the nations and regions of the United Kingdom—a fourth great office of state with a powerful seat at the Cabinet table—would be a far better position for the nations and regions to be in, in terms of dialogue with central government. It would also be better for central government to have to recognise the importance of the different parts of the United Kingdom.

1.17 pm

Baroness Bakewell of Hardington Mandeville (LD) [V]: My Lords, I declare my interest as a vice-president of the Local Government Association. I listened to

the noble Lord, Lord Greenhalgh, with interest as he laid out the benefits in store for those living in the combined authority area, but I was not convinced.

I have read the instrument and can see that the four constituent councils can elect from their membership one councillor to sit on the authority, plus a second councillor to be a rotational second member. They will undoubtedly be the leaders. These four will then choose from the four rotational members who will sit on the authority each year for a one-year term. These original four councillors are the only ones with votes. The non-constituent councils can each appoint one member to be on the combined authority, and again can appoint a second rotational councillor. These councillors have no voting rights.

The order has an amendment, at Article 19(3):

“In paragraph 3 (proceedings), after sub-paragraph (6) insert—
(7) Questions relating to the functions conferred by Parts 2 to 5 of the Barnsley, Doncaster, Rotherham and Sheffield Combined Authority (Functions and Amendment) Order 2020 cannot be carried without a vote in favour by the Mayor or the deputy Mayor acting in place of the Mayor.”

None of these councillors will be directly elected to the combined authority. I do not know about your Lordships, but this is not my idea of democracy.

The Government dangle extra money and supposed powers in front of councils to get them to dance to their tune. Local government reorganisation causes a lot of anxiety and distress, especially for those district councils delivering services at the front line. Their voters are not clamouring for this to happen. During the Covid-19 lockdown, districts have really risen to the challenge, but their voice is often ignored in the rush by the larger councils in a money-grabbing exercise. I agree that there is some merit in having decisions taken locally.

The non-constituent councils—that is, those which are not part of the combined authority—are Chesterfield Borough Council and Bassetlaw, Bolsover, Derbyshire Dales and North East Derbyshire District Councils. These councils have a seat at the table but no voting rights.

All this upheaval for an extra £30 million a year—that sounds a lot, but the combined authority covers a large area. It will need to be very wise to make it stretch to cover its aspirations. Can the Minister tell the House how the Government can commit an additional £30 million a year for 30 years for this new combined authority at a time when the country is plunging into recession and uncertainty?

1.20 pm

Lord Kirkhope of Harrogate (Con) [V]: My Lords, I am very pleased to join this debate, resulting in, I hope, the confirmation of the new devolution arrangements for South Yorkshire. I declare a particular interest as co-chair of the One Yorkshire campaign, which has been working for recognition of the Yorkshire brand in the way we are governed for the past five years, and as a former MEP for Yorkshire and the Humber and MP for Leeds North East.

Today we are recognising one element of the recognition of one Yorkshire, but it is by no means the end of the process of moving power back to the people of our great region. This order looks like being

[LORD KIRKHOPE OF HARROGATE]

the first of several sub-region deals which we are anticipating, with deals for West Yorkshire, North Yorkshire, and York and Hull and east Yorkshire to follow. Currently the latter are being negotiated, but inevitably those arrangements are not without controversy, with the Government requiring the abolition of many fine district councils as the price of progress. I have serious reservations about that and I know that I am not alone.

However, my concept, and that of so many other Yorkshire people, which is still ultimately to end up with one entity, has been helped by the creation in the interim of a Yorkshire-wide council leaders board, supported by government and with financial resources and the encouragement of other region-wide entities in the fields of infrastructure, tourism and economic development. That is sensible. Of course, the northern powerhouse continues with its wider role.

Devolution is a complex process in which many long-established and historic positions and relationships are under pressure. It is not all easy going and straightforward. Nothing is, of course. Like all major constitutional processes, there will be losers as well as gainers. We must be sure not to diminish democracy and the benefits of bringing power closer to the people in one part of the region in the process of the overall pursuit of the deployment of powers away from Whitehall and Westminster to the wider body of interests.

The Government and my honourable friend the Minister Simon Clarke defined one purpose for devolution as

“to level up our country and transform the growth prospects of communities and the life chances of their residents.”—[*Official Report*, Commons, 13/7/20; col. 3.]

The 2009 Act set statutory requirements for changes to reflect the identities and interests of local communities. While I welcome this order as being at least partially compliant with those ambitions, it must be regarded as just the start of a much wider exercise, leading ultimately to the real prize: a united, one Yorkshire entity truly in line with the aspirations and ambitions of the people here in God’s own country.

1.23 pm

Lord Goddard of Stockport (LD) [V]: I do not profess to be an expert on anything in your Lordships’ House, but I know a little about combined authorities, having been one of the leaders of the first combined authority, Greater Manchester. The trail-blazing deal that we negotiated with the Government has made real changes, especially in health and social care. Sometimes when we talk about local authorities, combined authorities and city regions, we seem to forget the real changes we can make to real people’s lives. I know that in Greater Manchester people’s health and social care is better because of the combined authority.

The noble Lord, Lord McConnell, is quite right that there has been a bit of a tour de force today ranging from HS2 to women having their head chopped off a few centuries ago. The noble Lord, Lord Shutt, is right that one Yorkshire would be the preferred option, but sometimes in life you do not get your preferred option, so I welcome this order, with guarded support for Sheffield.

Noble Lords need to understand some of the difficulties that we found and I find with combined authorities. That is the price of them. The price of devolution is elected mayors. That can be a real issue. I understand the principle of elected mayors: they are there to take the rap and to make the tough decisions. They are accountable to the people and can be thrown out. In theory, this is an excellent strategy, but in practice, it does not work because many combined authorities of whatever political make-up are one-party states, so the elected mayor does not have autonomy or the ability to override the eight or 10 Conservative or Labour leaders because he knows that he may not get support to be mayor again. Have the Government given any thought to making the price of devolution—an elected mayor—non-political? If you were to take the politics out of the elected mayor, it would alleviate a lot of Members’ concerns expressed today that this is just another tier of government and another tier of bureaucracy. An elected mayor who is not politically connected could make real differences to real people’s lives. I hope someone gives some thought to that.

1.26 pm

Lord Mann (Non-Afl) [V]: My Lords, when we shift to York, as the Prime Minister is rightly demanding that we do, I will be available, as I am sure others will be, to give guided tours to Peers who are not too familiar with the region. I will need to pack a lot of sandwiches, because my guided tour will be by railway, and getting around Yorkshire by railway will require breakfast, dinner and tea to be provided. That might be a shock for those familiar with the transport systems of places such as London. That is precisely why Mayor Jarvis is right to have negotiated this strategic authority. We cannot hope to compete with China, India and Germany if we do not strengthen our manufacturing, skills and technology. This measure, in its small, modest way, crucially gives that opportunity in a far bigger way.

I heard the noble Baroness, Lady Bennett, say that nobody has heard of Mayor Jarvis in South Yorkshire. She is entitled to stand against him in an election if she is unhappy with the job he is doing. The truth is that people have high regard for him and for what he is attempting to do because they understand the importance of strategic transport, skills, engineering and manufacturing. I hope that we will not lose issues which cross regional borders, such as the postal service, the organisation of further education and, of course, rail and roads, such as the A57, which are often badly underinvested in precisely when they get near regional borders.

Perhaps most politically, but most importantly, there is health. Health from South Yorkshire cuts across into the north Midlands, and I trust that the Minister will confirm that if it is ever attempted to devolve health to the mayor of this new authority, there will be a full public consultation on how best that should be done so that we do not throw away the good that is already there for the improvements that the Government are rightly putting forward today. We, as Members of the House of Lords, should be congratulating Dan Jarvis and those who have driven this order through. This is a good day for Yorkshire, and I hope that the South Yorkshire England cricket captain Joe Root will be leading us to another victory just as we vote through this measure.

1.29 pm

Lord McNicol of West Kilbride (Lab) [V]: My Lords, on first inspection, this Motion appears a rather dry topic, but from the notable speeches that we have heard from my noble friends Lord Blunkett and Lord Adonis and many other contributors, it is clear that it is far from that. My reason for wanting to speak in this debate dates back to the discussions that I was involved in at the inception of the combined authority and mayoralty. At that time, I was the general secretary of the Labour Party, which has a long history of commitment to devolution, as we have heard from the noble Lord, Lord McConnell, and many others, and to moving resources and decision-making closer to the people who ultimately rely on those resources and powers.

Like many before me, I want to pay tribute to Dan Jarvis and the local leaders who have helped to shape this new combined authority in South Yorkshire. It has taken a huge effort to get here today. Unlike many other combined authorities and mayoralties, this did not come ready made and agreed; Dan and the local authority leaders have built it from scratch. I remember speaking to Dan before the mayoral selections and saying to him, “Let me get this right. You want to stand for selection to become the mayor of a combined authority with no agreed parameters, no staff allocated, no clear mandate on remit or powers, no offices to work from and no agreed salary or terms and conditions.” Dan just looked at me and said, “Well, yeah. We can use this as a step to deliver for the people of South Yorkshire.” It has taken us five years, but we are further down that road. Devolution is a process—it is not an event—and this is part of that process.

These decisions today will put the structures in place to allow local plans to help the transformation of South Yorkshire. What South Yorkshire and many other local authorities need is resources, both financial and practical. This order helps to set out the structure and the framework, but it is only a start in moving the money. Let us not forget that, from 2010 onwards, we saw the new coalition Government impose austerity across local authorities and local government. Let us not forget the tens of millions of pounds that were stripped from local government over the preceding decade.

These measures will support the anchoring institutions—local universities and colleges, South Yorkshire Police, the NHS and local authorities—to work to deliver for the people. We all want to see a stronger, fairer and greener economy come from this crisis, so I hope that the Motion to approve this order will be the first step in achieving that.

1.32 pm

Lord Hussain (LD) [V]: My Lords, I welcome the devolution of power to and investment in Barnsley, Rotherham, Doncaster, Sheffield and the surrounding areas, as they desperately need resources and investment to help them to transform their region. I understand that, during the consultation, almost 90% of people in South Yorkshire said that they wanted more devolution. I would have been more inclined to support and strengthen the local authorities and county councils in the region to carry forward this devolution but, after a

long-winded process, we are where we are. I hope that the people of South Yorkshire will benefit from this devolution deal.

In the short time allocated to me to speak on this subject, I will be able only to echo the words of the mayor of Sheffield City Region. Given the pressure on public finances arising from the Covid-19 pandemic, it is even more imperative that the Government unlock the powers and resources in the deal as quickly as possible so that these vitally needed funds can support people, businesses and communities across South Yorkshire. Approving this legislation is a landmark moment in South Yorkshire’s devolution journey. However, it should not be considered the end destination. Much greater powers and resources need to be devolved, bringing decisions much closer to the people they affect. The devolution White Paper due in the autumn and the subsequent spending review due later in the year will be important tests of the Government’s commitment to devolve, and not just decentralise, real powers and investment to combined and local authorities across the country.

1.34 pm

Lord Bourne of Aberystwyth (Con) [V]: My Lords, I thank my noble friend for setting out the order with such clarity. I welcome it. The noble Lord, Lord Greaves, whom I very much respect, talked about “ridiculous speed”, but one thing this process has not represented is dizzying speed; it has taken a long while, as I think those involved would testify. It has been a long process. In that regard, it would be churlish not to congratulate the mayor, Dan Jarvis, who has shown exemplary patience and commitment to the job in hand.

There is strong local approval for this transfer of power—some 90% is indicated. I thus could not follow the argument of the noble Baroness, Lady Bennett, in this regard. Normally, I follow strongly her vision and clarity, but on this she seemed to set out a dismal litany with regard to what is surely a very welcome move. This represents a massive transfer of power over transport, education, skills and training, housing, regeneration and planning, with £30 million committed every year for 30 years and a £35 million devolved adult education budget too. It is also hard when looking at other great city regions of our nation not to feel that this is the right way forward. Regardless of the party politics, when one looks at the Manchester and West Midlands city regions and leading figures such as Andy Burnham and Andy Street, one sees that it is clearly the right move. I take pride in the fact that, with this order, 63% of northern England is now served by city regions.

I have to say that Yorkshire, great county though it is, is not an economic entity, so I very much welcome this move today. Can the Minister say a little more about progress on Leeds/Bradford, on York and North Yorkshire and on Humberside? On Humberside, this order involving Bassetlaw and north Derbyshire indicates that this is not just a county-led matter. The Minister in the other place indicated progress on those areas and I would welcome the Minister being able to say a little more about that. However, I give unreserved support to the order; it has been a long time in gestation. It is very welcome, and I look forward to more devolution.

1.37 pm

Lord Shipley (LD) [V]: My Lords, I remind the House of my registered interests. The Minister reminded us in opening that it has taken a while, some five years, to reach this stage. Indeed, it is rare for us to be in the position of agreeing an order such as this two years after the election of the mayor. At least the order has the benefit of having been much debated. I hope that the advantages of devolving powers from Whitehall to South Yorkshire in the areas of spatial planning, education and skills, transport, and housing and regeneration will now be grasped, and that South Yorkshire will work with the wider area—and right across Yorkshire—to make the most of them.

The last few months have shown that England, with a population of 56 million people, cannot be run out of Whitehall and that maximising local responsibility and control over policy-making and decisions has become essential. Many things will have to change as a result of the coronavirus pandemic. I hope that the White Paper, assuming that it is published in the autumn, will reflect that.

From our Benches, we have been reminded by my noble friend Lord Greaves that the White Paper may seek to restructure local government. I hope that our fears in this respect prove unjustified. It would mean a huge wasted effort, with everyone worrying about reorganisation when councils have to rebuild their economies as their absolute priority. They need to be focused on that, not on an ill-timed reorganisation.

My noble friend Lord Shutt said that this was a sad day because it prevents a One Yorkshire approach. Indeed, that is part of the debate that has happened over the last five years, and which will, in the medium to longer term, prove extremely helpful—I will come back to that at the end of my remarks.

My noble friend Lady Bakewell of Hardington Mandeville raised important issues regarding local democracy, the role of district councils and the role of the whole combined authority mayoral structure. I hope that the Minister will be able to respond to that.

My noble friend Lord Goddard emphasised the benefits of combined authorities, particularly in the health and social care sphere. However, he raised justified concerns about the nature and powers of mayors, which I hope the Minister will reflect on, particularly in regard to a White Paper, if it emerges.

My noble friend Lord Hussain talked about the need for greater powers and resources to be unlocked as quickly as possible as a consequence of the coronavirus pandemic. I agree entirely with what he said.

Mention has been made of money and the £30 million per year. It is not in fact a large sum of money, albeit it will last for some 30 years, and it will be transferred from other budget heads and so is not really new money at all. However, I hope that the White Paper, should it emerge in the autumn, will address the issue of devolving far more than is currently being devolved, and then devolving the resources to go with that.

However, there is a worrying context to this: the overall financing of local government. There is a crisis in business rates—currently there is a holiday, but it is

not clear what the funding structure will be from next April. The Minister will have to address how local authorities will be financed.

Issues have been raised around democracy, as there was no referendum to establish a structure—I have to say that that is not unique in South Yorkshire. When there is a further review of the powers of combined authority mayors, there will be an examination of what has happened in other combined authorities regarding scrutiny and appointments to posts—in other words, how all of these have actually worked. Everything has been done entirely in accordance with the law, but has everything worked as it should?

In that context, the Home Secretary announced this week that she is reviewing the role of police and crime commissioners. Given the closeness of police and crime commissioners to mayors, it would be helpful for any White Paper to reflect that.

In conclusion, the White Paper needs to look at the power of combined authorities to raise their own taxation. We need to look too at scrutiny and how the combined authorities have come and gone. I have noted the comments of a number of speakers, and in particular the noble Lord, Lord Blunkett, who talked of this being the beginning of a new era and of the need to build incrementally, and other speakers have reflected that. That is true. I bear the scars of the north-east referendum on devolution for a regional assembly, which was badly lost. There has to be an ongoing debate on devolution. As the noble Lord, Lord Mann, said: do not throw away the good that is already there. I concur with that and I think that a One Yorkshire solution, which I support, can be delivered if the debate takes place on the more secure foundations of the devolved structures that we now have.

1.44 pm

Lord Kennedy of Southwark (Lab Co-op) [V]: My Lords, I declare my relevant interest as a vice-president of the Local Government Association.

I am pleased that we are today approving this order and transferring powers to the mayor and the combined authority. This has not been without its problems and, like many other noble Lords, I have spoken in debate after debate and taken part in many Questions and discussions on these proposals. I was particularly pleased to see the noble Lord, Lord Bourne of Aberystwyth, contribute to the debate today; we have spoken many times in the Chamber on this issue. Although I am pleased that the order is here, it is not without controversy, as many noble Lords have said, and I am clear that we will need to go much further in the years ahead.

My noble friend Lord Blunkett rightly paid tribute to Dan Jarvis MP, the metro mayor, and the local authority leaders coming together at what is the beginning of realising the potential of South Yorkshire residents—although, as my noble friend said, with limited resources. My first question to the noble Lord, Lord Greenhalgh, is this: how does he see the move to One Yorkshire, which, as many noble Lords have highlighted in the debate, is the desire of the overwhelming majority of all local authorities and communities in that area?

On a general point, the devolution proposals from the Government suffer from three particular problems. First, the level of resources provided is woefully inadequate

to enable the true potential to be realised, and that goes for all the deals that I have seen. Secondly, the plans for local government devolution are a confused patchwork across England. There is not a clear plan or map, and that will build up huge problems for the future. Thirdly, the consultation process is weak and flawed. The noble Baroness, Lady Bennett of Manor Castle, made that point, as I have on many previous occasions.

I very much support the comments of the noble Lord, Lord McColl of Dulwich, in paying tribute to a number of key individuals, including Dan Jarvis MP. I also support his comments on modern slavery, and I pay tribute to him for all his work in this area. I urge the Minister to go back and speak to his colleagues in the Home Office and get them to take up the issues that the noble Lord, Lord McColl of Dulwich, has consistently raised in your Lordships' House.

I very much support the desire to move to more local leaders, with real powers to make decisions to determine the future of the regions, working with their local communities. However, real power has to be devolved. The contribution of my noble friend Lord McConnell reminded me of an article I wrote for the Fabian Society in 2019, on the need for proper devolution in England. I contended that powers should be devolved in areas such as agriculture, rural development, the environment, health, housing, local government, planning, sport and recreation, and tourism.

I also very much agree with my noble friend Lord McConnell on the need for a Secretary of State for the regions and nations to sit around the Cabinet table. There has to be a hard and honest look at the need for separate offices for Scotland, Wales and Northern Ireland, as devolution has changed the map of the United Kingdom completely.

I recall the Prime Minister talking a few months ago about improving rail connectivity between Manchester and Leeds. However, people who live in the north-west and Yorkshire will tell you that we also need improved rail connectivity from Liverpool to Hull, going through Bradford, to turbocharge the economy. Only locally elected politicians understand that—the metro mayors, the locally elected Members of Parliament and the locally elected councillors—and therefore the power and resources should be in their hands. I know that it is often easier to say that as an opposition politician, but we also need to follow that through when we are in government.

I agree with the noble Lord, Lord Kirkhope, that this is progress, and I welcome it. However, we should be seeking to move quickly to One Yorkshire, and I view this order today as a step on the way. English devolution is very much unfinished business.

1.50 pm

Lord Greenhalgh: My Lords, we have had an interesting and wide-ranging debate on the order before the House today, and I thank noble Lords on all sides for their excellent and helpful contributions. As I have outlined, the order represents another significant milestone in the Government's agenda to level up opportunity and prosperity across the United Kingdom. I will try to respond to as many noble Lords' points as possible.

I thank the noble Earl, Lord Shrewsbury, for highlighting his family's 600-year history with Sheffield and for pointing out that the University of Sheffield and Sheffield Hallam University have the opportunity to be an MIT of the north in the fields of engineering and manufacturing research. The Government are supporting that with a £20 million fusion research centre, which will open later this year.

The noble Lord, Lord Greaves, and the noble Baroness, Lady Bennett, see this direction of travel as against local democracy; I have to disagree. It heralds an era of accountability and local leadership, led by the mayor. I join the noble Lords, Lord McConnell, Lord Adonis and Lord Kennedy, and my noble friend Lord Bourne in thanking Dan Jarvis MP for his efforts and endeavours in bringing us to this point. I also point out—as did my noble friend Lord McColl—the big role also played by my honourable friend the Minister, Simon Clarke, in achieving this devolution deal, after a long time. I agree to support my noble friend Lord McColl in all his endeavours in the battle against modern slavery. I will take this up at every opportunity with my colleagues in the Home Office.

The order implements commitments made in the 2015 Sheffield City Region devolution deal. We now have the local support needed to implement that deal, with all four councils, the combined authority and the mayor having consented to this order being made. I therefore do not recognise the points raised by the noble Lord, Lord Greaves, and the noble Baroness, Lady Bennett, about this being anathema to local democracy. I underline that this also sees the combined authority leadership being ready to receive £35 million for adult education. This devolution in education powers will be important in driving the skills agenda, as highlighted by my noble friend Lord Bourne and the noble Lord, Lord Bhatia.

The noble Lord, Lord McConnell, called for ambition. I believe that this Government are showing that. We are making huge strides towards the rebalancing of the economy and empowering local government through devolution. Devolution deals are a key part of our plan to support growth up and down the country as we build the economy. As my noble friend Lord Bourne and the noble Lord, Lord Adonis, pointed out, we need greater devolution, including recognising the importance of strategic connectivity, which is key to growth. The Government are committed to the benefits of HS2 in the north, for the cities of Manchester, Leeds and Sheffield, and for the East and West Midlands.

At the end of this process, 41% of residents in England are now served by directly elected city region mayors, each of whom has the powers to stimulate job creation, increase skills, build homes and improve transport. As the noble Lord, Lord Blunkett, put it, this is the beginning of the process, and of an important new era for South Yorkshire, not the end. We are talking to leaders in York, North Yorkshire, Hull and the East Riding, about possible devolution deals. We are open, in principle, to new deals being completed by May 2022 and concluded by May 2023.

The devolution deal in West Yorkshire was agreed, and announced by the Chancellor in the Budget. It sets out a total package of increased powers and

[LORD GREENHALGH]
funding for the West Yorkshire area. The deal will provide £1.1 billion of investment funding for the area over 30 years, as well as devolving significant new decision-making powers on transport, housing, planning, education and skills. This agreement is subject to ratification by those councils and the combined authority, and to the statutory requirements for making the secondary legislation implementing the provisions of the deal. It is a significant achievement that, once the West Yorkshire mayoralty stands up next spring, 63% of the north of England will be covered by mayoral combined authorities thereafter. In response to the noble Lord, Lord McNicol, that highlights our level of ambition for devolution.

In answer to the noble Lords, Lord McConnell and Lord Shipley, the future plans for devolution will be set out in the forthcoming devolution White Paper. I assure the noble Lord, Lord Shipley, that the PCC review is being taken into consideration. I have already had an initial meeting with Minister Clarke and the Policing Minister, Kit Malthouse, on this subject. The noble Lords, Lord Greaves and Lord Shutt, saw this as a bad day for Yorkshire. Like many other noble Lords who have spoken, I see this as a great day for Yorkshire. It is a huge opportunity for South Yorkshire to recover from Covid. Many noble Lords, including the noble Lords, Lord Greaves, Lord Shutt, Lord Blunkett, Lord Shipley and Lord Kennedy, referred to One Yorkshire. In recognition of the ambitions for closer collaboration across Yorkshire, reflecting the Yorkshire brand and its cultural heritage, the Government have recently provided £200,000 to support the establishment of a Yorkshire leaders board, as a practical step for facilitating greater collaboration on a Yorkshire-wide basis. However, the Government have consistently stated that the One Yorkshire proposal does not meet our criteria for devolution.

This order will give the mayor and combined authority the powers and funding they need to drive the city region's economic recovery and renewal. It has the potential to transform the life chances of people across South Yorkshire and I commend it to the House.

Motion agreed.

1.57 pm

Sitting suspended.

Domestic Abuse

Private Notice Question

2.15 pm

*Asked by **Baroness Burt of Solihull***

To ask Her Majesty's Government, further to the analysis by Refuge that showed that (1) the National Domestic Abuse Helpline received more than 40,000 calls and contacts during the first three months of the COVID-19 lockdown, and (2) calls and contacts increased by 77 per cent in June, published on 23 July, what plans they have to support victims of domestic abuse.

Lord Parkinson of Whitley Bay (Con): My Lords, the Government have been working closely with domestic abuse organisations since the beginning of the pandemic

to monitor the volume of calls to helplines and to ensure that vital support services remain available. We have provided £2 million of funding to ensure that helplines and web-based support remain available at this challenging time, and are working closely with those organisations, the Domestic Abuse Commissioner and the police to understand the impact of Covid on victims and survivors, including as lockdown restrictions are eased.

Baroness Burt of Solihull (LD) [V]: My Lords, emergency Covid funding for violence against women and girls charities must all be spent by 31 October, yet the sector is chronically underfunded and demand has never been higher. It is vital that sustainable long-term funding is delivered with urgency. So can the Government confirm exactly how much money they are making available to back up the new legal duty in the Domestic Abuse Bill to assess the need for and commission domestic abuse safe accommodation services?

Lord Parkinson of Whitley Bay: My Lords, the noble Baroness is right to refer to the package of funding that has been announced by the Government to help charities and organisations working in this important sector during the Covid crisis. The Government consistently funded this important work before Covid came on the scene as well—for instance, helping to provide a 10% increase in the number of bed spaces available in refuges. We will certainly continue to monitor the needs of the sector as the pandemic eases.

Baroness Donaghy (Lab) [V]: My Lords, warm words are always welcome from the Minister, but he will know that the situation was dire even before lockdown. The majority of women who need refuge are turned away because there is no accommodation. The sticking-plaster emergency funding and the inadequacy of the UK's support infrastructure disguise the sheer scale of this problem. The Government must make it a higher political priority. How will they promote a step change in continuous funding to refuges, particularly those offering specialist support?

Lord Parkinson of Whitley Bay: My Lords, the Domestic Abuse Bill that has just passed in another place is of course heading for your Lordships' House, where we will be able to debate these measures. That sets the new statutory definition of domestic abuse and creates new duties on local authorities, including to make sure that those who are fleeing domestic abuse will automatically be considered as a priority need for housing by local authorities. I am sure that these are debates to which we will return when the Bill reaches your Lordships' House.

Baroness Sanderson of Welton (Con): Is the Home Office going to do any work to understand what lies behind the increased use of the helpline? If it is the case that the Government's recent public information campaign is encouraging more victims to come forward, would they consider continuing with that for the foreseeable future?

Lord Parkinson of Whitley Bay: My noble friend makes an important point. She refers to the publicity campaign that my right honourable friend the Home Secretary launched in April, the #YouAreNotAlone

campaign, which encourages greater awareness of the problem of domestic abuse, particularly at this time, and makes sure that people know where they can turn to for help. My noble friend is right: this is, sadly, an underreported crime. As we have seen an increase in the number of calls to helplines in the pandemic, we want to understand whether that is because of a rise in the number of incidents, a rise in the confidence of people seeking help, or a combination of both.

Baroness Hamwee (LD) [V]: My Lords, I declare an interest as a past chair of Refuge. The helpline run by Refuge, which has a lot of sophisticated functions, relies on volunteer help—as do very many charities, of course. Does the noble Lord agree that, in order to support the volunteers and maintain their commitment, it is essential that they have confidence in the Government's own commitment?

Lord Parkinson of Whitley Bay: Absolutely. I will take the opportunity to pay tribute to the work that Refuge does, particularly in running the national helpline, which is so important, particularly at the moment. I am pleased to say that Refuge has received more than £230,000 of the £2 million that the Government made available and which I mentioned in my first Answer. I hope that that is testament to the importance we accord to its work, and particularly the adaptability it has shown, as many of the people working on the helpline and providing help throughout the crisis have been doing so from their own home.

Lord Rosser (Lab) [V]: The Domestic Abuse Bill puts a duty on local authorities to provide support to victims in refuges and accommodation-based services. That is welcome, but the majority of domestic abuse victims access services in the community rather than through a refuge. So will the Government now commit—particularly in the light of the latest figures on abuse—to extending that duty on local authorities to provide support to victims of domestic abuse to also cover vital community-based services? If the Government will not now so commit, why not?

Lord Parkinson of Whitley Bay: The noble Lord is right: the Domestic Abuse Bill includes a new duty on tier 1 local authorities to assess the need, and commission support, for safe accommodation for victims. The Government recognise that more needs to be done to ensure the adequate provision of community-based support. I am pleased to say that the Domestic Abuse Commissioner has agreed to undertake an in-depth exploration of the current landscape in this area. We will then of course work with the commissioner to understand the needs that she has identified and develop options on how best to address them.

Baroness Butler-Sloss (CB) [V]: My Lords, I declare an interest as chairman of a commission on forced marriage. In providing support for domestic abuse victims, will the Minister also take into account victims of forced marriage or those in forced-marriage situations, some of whom are only teenagers?

Lord Parkinson of Whitley Bay: The noble and learned Baroness is absolutely right that domestic abuse takes many forms. There are no excuses for it, but there are many facets to it, and forced marriages and so-called “honour-based” abuse are just two of them. The Government work with a number of organisations that specialise in precisely those aspects of this vile crime.

Baroness Gale (Lab) [V]: Does the Minister agree that, as restrictions are lifted, many more victims of domestic abuse will seek help to escape their abuser and that much more support needs to be given to those who run refuges? The Minister mentioned the sum of £2 million that had been spent; can he say what has happened to the £76 million of extra funding that was announced, which ends on 31 October? How much of that funding has been spent? Many organisations in this field are saying that it is only just reaching the front line.

Lord Parkinson of Whitley Bay: The noble Baroness is absolutely right; we are aware that there may well be further changes in the number of people seeking help as lockdown restrictions are eased or as they start to see friends, family and those in whom they can confide or who have concerns about them. She asked about the funding that has been made available. As part of that £76 million set aside for groups working in this area, £10 million was disbursed via the Ministry of Housing, Communities and Local Government for safe accommodation services. I can say that £8.76 million of that has been allocated so far.

The Lord Bishop of Chichester: My Lords, can the Minister explain what action the Government are taking to respond specifically to the long-term emotional needs of children who are victims of domestic abuse? Also in that context, can he include work with perpetrators, who are often male and often the father, with whom children might have had a bond that they value?

Lord Parkinson of Whitley Bay: The right reverend Prelate raises a very important point. New Clause 15 of the Domestic Abuse Bill provides precisely for that—the impact of domestic abuse on children, who are sometimes the victims and sometimes witnesses to this appalling crime. That will help us to ensure that locally commissioned services consider and address the needs of children affected by domestic abuse, particularly, as he says, where a parent or parent's partner is the perpetrator.

Baroness Hussein-Ece (LD) [V]: The lockdown has impacted disproportionately on migrant women trapped in abusive relationships with little financial help from the state, or entitlement to such help. Are applications from these women for indefinite leave to remain being considered accordingly, as they can be in some instances, and what emergency funding has been made available to help these very desperate women?

Lord Parkinson of Whitley Bay: The Government have made sure that the advice provided has been translated into a number of priority languages to

[LORD PARKINSON OF WHITLEY BAY] ensure that help reaches those for whom English is perhaps a barrier to seeking that help. A domestic violence concession allows people who require it to be treated outside the Immigration Rules. We recognise that, for some, uncertainty about their immigration status is something that their abuser might hold over them. Therefore, the Government are very alive to the concerns that the noble Baroness raises.

Baroness Lister of Burtersett (Lab) [V]: My Lords, despite the Minister's assurances, the "no recourse to public funds" rule is excluding many migrant domestic abuse victims from refuge housing and financial support. Will the Government therefore now suspend the rule during the pandemic and meet the Step Up Migrant Women coalition to discuss this issue and address it in the context of the Domestic Abuse Bill to ensure that it is compliant with the Istanbul convention?

Lord Parkinson of Whitley Bay: As I mentioned, there is the concession for domestic violence, which allows people to be looked after outside the Immigration Rules, but the Joint Committee which looked at the Domestic Abuse Bill, which is coming to your Lordships' House, recommended that this be reviewed further. The noble Baroness, Lady Burt, who asked the Question, was a member of that committee. The Government have carried out that review and, flowing from that, my honourable friend the Minister for Safeguarding announced during the Second Reading of the Bill in another place a £1.5 million fund to launch a programme to support migrant victims of domestic abuse so that we can see what further work needs to be done in this area.

Baroness Massey of Darwen (Lab) [V]: My Lords, as has been said, children who witness domestic violence are also innocent victims who suffer trauma. There is an increasing need for support for such children, yet 60% of service providers state that they have had to cancel their services for children during the Covid pandemic. How will the Government ensure that such services are restored and improved?

Lord Parkinson of Whitley Bay: A number of organisations do brilliant work in this area, looking after children who, as the noble Baroness said, are witnesses to these appalling crimes. That is particularly difficult at the moment, when face-to-face help cannot be provided. As I have mentioned, a number of the charities have moved to online support during the crisis, and of course we will continue to work with them, as we have been doing throughout the pandemic, to make sure that they are able to help everybody who needs their assistance.

Lord Mackenzie of Framwellgate (Non-Afl) [V]: My Lords, is the number of domestic violence victims who are intimidated after they have sought refuge increasing? What measures are taken to ensure that the locations of refuges are kept secret?

Lord Parkinson of Whitley Bay: My Lords, I do not have to hand the numbers that the noble Lord seeks but I will find them out and write to him on that point.

Baroness Crawley (Lab) [V]: Can the Minister inform the House of what recent discussions the Government have had with the CPS to prioritise domestic violence cases during the Covid-19 outbreak? Also, the Minister mentioned the "You are not alone" campaign, which we all welcomed with open arms. Have the Government made any assessment of the effectiveness of the campaign so far?

Lord Parkinson of Whitley Bay: In answer to the first question, on 21 May the Prime Minister hosted a virtual summit on hidden harms and the Home Secretary chaired a session with policing leads and relevant commissioners to explore how we can ensure that law enforcement agencies and those right across the criminal justice system are able to meet the demands of the pandemic and provide confidence that the perpetrators will be brought to justice. On the efficacy of the "You are not alone" campaign, the website has had more than 250 million hits. Right at the beginning of the crisis, the Government updated the advice on GOV.UK, which we continue to update throughout the pandemic.

The Deputy Speaker (Lord Duncan of Springbank) (Con): My Lords, all supplementary questions have now been asked.

2.31 pm

Sitting suspended.

Arrangement of Business

Announcement

2.45 pm

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, the Hybrid Sitting of the House will now resume. Some Members are here in the Chamber, respecting social distancing, and others are participating virtually, but all Members will be treated equally. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

Insolvency Act 1986 Part A1 Moratorium (Eligibility of Private Registered Providers) Regulations 2020

Motion to Approve

2.45 pm

Moved by Lord Greenhalgh

That the Regulations laid before the House on 29 June be approved.

The Minister of State, Home Office and Ministry of Housing, Communities and Local Government (Lord Greenhalgh) (Con): My Lords, the purpose of these regulations is to disapply the moratorium powers under the Corporate Insolvency and Governance Act 2020 for private registered providers. A separate housing moratorium of 28 days already exists to support them should they get into financial difficulty.

The Corporate Insolvency and Governance Act 2020 introduced a range of measures, both permanent and temporary, to assist businesses. The Act gives companies

the flexibility and breathing space they need to continue trading during this difficult time. The regulations being considered today relate to the moratorium provisions contained in that Act. The moratorium measure gives struggling companies a breathing space in which to explore their rescue and restructuring options, free from creditor action. During the moratorium, no legal action can be taken against a company without leave of the court. The measure ensures that companies that are struggling are given the opportunity to survive.

Private registered providers of social housing already have special arrangements for dealing with financial difficulties. These arrangements are set out in the Housing and Regeneration Act 2008 and the Housing and Planning Act 2016. This regime already includes a 28-day moratorium to allow a provider in difficulty, working with the Regulator of Social Housing, to resolve its problems. The arrangements we already have in place, combined with the economic regulation of the sector by the Regulator of Social Housing, make this new moratorium unnecessary.

Under powers within the Corporate Insolvency and Governance Act 2020, these regulations disapply the moratorium powers within that Act to private registered providers. This averts the potential of having two routes that a private registered provider in financial difficulty could follow. This could lead to having two moratoria operating alongside each other, which could be conflicting. This could undermine the ability of the Regulator of Social Housing to support a private registered provider facing financial difficulty, thereby limiting its ability to protect tenants. We seek to avoid this situation.

The housing association sector benefits from a record of no loss on default, meaning that no lender has lost money because of a private registered provider failure. This is important, because it allows private registered providers to borrow cheaply to build the homes we need. Ultimately, that strong financial performance protects tenants, because their homes are not put at risk.

While financial problems are rare, the housing association sector has changed significantly in recent years. The level of private finance has grown from £48 billion in 2012 to over £80 billion in 2020. That is why it is vital that we maintain a clear and robust regime to support a private registered provider facing financial difficulties.

These are straightforward regulations. They are necessary to maintain arrangements that allow the Regulator of Social Housing to effectively support a private registered provider in financial difficulty. They ensure there is a clear regulatory framework that applies to a private registered provider in financial difficulty. This will continue to safeguard investment in social housing and protect tenants. I commend these regulations to the House.

2.49 pm

Lord Wood of Anfield (Lab) [V]: My Lords, I support this tidying-up exercise to remove a clash of moratorium provisions for private housing providers between, on the one hand, the housing Acts of 2008 and 2016 and, on the other, the new provisions in the Insolvency Act 1986 as amended by the Corporate Insolvency and Governance Act 2020.

I am unclear as to whether the slight messiness that these regulations aim to clear up was anticipated during the legislative passage of the recent insolvency Act, but given the fact that only 322 of the approximately 4 million companies in the UK are privately registered providers of housing, there could arise legal, financial and policy confusion from having two separate moratorium regimes applying to this small but important area of economic activity. Also, given that the new provisions do not offer greater protection for providers faced with Covid-related financial difficulties than the existing provisions, the regulations seem, at least to me, to be sensible and proportionate.

I will not detain the House for long because colleagues such as the noble Baroness, Lady Bowles, has much greater practical experience and expertise in this area than I do, but this is a subject that I have been interested in for some years and I have a couple of brief comments and questions to offer.

First, I commend the Government for their reform of the insolvency regime that has given rise to the need for these regulations. For years, Governments led by both main parties have been urged to borrow from the American insolvency regime that was brought in during the late 1970s. This new regime has learned from the American example and has stopped a situation, the curse of administrators in our system, in which a minority of creditors have had the power to stop a much-needed corporate restructuring process that could save both the company and many jobs. It may have taken the Covid crisis to propel the introduction of this new rescue culture to our insolvency laws, but the Government deserve credit for making it happen and for acting swiftly.

I want to ask about one of the few important objections that was raised on the Bill as a whole when it was proposed earlier this year: the concerns of pensioners' organisations and pension funds that the new insolvency regime may make the process of recovering unpaid pension contributions more difficult. How are the Government seeking to allay those concerns now that the new regime is up and running? Could it be an area where further rule changes will be required, or are Ministers happy with the operation of the new rules with regard to the differential impact on different types of creditor?

The origins of the legislation lie, of course, in the effects of Covid on corporate viability, but they also give rise to a question I have about the permanence of the new insolvency regime. This has been puzzling me for the past two or three months. Which aspects of the new rules prompted by the Covid crisis are designed to be permanent in this new regime and which ones are temporary? For example, as I understand it—and I hope that I will be forgiven if this is wrong—the suspension of the wrongful trading rules which are designed to give directors a vital breathing space free of liability is, I believe, valid until the end of September. Will it be extended or made permanent? Similarly, what about the rules limiting the ability of creditors to present a winding-up petition? That change is excellent and in my view much-needed, but it is also temporary. Will it be made permanent?

I turn now to the specific regulations set out by the Minister. I have a couple of questions about the practical consequences of having one set of insolvency moratorium

[LORD WOOD OF ANFIELD]
provisions for UK plc as a whole and a separate provision for a small subset of providers of social housing. As I have said, I understand the pragmatic reasons for this, and given where we are, this seems a sensible way forward, but I have a genuine question here. Are there any companies with holdings across economic activities that may result in some of their activities falling under the provisions of the 1986 Act while their housing activities fall under the separate moratorium procedures of the Housing Act? The answer may well be no, but this mixed regime problem is an issue elsewhere in corporate regulations, so I want to check on it.

Related to this, and lastly, I want to ask about the question of secondary legislation arising from the two separate bodies of primary law that underlie these two separate moratorium processes. Clearly, the fact that a small group of private social housing providers will be regulated under a different legal regime means that the rules may diverge, and indeed they already do so. That is not a problem in itself, but there may be good regulation principles in an ambition not to let that divergence grow over time. How will the co-ordination of secondary legislation under two separate bodies of law be achieved, particularly given that, as I think I am right in saying, they will be under the leadership of two different government departments and two different ministerial leads? Is this an issue of concern and, if so, how do the Government propose to ensure that that co-ordination happens?

2.54 pm

Baroness Kramer (LD) [V]: My Lords, I first thank the noble Lord, Lord Agnew of Oulton, for alerting me that the Corporate Insolvency and Governance Act 2020 might throw up some problems for the social housing, charitable, mutual and social enterprise sectors and that these would be dealt with through statutory instruments, of which I assume this is one.

We are all concerned to make sure that tenants in social housing are fully shielded from any financial difficulties encountered by their private registered social housing providers; otherwise, they would risk losing their homes or face rent increases to market levels, especially if creditors were able to enforce security on their homes.

The Minister has made it clear that the purpose of this SI is to exempt private registered providers of social housing from the new moratorium provisions of the Corporate Insolvency and Governance Act on the grounds that the existing regime, established under the Housing and Planning Act 2016, ensures superior protection for tenants. In that case I have no objections to the purpose of this SI.

I have just two questions. The first is about cross-contamination; in a sense I am picking up a point partially made by the noble Lord, Lord Wood. As your Lordships will know, the business models for providers of social housing have become much more diverse, and a number are active in other parts of the housing market. In the wake of Covid, we are quite likely to see a number of those companies in financial difficulty. They may well seek the protection of a moratorium under the new corporate insolvency Act.

How will the two moratorium regimes under two different pieces of legislation, affecting the same holding company, work out? What happens and who has priority?

In addition, as the Minister will know, my colleagues and I have been concerned that banks are quite likely to manipulate any moratorium under the new Act, both to achieve higher fees and to improve their priority position. HMRC's provisions in the Finance Bill to give itself super-priority adds another complication. Given all these different factors in play, who will be responsible for co-ordinating and resolving the complexity of all this?

My second question is much briefer. Mutuals, charities and social enterprises are often not suited to the new provisions in the Corporate Insolvency and Governance Act, as the Government have recognised. When will we see the SIs to manage their problems?

2.57 pm

Baroness Falkner of Margravine (Non-Afl) [V]: My Lords, my interest in this statutory instrument is due to the fact that I served for nine years as a non-executive director of one of the largest housing associations in the UK. Naturally, therefore, the governance of registered providers of social housing—including routes to insolvency—was fairly uppermost in my mind, particularly as that period came before, through and after the financial crash.

When, after the financial crash, many housing associations diversified into different areas of business and took on considerably more debt to frame their portfolios—often with more risky undertakings as margins got tighter—we understood that the Housing and Planning Act allowed for the Secretary of State and the social housing regulator to apply for the new framework at the time, which was to apply for a housing administration order. Given that the HPA 2016 has reduced the amount of time that a moratorium will apply from the pre-existing regime of 28 working days to merely 28 days—I accept that the housing administration order can allow for much longer periods—it is not entirely clear to me whether that tightening of the timeframe has an impact on the viability of housing associations.

I wonder whether the Minister will be able to tell me how the social housing regulator will now assess the viability of housing associations caught in the current economic crisis, with several that are overextended and potentially may not survive. I know the department prefers consolidation, as with universities, to letting any housing association go under, as the Minister explained to us in his opening remarks.

However, there are a lot of housing associations that are now overexposed to student housing. We are aware of what is going to happen to universities in that regard with the tightening of the student housing market—I could say collapse, but I will not be that gloomy. There is another set of them which, in addition to overexposure to student housing, came into the private housing sector in quite significant numbers around 2010 to 2012 because it was seen as more lucrative at the time. What is the Minister's department doing, in terms of working with the regulator, to have

early warning systems to ensure that the financial health of these overexposed housing associations is monitored during this extreme time?

It is always a pleasure to follow both the noble Lord, Lord Wood, and the noble Baroness, Lady Kramer. I also wanted to press the Minister on how the two different regimes will operate. My own view is that housing associations will prefer to stick to the regime under the Housing and Planning Act 2016. For the avoidance of any doubt, I hope the Minister will be able to clear that up in his closing remarks.

Finally, I turn to an issue that the Minister might not be aware of but that came up in the Finance Bill on 17 July. This was an issue raised by several noble Lords—not least the noble Baroness, Lady Andrews—about what happens to rented tenants when the opportunities for landlords to use eviction orders are reinstated. There has been quite a lot about this in the media and we have seen that tenants in private rented accommodation are extremely insecure at the moment. They are in a situation where furlough is coming to an end, but they do not yet know whether they will be retained in employment, and currently landlords are moving quickly to serve eviction notices once the period of stay ends on 23 August. The noble Baroness, Lady Andrews, and a few other noble Lords drew attention to this in the Finance Bill. We did not get an adequate reply in the closure of that debate last Friday. I hope the Minister will be able to address that today.

3.02 pm

Lord Mann (Non-Aff) [V]: My Lords, the Minister has introduced this statutory instrument with clarity and brevity; I congratulate him. The noble Lord, Lord Wood, has eloquently asked the question that I would ask. For me to repeat it would be superfluous and so I shall refrain from doing so.

3.03 pm

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, a few weeks ago, I thought I had seen the last of the Corporate Insolvency and Governance Act—CIG, for short—at least for while, but here it is again, or rather not here as this is an eligibility exclusion.

As a starting point, let us look at what the social housing sector is not getting. The main features of the CIG moratorium were to enforce continuity of supply by negating supplier termination clauses during the moratorium, with debt relating to ongoing supply going up the creditor pecking order in a subsequent insolvency.

There was also a new restructuring plan process that could be enforced on minority creditors, potentially making restructuring arrangements easier. There was quite a lot of concern that the changes to the priorities in the event of a subsequent insolvency handed too much power to financial institutions, which are probably the main beneficiaries of enhanced priority. This, it seemed, was going to be the price for having a moratorium.

There ends my familiarity with the legislation relevant to these regulations, so I went through parts of the Housing and Regeneration Act 2008 and the Housing and Planning Act 2016 to see what the social housing sector had instead. I soon discovered that there is both a moratorium and other detailed provisions that impose

objectives that do not appear in the CIG moratorium. I agree that it would be complicated to try to blend the two together, although I share other noble Lords' concerns about when both are in the same holding company. I am not sure that I found all that much in common, other than the fact of a moratorium and creditors having to agree to extensions of the moratorium after the first period. There were bits that could have been contradictory if both co-existed without amendment.

The Explanatory Memorandum says that the Government consider that the CIG moratorium provisions are unlikely to offer greater protection for private registered providers or their tenants. I agree with that. The moratorium possibility already exists, seemingly without having to buy it from financial institutions with enhanced priority. I am unsure whether not having the restructuring option is a loss, but with something as important as social housing, being cautious about new provisions must be right. If that provision proves useful and relevant in due course, maybe ways to extend just that part could be found.

That leaves the matter of essential supplies and the triggering of termination clauses. I presume that something has worked over time, and perhaps the Minister can enlighten me; it may well be that I have missed some provisions, or that this is where the regulator funding comes in. But broadly, it seems reasonable and maybe safer to keep with the present bespoke system for social housing and exempt it from the new, more general arrangements.

I could stop there, but since we have been given a bit more time than usual in recent times, I will pose a couple of questions about how the social housing system moratorium works, because I found my curiosity piqued. There is an important objective—in the Housing and Planning Act, I think it was—of keeping social housing in the regulated sector, although there are also conditions in other parts of the legislation that the position of creditors could not be made worse. I wondered how those twin criteria were met in practice, and, if banks were major creditors, how they were kept at bay long enough to find the right arrangements, not least because, like other creditors, they would have to agree to any extension to the moratorium. Maybe the regulator has the knowledge to be able to act quickly, or other powers or provisions can be used. I noted that there were potential restrictions on disposals.

The Explanatory Memorandum also mentions that the regulator can give financial assistance, which seems a key point in enabling continuity of operations. What level of assistance can be given, and does it have to be recovered? I have strayed somewhat from the regulations in hand, so if the Minister has not got a brief for those questions, I would be happy to have a written reply.

3.08 pm

Lord Naseby (Con) [V]: My Lords, it is a particular privilege to follow the noble Baroness, Lady Bowles. She really is the best ferret there is on your Lordships' Benches in the areas where she has an expertise.

Many Members will realise that I have been interested in social housing from the days when I was elected to the London Borough of Islington—the first Tory leader in that century. I was not only the leader—I

[LORD NASEBY]

chaired the housing committee. That interest in the mutual movement has stayed with me, which is one of the reasons why I am making a short speech today. Your Lordships took through the Mutuals' Deferred Shares Act 2015, so I have been fairly active in this world.

For once, I can actually say a firm word of praise for the Ministry of Housing, Communities and Local Government, and for Her Majesty's Treasury. They thought ahead and have been in a position to help if, tragically, any of the private registered providers of social housing found themselves in real financial difficulty. To them I say thank you so much—it is really good that my Government have looked ahead and taken some action.

I have only a couple of questions. Is this likely to apply only to newcomers? We see in the briefing memorandum that there are 322 in toto. Is there any geographical spread that may lead to particular difficulties? Would I be correct in saying that this will not affect any of the traditional long-term trusts such as Peabody and all the others, some of which were created over a century ago?

I also wonder a little why Northern Ireland is not covered. When I was a PPS in Northern Ireland, I was very much aware of the social housing movement there. I wonder why it would appear from the memorandum that Scotland has been added but not Northern Ireland.

Finally, paragraph 7.2 of the Explanatory Memorandum says:

“Financial difficulties in the social housing sector are rare”—yes, we know that—

“and where they have arisen in the past have been resolved within the sector.”

Is my noble friend on the Front Bench saying that because of the incidence of Covid-19 and the massive effect it is having across all sectors, there is a worry that this traditional route of solving problems will probably not work, which is why we have this SI in front of us today?

The Deputy Speaker (Lord Faulkner of Worcester)

(Lab): Lord Empey has withdrawn from this debate, so the next speaker is the noble Lord, Lord Bhatia.

3.11 pm

Lord Bhatia (Non-Affl) [V]: My Lords, in these difficult times, private registered providers should be protected. They could suffer losses due to the coronavirus affecting their tenants, who are unable to pay their rents, but the tenants should also be protected from being evicted. This provision will protect the tenants in their houses, along with providers such as housing associations and registered providers.

However, I wish to talk about the insolvency Act on the wider stage. During these difficult times, many businesses are suffering as they are having to deal with decreasing numbers of customers. Existing customers are unable to repay their debts; this poses cash flow problems for the companies, which in turn are unable to pay their creditors. It is a very vicious circle. The Act stops the creditors from taking legal action against such companies and forcing them into insolvency.

Often, such companies are unable to pay their VAT and taxes to the Inland Revenue, which often takes priority over all other creditors. This Act is in some ways identical to the Chapter 11 legislation in the USA. This provision will allow many good companies the time to survive, as it will enable them to raise finance from other sources while finding new customers in the UK and abroad.

3.13 pm

Lord German (LD) [V]: My Lords, in supporting these regulations I would like to explore some of the issues surrounding the remaining procedure, which derives from the 2008 Act, as amended. This remaining procedure provides, as we have heard, a 28-day or four-week moratorium for the regulator to establish and agree a proposal for ensuring that the homes remain within the social housing sector, and that tenants' security is not affected by such a proposal.

The regulations before us apply only to England, so I would be grateful if the Minister could tell the House what the position is in respect of moratoriums in Scotland and Wales, where the duality of approach is still in place, given that the 2020 insolvency Act approach to moratoriums still applies across the United Kingdom.

These regulations put beyond doubt how special administration schemes for the 322 social housing providers in England will be approached, but I must comment on paragraph 10.1 of the Explanatory Memorandum. It says that ignoring those providers in the consultation which led to the 2020 insolvency legislation was because they were so few. That totally ignores the scale of the impact that these 322 providers have on the lives of millions of people. For those living in, or seeking to live in, the homes they provide and for their families, having a roof over their head is a fundamental part of their lives. I am sure that the Minister appreciates this, but I would be grateful if he could tell the House what steps the department has taken to ensure that they are not forgotten again.

The 28-day—four-week—moratorium provided through the earlier Act, which these regulations now confirm, is where I would like to explore a few issues. The clock starts on this moratorium, or space to work out a solution period, when one of a number of things occur, but, as the regulator states in its guidance, social housing providers should give it early warning. The guidance says it

“expects the PRP to notify the regulator”

where it has a potential problem or threat to its viability. I would be grateful if the Minister would reflect on whether an expectation is sufficient. Clearly, if it were a requirement, the regulator could step in earlier to assist. In that way, the danger of falling into housing administration, or even a moratorium, could be averted. It is this crucial relationship between the provider and the regulator that matters so much here.

The regulator has, by law, to see if it can rescue the housing provider, get a better result than it going into administration, sell the property in a portfolio or ensure that the housing remains in the regulated housing sector. I must add that I think these last two are somewhat contradictory and I would value some explanation from the Minister, but these are significant

challenges if the regulator has only four weeks to complete this work. Of course, it can extend the moratorium if all the secured creditors agree. These creditors are, fundamentally, banks—the lenders which lend against the security of the property—and experience tells me that they are not always patient in seeking to get their funds returned. This will especially be the case with those housing associations which are highly geared. In that respect, I notice that the Minister, in his outline at the beginning, said that there was £80 billion of private sector money in the sector in 2020, whereas his colleague in the other place said that there was £100 billion in 2020. Can the Minister explain the difference of £20 billion between what he and his colleague told each House of Parliament? More than anything, will the Minister consider making the early warning a requirement, rather than an expectation?

The second issue is about the financial support that may be made available by the regulator to achieve its objectives, which are set out in statute. The guidance says that these funds are not a guarantee but, clearly, financial support would be very useful in retaining properties within the social fold, rather than selling them to realise an asset for repayment for secured creditors. Will the Minister indicate the level of financial support that has been provided by the Secretary of State in recent years upon an application by the regulator, and how often the Secretary of State has refused such an application?

Finally, and most importantly, these moratorium periods are very worrying for those occupying the homes. Tenants will understandably be concerned that their home can no longer be as secure as it was, with no guarantee that a second moratorium can occur, since that would require all secured creditors to agree. Providing comfort for tenants is critical at a time of great uncertainty. Emails and notes through the door might be welcome, but, in themselves, they are not as comforting as a face-to-face discussion with these home occupiers. Can the Minister reassure the House that face-to-face discussion is the required approach?

3.18 pm

Lord Holmes of Richmond (Non-Aff) [V]: My Lords, I congratulate my noble friend on the clear and concise way in which he introduced these regulations. It is a pleasure to follow the noble Lord, Lord German, and to benefit from the contributions of the noble Lord, Lord Wood, and the noble Baroness, Lady Kramer.

I have a number of points for the Minister. Many have already been touched upon at least. What would my noble friend say in terms of how the two different moratorium regimes will operate and what concerns do the Government have in this respect? However, probably my major concern is around priority. With HMRC having super-priority status, how does my noble friend conceive that HMRC is likely to operate and use this priority? Secondly, and at least as important, what is the Government view on how banks are likely to operate to increase their priority and the opportunity, for want of a better word, in the way the current structure is set up?

I want to touch on the issue of student housing, because it is such a significant piece of the equation and Covid has made such a significant change to how this area is seen as a source of finance. I use that as an

example in itself, but also as an opportunity to go broader and ask the Minister: what is happening across Whitehall to ensure that his department is able to get all the information and data that exists from other relevant departments that have such pertinence for the issue that we are debating this afternoon? Students are obviously one important piece but there is a whole series of departments that I envisage having useful data and intel; we could act sooner rather than later if there were such a cross-Whitehall structure. What is happening on that front?

Lastly, there is the question of cross-border issues. There will be circumstances where people operate in one home country and have resources and assets in another. What is the current thinking on that?

3.21 pm

Baroness Greener (LD): My Lords, this statutory instrument is largely uncontroversial. These are technical amendments to ensure that there is no conflict in legislation relating to private providers of social housing through both the Corporate Insolvency and Governance Act 2020 and the Housing and Planning Act 2016. The fact that it has been clarified that private registered providers have 28 days rather than 20 is welcome, although I share the questions of my noble friend Lord German about the feasibility of that time period. Anything that ensures that a provider of social housing has time to look into options for either rescue or restructure without the imposition of immediate creditor action, particularly in these challenging circumstances, is vital.

I asked the larger charities with legal expertise for whom social housing is a priority, such as Shelter and Crisis, for their view of this statutory instrument. They thought it looked sensible to offer registered social landlords this exemption, given that requirements already exist via the Regulator of Social Housing to restrict land disposal negotiations with creditors, thus enabling a focus on the potential sale to another social landlord. Again, though, I thought the description by my noble friend Lord German was particularly pertinent on this.

I noted that according to the Explanatory Memorandum, during a housing moratorium the consent of the Regulator of Social Housing is a necessary part of this process. I am also reassured that the website of the Regulator of Social Housing advises that moratoriums can be extended for a further 20 business days without creditor consent, or for a longer period with creditor consent, by filing relevant statements with the court. It can also be extended further on application to the court.

As we have already heard, the moratorium has an impact on a limited number of companies—currently 322, as described by both the noble Lord, Lord Wood, and my noble friend Lord German—but any social housing provider remains a critical part of the infrastructure, as explained by my noble friend Lady Kramer. That is particularly true given that year on year we are still dealing with a chronic shortfall in social housing provision—the current waiting list was 1.1 million even before the pandemic.

[BARONESS GRENDER]

As the Minister set out in his opening remarks, financial stability is critical. This wide-ranging debate has therefore been useful in the usual way that detailed scrutiny provides and which this place fulfils. I look forward to hearing the answers, especially about where the £20 billion has gone missing—I am fascinated by that particular issue. Luke Hall, the Parliamentary Under-Secretary of State for housing, said that private finance had grown from £48 billion to £100 billion. If there is a spare £20 billion knocking around, I have a very good suggestion as to where it should go.

Other noble Lords, particularly my noble friend Lady Kramer and the noble Lord, Lord Wood, asked about the cross-contamination issue or “coherence versus regime” issues. I think that when it comes to comments by my noble friend Lady Bowles, every Member of this House is always tempted to say: “What she said”.

I have only one question for the Minister today. Given the lack of controversy about and opposition to this statutory instrument, why is time allocated to this when a hugely controversial statutory instrument has been tabled too late for proper consideration—namely, the Civil Procedure (Amendment No. 4) Coronavirus Rules 2020, which amends Part 55 of the Civil Procedure Rules 1998, which will resume possession proceedings for private renters from 24 August, as referred to by the noble Baroness, Lady Falkner? On Wednesday, Housing Minister Pincher, when pressed, confirmed that it will enable landlords to evict tenants from August onwards, with the courts unable to exercise discretion if a Section 21 no-fault eviction notice has been served.

Yet again, the private renter has been let down by this Government. The Housing Secretary’s promise in March, that

“no renter who has lost income due to coronavirus will be forced out of their home”,

has been abandoned. Stamp duty reductions have incentivised landlords to sell up, according to people contacting Generation Rent, and the housing benefit increase fell short of average rents in some areas, including London. Worse, the Government trailed this change in the rules as an eviction ban, but it is in fact the very opposite, as Generation Rent pointed out in its letter to Secretary of State Jenrick. This change has been introduced without guidance or scrutiny by Parliament. A Conservative manifesto commitment to scrap evictions could have gone through with the break-neck speed of other much more draconian measures the Government have introduced during this challenging period, but they did not do it.

Will the Minister explain why we are discussing this somewhat uncontroversial change when a substantive change for private renters is not discussed at all? If the Minister cannot answer that now, which I completely understand, I would appreciate a written response. It is estimated that 250,000 households are in rent arrears. Loss of a rented home is one of the main causes of homelessness, and the Government have just given the green light for 24 August to become known as “Evictions Day”, with 45,000 households in danger of being homeless. We will oppose that change in every way we possibly can, and I hope other noble Lords will support us.

That said, as I made clear in earlier comments, this statutory instrument holds no major concerns for us on these Benches.

3.27 pm

Baroness Wilcox of Newport (Lab) [V]: My Lords, many noble Lords have asked interesting and apposite questions, displaying a depth of knowledge and insight into this specialist area of legislation. After an examination of the instrument, I am pleased to confirm that on our Benches we accept the need for the regulations and have no intention of opposing them today. These amendments appear technical, and the Government are right to eliminate issues arising from competing legislation.

I hope that I am already gathering a reputation for brevity in my speeches, and I have no desire to speak longer than necessary today, but none the less I would appreciate clarification of three areas. First, can the Minister explain the consequences if these regulations had not been agreed by both Houses before the impending Recess? Secondly, given that much of the legislation applies to Wales and Scotland as well as England, can the Minister briefly confirm that neither devolved Government raised any outstanding concerns in relation to the regulations? Finally, can the Minister update the House about wider regulations relating to breathing space? Is he satisfied that no further legislation is required?

3.28 pm

Lord Greenhalgh: My Lords, we have had an interesting and very wide-ranging debate on the regulations before us today. I thank noble Lords on all sides of the House for their contributions. I shall take this opportunity to provide some further detail on the points that have been raised.

I thank my noble friend Lord Naseby and the noble Lord, Lord Wood, for their support for the reforms of the insolvency regime and for recognising that this is very much a tidying-up exercise. I will have to write to the noble Lord, Lord Wood, on the detailed points that he raised with regard to the insolvency regime as that is not in my current brief.

Many noble Lords talked about cross-contamination. Private registered providers will have both social and private housing, and they asked how the two regimes will work in parallel. I point out to the noble Lord, Lord Wood, the noble Baroness, Lady Kramer, and my noble friend Lord Holmes that the insolvency arrangements we have in place through housing legislation reflect extensive engagement with the Regulator of Social Housing, lenders, private registered providers and their representative bodies. The regulations that we are considering today ensure that those arrangements remain unaffected by the new moratorium provisions through the Corporate Insolvency and Governance Act. I assure my noble friend Lord Naseby that there will be no deleterious impact on housing associations such as Peabody.

The noble Lord, Lord German, and my noble friend Lord Naseby raised the matter of scope. This statutory instrument focuses on insolvency arrangements in England and on providers registered with the England regulator.

It applies to all private registered providers in England—those that are registered now and in the future—and my understanding is that both Scotland and Wales are considering this.

I thank the noble Lord, Lord German, for pointing out the missing £20 billion, and the noble Baroness, Lady Greener, for spending it very quickly. There is a disparity but it is between the borrowing that is available—£100 billion—and the borrowing that has been drawn down, which is £80 billion, so I am happy to clarify that point.

The noble Baroness, Lady Falkner, raised the issue of the viability of private registered providers. I point out that the Regulator of Social Housing is working closely with providers to monitor and support the sector through the very difficult impacts of Covid-19 on both its finances and service delivery. Hitherto, the sector has no loss as a default record. We will then get the early warnings if there are any issues. The sustainability of the sector will be helped by the commitment of some £12 billion to build affordable homes between 2021-22 and 2025-26, which is the biggest single cash investment in affordable housing for a decade.

The noble Baronesses, Lady Falkner and Lady Bowles, and the noble Lord, Lord Bhatia, raised the issue of the protection of renters in rent arrears. I highlight that the Government have brought forward a number of measures to remove the immediate risk of tenants being evicted or becoming homeless. Tenants who are unable to pay rent will continue to be protected by the three-month notice period for evictions, which was introduced through the Coronavirus Act and will last until 23 August 2020.

I will write to the noble Baroness, Lady Greener, on her points, specifically the reasons for this SI being debated rather than the recent one that was laid before Parliament.

All tenants remain liable for their rent. Those who can afford to pay should continue to do so but should contact their landlord if they are struggling. We have

introduced an unprecedented financial support package, including the furlough scheme and changes to universal credit to help people to continue to pay their living costs, including rental payments, and to prevent them accruing rent arrears. We have been clear that there is a need for housing providers to offer support and understanding to tenants at this difficult time.

These regulations are necessary to maintain arrangements that allow the Regulator of Social Housing to effectively support a private registered provider in financial difficulty. This will continue to safeguard investment in social housing at unprecedented levels and protect tenants. The noble Baroness, Lady Wilcox, asked whether I could comment on what the impact would have been had this not been put before the House today. I am afraid I cannot give an opinion on the counterfactual, but I am assured that no further legislation is required.

In conclusion, the disapplication of the moratorium introduced by the Corporate Insolvency and Governance Act 2020 means that only one moratorium is available to private registered providers, avoiding the potential of two moratoria being in play together. Through housing legislation, the moratorium ensures the regulator has the tools it needs to maintain lender confidence and, as far as possible, protect tenants should a potential insolvency occur.

Before I end, the noble Baroness, Lady Bowles, had a forensic analysis of the provisions. Under the housing administration scheme, the first objective, to protect creditors, takes priority over the objective to retain social housing, but her points were so detailed that I will have to write to the noble Baroness further. This is an essential bit of tidying up and I commend it to the House.

Motion agreed.

House adjourned at 3.36 pm.

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