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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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The following abbreviations are used to show a Member's party affiliation:

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

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

House of Lords

Friday 9 October 2020

The House met in a hybrid proceeding.

11 am

Prayers—read by the Lord Bishop of Blackburn.

Arrangement of Business

Announcement

11.06 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, 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.

Alternative Dispute Resolution for Consumer Disputes (Extension of Time Limits for Legal Proceedings) (Amendment etc.) (EU Exit) Regulations 2020

Motion to Approve

11.07 am

Moved by ***Lord Callanan***

That the draft Regulations laid before the House on 29 June be approved. *Considered in Grand Committee on 16 September.*

Motion agreed.

European Structural and Investment Funds Common Provisions and Common Provision Rules etc. (Amendment) (EU Exit) (Revocation) Regulations 2020

Motion to Approve

11.08 am

Moved by ***Lord Callanan***

That the draft Regulations laid before the House on 13 July be approved. *Considered in Grand Committee on 16 September.*

Motion agreed.

Health Protection (Coronavirus, Restrictions) (Obligations of Hospitality Undertakings) (England) Regulations 2020

Motion to Approve

11.08 am

Moved by ***Lord Callanan***

That the Regulations laid before the House on 17 September be approved.

Relevant documents: 27th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, before we discuss these regulations, it is important to set their context and say why they are being brought in now.

In May, to help businesses operate and reopen safely during Covid-19, we produced guidance, broken down by workplace area. There are now 14 separate pieces of guidance, including five covering DCMS areas. These guides were not written in a Whitehall vacuum but co-created with business and with key safety stakeholders, such as unions, Public Health England and the Health and Safety Executive. Our collaborative engagement throughout this process was robust. Alongside seven round tables chaired by the Secretary of State, there were 900 responses to our consultations on the guidance, and the BEIS ministerial team held extensive meetings with stakeholders. Nearly 500 Covid-focused meetings took place from March to June. This constant dialogue with business produced guidance that enabled many businesses to reopen safely during the national lockdown.

BEIS also led two of the five ministerial task forces to shape additional guidance as the economy began to unlock and formerly closed businesses, such as those in the hospitality sector, were able to reopen safely. Those businesses have been following it: over 2 million copies of the guides have been viewed and I thank businesses for the great efforts they have made to adapt and work safely. It is also important to highlight how the guidance operates under our existing health and safety framework. The guidance forms part of employers' normal health and safety practice. Employers are legally responsible under the Health and Safety at Work etc. Act 1974 for the health and safety of their employees and others affected by their business, with a duty to make their premises safe and prevent risks to health, including from Covid-19.

Having outlined the policy background, I shall set the context by saying a few words about the current pandemic to convey the gravity of the situation. As we all know from the Prime Minister's announcement on 22 September, the pandemic has moved into a new phase. Indeed, the significant rise of Covid-19 in recent weeks has been widely reported. The Chief Medical Officer and Chief Scientific Adviser have set out that what we are seeing in the data is clearly very worrying. Regrettably, infections are rising rapidly across the United Kingdom. On 7 October, 14,612 cases were recorded, and we have also had a tragic increase in the number of daily deaths. The Prime Minister informed the nation on 30 September that we face the sad reality that, on these figures, we can expect many more daily deaths.

The rationale behind these regulations is therefore clear. Although the vast majority of businesses have followed the guidance, in cases where there are failings, we believe it is right that there should be swift action to address those failings. Acting now is the only and correct course of action. We can and we will beat this virus. Put simply, we have taken a few elements of our guidance and attached fixed penalty notices to them via these regulations. They are another tool that local law enforcement officers can use to tackle clear and

[Lord Callanan]
egregious examples of non-compliance. Crucially, they do not go further than the measures outlined in the Covid-secure guidelines, which the overwhelming majority of businesses are already compliant with.

I turn to the specifics of the regulations. Under SI 2020 1008, it is an offence for a pub, restaurant, cafe or other business selling food or drink for consumption on its premises to fail to take all reasonable measures to ensure that no bookings for a table are accepted for a group of more than six persons; that no persons are admitted to the premises in a group of more than six; and that, once on the premises, no persons mingle between their different groups of six. The requirements are subject to any exemptions to the rule of six in the regulations that limit gatherings. I do not intend to go over the discussions on the rule of six itself, which this House approved on Tuesday 6 October: these measures simply ensure that businesses play their part in ensuring that their customers follow the rules.

SI 2020 1008 also provides that businesses must take all reasonable steps to ensure appropriate distance is maintained between tables of seated customers on their premises, to further ensure that social distancing is able to be observed. SI 2020 1046 amends the former instrument to include additional requirements that were considered necessary, including measures to support the requirements for face coverings, as well as amending the penalty regime to more closely align with other measures brought forward and which ministerial colleagues have already had the honour of bringing before this House. The additional requirements brought forward in SI 2020 1046 are the creation of an offence for a relevant business covered by the face covering regulations to fail to display a notice or otherwise inform people present of the obligation to wear face coverings unless an exemption applies as there is a reasonable excuse for not doing so. Again, this provision respects the fact that some people are not required to wear face coverings. Businesses may not prevent people, whether workers or customers, wearing face coverings where they are legally obliged to do so.

Businesses must take all reasonable measures to prevent customers singing while on the premises in groups of larger than six, save where exemptions apply to the rule of six, and to prevent customers dancing, save for newlywed couples or civil partnership couples who have just wed. They must also limit recorded music noise levels to 85 decibels in public houses, cafes, restaurants and bars, when measured at the source of the sound.

The existing provisions in SI 2020 1008 to respect the rule of six in relation to taking bookings, admitting parties or allowing mingling are extended to cover further types of business. The scope of these rule of six provisions is extended in line with the Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020—the test and trace regulations for short. Enforcing officers have the ability to issue fixed penalty notices immediately upon the breach occurring but retain the right to their discretionary approach under existing enforcement principles. These will begin at £1,000, with a 50% reduction for early payment at that stage, and escalate to £4,000 for repeated offences without early payment reduction. SI 2020 1046 amended the available sanctions so that fixed penalty notices escalate to a maximum of £10,000 in the case of a fourth and any subsequent fixed penalty notices.

The Government and I wholly appreciate that these are new measures with a particular focus on certain businesses, yet this should not be construed as unfair or unjust. These measures will have a limited impact on the vast majority of responsible businesses, which are already compliant with the guidance. The regulations will help to secure compliance from those that have not and do not comply with the guidance. Moreover, these regulations can provide greater enforcement of safety measures in businesses, making sure they can continue to stay open and operate safely.

We must take action now to save lives. In doing so, we can keep people in work and keep our hospitality venues open. No one wishes to return to a second lockdown. These regulations can help us prevent such a step and will allow our country to keep our businesses moving forward while we work together to defeat the virus. I commend both sets of regulations to the House. I beg to move.

Amendment to the Motion

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

At end insert "but that this House regrets that the Regulations include further restrictions for the hospitality sector without introducing the additional measures which are needed to ensure (1) financial support for the businesses, and (2) the retention of the jobs of employees affected by the restrictions".

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I am very grateful to the Minister for his comprehensive introduction to these SIs and for going over the background and the rationale for their introduction.

Local communities are centred on their local hospitality providers. When weddings and events are postponed, cinemas, theatres, churches and sports grounds are shut, exercise facilities are curtailed and local and overseas tourism disappears, the hospitality sector feels the strain. Unfortunately, it is these businesses that are most affected by the new measures to combat Covid-19. With the ending of the furlough, the growing number of cases and the tightening of restrictions, this sector faces even tougher times ahead. Only this week, UKHospitality predicted 560,000 extra redundancies in the sector by the end of the year.

Today's first set of regulations introduces the rule of six for pubs, restaurants, cafes and other businesses, clearly placing responsibility on them to ensure that parties of more than six may not book or gain entry. This was noted by the SLSC, and we do not object to it. The second set of regulations amends the first to get businesses to take all reasonable steps to stop singing, dancing and event music, to deal with noise levels and to introduce new signage for face coverings. They also rack up the penalties—I suspect that that will give rise to further discussion this morning.

Labour supports public health measures to reduce the spread of Covid-19, but I argue in this amendment that these further restrictions on the hospitality sector

should be introduced alongside additional financial support for the businesses affected and effective incentives to retain jobs affected by these new measures. In passing, I note that there are reports in today's papers of a local furlough to be introduced for businesses forced to close because of Covid-19 regulations. Can the Minister give us any further details about that, because it clearly has a bearing on what we are talking about this morning?

We accept that it is challenging during a crisis such as Covid-19 to find the right balance between necessary public health measures and economic support. However, this Government have acted with alarming inconsistency and been guilty of mixed messaging on a grand scale. People were told to go back to work, and then to stay at home if possible; people were told to eat out, but then it turned out that the NHS track and trace app was not ready; and businesses were told that the furlough was ending without a proper plan for recovery and job creation in place. This one-size-fits-all approach is patently not working for, for example, the creative industries or the hospitality and events sectors.

Why is it that one in three freelancers—who make up 70% of the theatre workforce in this country—are ineligible for the SEISS or the CJRS? How do we expect regional theatres to survive if their staff are unable to get the support they need? Many restaurant owners and pub landlords believe that redundancies are only weeks away. When the Chancellor said this week at the Conservative Party conference

"I couldn't protect every job or every business",

the sector felt like he was talking directly to them. What on earth was in his mind when he raised questions about whether jobs in the creative industries were viable? It is one of our most effective sectors, which makes a huge and growing contribution to our economy and our national life. Indeed, Tim Burgess nails this argument in his *Guardian* article today.

The Government say that the Job Support Scheme is supposed to stop workers being laid off, but there are serious questions about the effectiveness of the scheme to incentivise employers to keep staff on by covering a percentage of their wage. Its design means that for some struggling businesses, particularly in the hospitality sector, it would be more cost-effective to lay off half their staff than pay £700 a month for each job they want to save. Other countries have done it better.

Surely we now need a job recovery scheme—regionally and sub-regionally based, to provide businesses with the incentives to keep staff on, not stack the odds against them—and a real focus on jobs for young people entering the job market for the first time. We all recall the scars of earlier recessions. We must learn the lessons. The Labour Party has called for the business grants underspend to be brought together into a hospitality and high street fight-back fund, so that local authorities can target financial support at businesses in distress. We need a sector-specific recovery plan which tries to reach out to the hospitality sector, the tourism sector, the creative industries and rural businesses in ways that give confidence that the Government recognise their particular circumstances and so that, when shut-downs and new regulations on behaviour are necessary for public health reasons, the collateral damage is recompensed on a fair and transparent basis, with local input. I beg to move.

11.23 am

Lord Bourne of Aberystwyth (Con) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Stevenson, who was a model of lucidity, as always. I thank my noble friend the Minister for his clear exposition of these rules; nobody can doubt his commitment and effort in the task of tackling this dreadful virus.

In principle, I support these regulations, designed as they are to protect the public and keep businesses open. However, I suggest to my noble friend that it would be helpful if the Government published evidence of the transmission rate at hospitality venues. I am sure we all read statistics in the media. Sometimes, it seems that as many as 40% to 50% of the areas where there is transmission are hospitality venues. It would reassure the public if the Government published the evidence. It would show the public and those who run hospitality venues that this is the right move.

I take my noble friend up on one point. He said that we all want to avoid a second lockdown. We should not forget that, for a massive part of our country, there is a second lockdown. We should look for consistency in how we implement these regulations, which areas go into lockdown and the reasons for it. Again, the Government should publish the evidence for this.

I agree with the noble Lord, Lord Stevenson, about businesses that are affected and need assistance, but there is also the question of extra costs for the police and local authorities in enforcing these regulations. As I say, one can laugh at the Cromwellian-seeming restrictions on singing and dancing, but if the evidence shows that we should avoid this because there is a danger of transmission, people would understand.

In conclusion, what evidence is there on mingling—people from different tables of six meeting in such venues—and how will that be tackled? I hope this will be dealt with with common sense. With those considerations and provisos, I support these regulations.

11.25 am

Baroness Walmsley (LD) [V]: My Lords, I have a great deal of sympathy with the views expressed by the noble Lord, Lord Stevenson of Balmacara. The Secondary Legislation Scrutiny Committee in its 29th report said:

"We are concerned about the growing complexity of the rules, and in particular about how this complexity may affect the public's understanding of what is required and people's willingness to follow new restrictions."

Is the Minister not concerned about that? During the national lockdown there was a very high level of compliance. People understood what they had to do and why, so they did it. But now it is total chaos: local lockdowns all have their own set of rules, and the regular changes to the national legal requirements mean that people have lost track. They have also lost trust in the legitimacy of the regulations because in some cases they appear to be totally stupid.

For example, in today's regulations, dancing is forbidden in pubs and restaurants, with some exceptions, and the poor, pressured landlord has the job of enforcing it

[Baroness Walmsley]
under pain of fines. At a wedding, only the couple can dance at their reception, of only 15 people, but the couple's parents cannot dance together even if they live in the same household—this is silly. Who is going to enforce this, because the police certainly cannot?

In pubs, people can sing in groups of six. Indeed, there could be six groups of six if they do not mingle—but you cannot have seven people singing in a great big church. And then, some bright spark in the department has decided this is a great opportunity to ban loud music. I am no fan of loud music, but regulations to protect public health are no place to start banning it. This might have been reasonable if they had said, "outdoors in a residential area", but they do not. Such things would have been simplified and clarified if there had been proper consultation with local government. Will the Minister promise the House that that will change?

11.28 am

Lord Singh of Wimbledon (CB) [V]: My Lords, there is a cartoon with a Sikh commenting on the rule of six, saying, "It is time Sikhs were in charge". More seriously, while I support these regulations, it is important to note that areas of concern in the north-west, north-east and West Midlands contain sizeable numbers of new arrivals from the subcontinent.

I am daily reminded by my own contact with different faith communities that the message about the need for caution and care is often still failing to get through. Will the Minister consider a specifically targeted advertising campaign to create awareness of the risk to life for a group that is genetically and culturally more at risk, with vulnerable grandparents often in the same house?

11.29 am

Lord Cormack (Con): My Lords, every day when I travel to and from your Lordships' House, I use a black cab. I am a great believer in black cabs. I am also a considerable believer in the sagacity of black cab drivers. They see it all. I have been told a number of times in the past few weeks of the chaos at 10'clock at night, of people milling around parts of London and cab drivers asking, "What are you really doing in that building of yours?"

The noble Baroness, Lady Walmsley, gave some amusing examples—or they would be amusing if they were not so fatuous and serious at one and the same time—such as the dancing of the bride and groom but not of the parents. It is really absurd. I say to my noble friend, for whom I have considerable affection and regard, that we need clarity. We need consistency. We need proper co-ordination and co-operation. In doing that, we need to bring people together to discuss these things. We need to have proper debate, not—I have said this before—a series of two-minute statements. I hope we can have a Joint Committee of both Houses looking at this. I hope that the leader of the Opposition, who is a lawyer of considerable qualities, can be brought into consultations at an official level, because the country has got to be united. If it is not, we will drift from chaos to more chaos. I beg my noble friend to convey those messages to his ministerial colleagues.

11.31 am

The Lord Bishop of Blackburn: My Lords, I am very exercised, as I imagine we all are, with the challenge of not just restrictions but possible shutdown and closure of different industries. Hospitality is but one: there are also entertainment and cinema, theatre, concerts and opera, aviation and travel, to name but a few. Those closures and threat of closures and the way they have been communicated are bringing grief, anxiety, debt and mental health issues to many lives and families, especially, I would say, in the north.

It is said that there is no solution to resolving the competing priorities of health and wealth, but I do not believe in no solutions. In recent years, a whole new way of living has evolved which is quite different from how it was even just a few years ago. I remember the time when if you wanted a coffee, you went back home; you did not go out. But not now. We have got used to going out for meals and coffee, used to the freedom of travel and foreign holidays and the pleasures of our entertainment industry. From a consumer's point of view, none of these is essential. We can eat and make coffee at home and take sandwiches with us. We do not have to fly for a holiday. But these things have become normal.

May I take my life in my hands and propose an unpopular solution? A lot of talk of "the new normal" is going around—that life will not and cannot be as it was—yet that is what everybody seems to want: a return to how it was in early 2020. But how it was then was not as good as we try to make it out to be: our planet, facing increasing global warming; human well-being, facing problems of obesity and diet, and addiction to drugs and alcohol; huge inequality between rich and poor; growing dependence on food banks; and serious increases in mental health issues—noting that tomorrow is World Mental Health Day.

Covid has clouded our memories of how it was before. It could have been much better. We have a unique opportunity in this country and the world more widely to reset the priorities in our society to make it better for everyone. It is not going back to how it was but rebooting: putting our economy on a sounder footing; helping businesses to transition to the new; redeploying and retraining the workforce for jobs that are essential, such as social housebuilding and renewable energy projects; staffing our schools, boosting the farming industry and improving staffing levels in our NHS and care homes. In the challenge in front of us now, with the R rate over 1, let us resist the temptation to think that going back to how it was is the solution. Let us think of and deliver new ways that will be better for all.

11.33 am

Lord Bhatia (Non-Afl) [V]: My Lords, this instrument provides for enabling measures to reduce the public health risk caused by the Covid-19 pandemic. It is most important that regulations on face masks, hand washing and self-distancing in public places such as bars and restaurants be observed; it is common sense.

Covid is a deadly virus that is airborne and very contagious. We have all seen the sudden spikes in Birmingham and other regions and towns. Science informs us that a second wave of the disease is imminent,

as seen in other EU countries. Lives can be lost—we have seen this in the USA—if the citizens of England do not comply with the regulations. The new rule of six has had to be introduced to avoid the spread of the virus. The regulations also require that singing in bars and restaurants be stopped and only recorded music be played. The regulations have introduced fines of £10,000 for those who a fourth or subsequent fixed penalty notice.

It is the duty of the Government to protect our citizens from such deadly diseases as Covid-19. The relevant Minister, in consultation with local authorities, must have the power to introduce closures and lockdowns wherever there are pockets of coronavirus cases. Hospitality industry businesses will be hit hard because of the lockdowns. People will lose jobs, which will lead to homelessness because of their inability to pay rent. This is a vicious spiral that will create poverty and mental diseases. The only way to reduce this hardship is for citizens to follow the rules.

11.36 am

Lord Lilley (Con): My Lords, these regulations relate to, among other things, masks. Common sense has always suggested that, since Covid is transmitted by droplets, wearing masks will to some degree reduce its transmission. However, we have not been led by common sense but by the science. Your Lordships will recall that for the first two or three months of the crisis, we were told that there was no scientific evidence suggesting we should wear masks; indeed, they would be unhelpful because they encourage people to be overconfident and to touch their eyes and face. In May, we were told that they would do no harm and might be useful. In June, we were advised but not required to wear them. In July, wearing them in shops was made compulsory. In August, that was extended to other places. In September, regulations made it a punishable offence to prevent people wearing face masks. The latest regulation imposes a fine of up to £10,000 for anyone who even fails to tell their customers to wear a mask.

Throughout this journey, from discouraging the wearing of masks to hefty punishments for not encouraging their use, we have been told that we are being led by the science. My aim is not to discredit science—I studied it at Cambridge and revere the scientific method. Nor do I mind having to wear a mask over my face; but I do mind having the wool pulled over my eyes. The simple truth is that the reason we were initially told we should not wear masks was that there was a shortage of masks and the scientists, civil servants and politicians felt they should be reserved for medical staff. I hope we will learn from this extraordinary saga that when the common sense conflicts with "the science", we should subject that scientific advice to rigorous scrutiny, and when we are told there is no evidence for something, we should not conclude that there is evidence against it.

11.38 am

Lord Blunkett (Lab): I commend the excellent speeches that have been made. I have no expertise in the relative danger of playing rugby or gathering to shoot grouse compared with the best man dancing with the bridesmaid with whom he is already living, or, for that matter, socially distanced tap dancing, which people enjoy. I agree entirely with those who have asked for consistency, logic and common sense, and policy and action based on evidence presented to us. There is logic, for instance, in taking higher education students who get infected out of local statistics, so that we do not make the mistake of enforcing additional lockdowns where they are not necessary or it has not been proved that they would actually be effective.

We should not decant, as we did in April and May, from the hospitals, meaning that literally millions of people were not getting diagnosed and treated. If we need to do that, use the Nightingale hospitals about which such a song and dance was made a few months ago. Above all, I echo the call by the noble Lord, Lord Cormack, for us to pull together, to work together, to use real evidence and enforce not by diktat from the centre, but by good health education and bringing people together in their own communities to reinforce local test and trace and the local actions which, in the end, will be the only thing that saves us.

11.39 am

Lord Loomba (CB) [V]: My Lords, I will concentrate my remarks on two points. The first is the lack of scrutiny. Both regulations are further incidents of regulations being made without a draft being laid and approved by both Houses, having been implemented by reason of urgency due to the imminent threat to public health. This was understandable in the early days of the pandemic, with the urgent need for a national lockdown to curtail the spread, but as the inevitable has happened and cases have begun to rise again, we should already have in place a road map to deal with outbreaks either nationally or locally. This would allow for greater flexibility, with differing levels of threat across the country; and, importantly, it would also give both Houses the ability to scrutinise legislation in a timely and thorough manner ahead of implementation.

Secondly, a restriction or requirement imposed under the regulations must be proportionate to what is sought to be achieved by imposing it, to support an effective response to any threat, but there does not appear to be any scientific or other factor behind the rule of six to ascertain whether it is proportionate. Also, the principal regulations implementing the rule of six allow for families of more than six to be together without breaching the rules, but this does not appear to be the case when entering any designated premises. Can the Minister therefore say whether this is a proportionate response?

11.41 am

Baroness Uddin (Non-Afl): My Lords, I acknowledge the exceptional pressure that the Government are under. The NHS faces a complex set of choices in protecting the nation and people's livelihood, education and mental well-being.

According to a former president of the Bangladesh Caterers Association and Ahmed Samad Chowdhury of the Catering Circle—organisations with membership

[Baroness Uddin]
in the thousands—the hospitality sector is on its knees. I understand the obligation on businesses to continue making the necessary adjustments to ensure compliance and assist with the many challenges confronting the hospitality sector, but this also requires our Government getting test and trace into competent local hands.

Billions have been thrown to questionable private-sector companies without the adequate knowledge of communities and businesses, which has eroded trust in the NHS Test and Trace system. We already know about the lack of confidence in it, with data management fiascos contributing to the infection of individuals who may have unknowingly endangered their families and vulnerable loved ones.

The payment of £500 to support self-isolation while fines can be in the thousands really smacks of an incoherent government strategy, as does the rule of six and the 10 pm curfew. The Government must explain and justify this by sharing evidence with this House and citizens at large. Questioning and seeking clarification in this House should not be mistaken for dissent, given that the Government cannot competently keep our country safe.

The Government have lost trust. I have tried my very utmost best to be as co-operative as possible in these debates. Can the Minister say whether, in reviewing this legislation, the Government will re-examine their messaging appropriately for all communities and acknowledge that those people who are vulnerable remain vulnerable to this merciless disease?

11.44 am

Baroness Warsi (Con) [V]: My Lords, I support the Government in trying, in very difficult circumstances, to strike a balance between public health and the economy.

In my allotted two minutes, I will focus on businesses that operate as both restaurants and wedding venues, loosely termed. Many do not conduct the wedding ceremony on their premises; they simply provide a space for a meal to be served. This service is an essential part of the viability of many of these businesses, often subsidising other aspects of the business. Provided that these business can stop the mingling, singing and dancing that my noble friend referred to—and many of the businesses I have spoken to have assured me that they can—what is stopping the Government allowing such meals to take place? These premises host large numbers of people for meals in a safe and socially distanced way on a daily basis as part of the restaurant service, so why can they not do so for a specific purpose? Surely our response should be based on safety, science and, as my noble friend Lord Lilley put it so powerfully, simple common sense.

Our approach appears to lack a sophisticated understanding of the diverse hospitality industry and how it operates. I therefore urge my noble friend to ask the Government to think again regarding numbers at socially distanced, seated wedding meals to ensure that we stop many struggling businesses in the hospitality sector simply closing permanently.

11.46 am

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I have two related questions for the Minister. I understand that they may not fall under his departmental responsibilities, but I would appreciate an answer at some time.

We seem to have heard less of the term "world-leading" from the Government recently, at least in regard to Covid-19, but are we learning from the rest of the world and following best global practice closely? Last month, the World Health Organization produced a report on pandemic fatigue. It advised presenting evidence clearly to the public, acknowledging the difficulties that rules present and making it clear that the Government are letting people live their lives with as much freedom as possible. On 5 October, the World Health Organization Insights Unit had a high-level meeting related to that. Did the UK have a representative at that meeting?

Secondly, the Minister may be aware of the Australian state of Victoria, which, through intensive contact tracing—

Baroness Bloomfield of Hinton Waldrist (Con): May I ask the noble Baroness to address the issues in question in this debate?

Baroness Bennett of Manor Castle (GP) [V]: Victoria appears to be close to getting a grip on the so-called second wave. I will get to businesses in a second.

If the Minister is not, I suggest he reads an account of the outbreak at the Butcher Club in Chadstone shopping centre; it is of particular relevance to today's debate in that the businesses in the case seem to have done everything right, yet they were still at the centre of contagion. In the accounts, it is almost possible to trace every step of the virus around the shopping centre and across the streets. My understanding is that some of the scores of local test and trace units around the country could operate in such a way, but it is clear that our national, privatised, chaotic system cannot. What justification do the Government have for continuing with the failing system, as a number of other noble Lords have asked?

We hope to see soon, as the amendment calls for, extra support for businesses—and, I would add, individuals. The Victoria outbreak was traced to a cleaner in a business who went to work ill out of economic necessity. We hope that such things do not happen in the UK, but the Government are not doing anything like enough to save people from that extremely difficult position.

11.48 am

Baroness Altmann (Con): My Lords, it is never easy to deal with a public health issue of this magnitude. I have sympathy with the Government's position. However, I too have serious reservations about the measures before us.

After so many months, we have learned a huge amount about this virus and how to treat it. Meanwhile, other public health issues that are also a risk to life are being worsened. I urge the Government to look more carefully at public health in the macro sense—all aspects—rather than the ongoing micro focus on Covid-19, which is just one of the myriad threats.

These regulations are laid before us without a proper impact assessment and without the views of experts in epidemiology and bioscience, who have been warning ever more loudly that the number of deaths from the extraordinary and extreme measures being taken to fight the spread of Covid-19 are likely to exceed the deaths that the virus causes. We are bringing our law-making into disrepute by introducing measures that may cause extra deaths and economic destruction, particularly in the hospitality sector, which I agree needs urgent assistance. Without proper public health evidence of why these measures are needed, how will they produce a better future, and most important, what is the end game?

Of course extreme lockdown reduces virus transmissions. The rule of six will itself do that, but once there is relaxation the virus remains. The inconsistency and seemingly laughable rules in these measures, which other noble Lords have explained, make no sense. I echo the call for logic, evidence and common sense that will take account of the whole public health impact on the population and do not causes added problems for our economy.

11.50 am

Baroness Benjamin (LD) [V]: My Lords, the obligation of the hospitality ruling is causing many in the restaurant and hospitality industry a mountain of needless pain. The perception of the unexplained 10 pm curfew is that it is utterly arbitrary. Many voices have now been raised to challenge this in the hope that it will be reconsidered in a more logical and common-sense way.

This restriction on already fragile businesses is deterring people from going to restaurants and providing much-needed revenue to support the employment of staff. All these burdens seem to have no logic. I have heard it asked: is the virus more potent after 10 pm? I think that maybe the answer is yes, if thousands of people are milling around in close proximity in streets, trains and buses just after 10 pm. Perhaps a curfew could apply to drinking places that are more prone to mingling, but nowadays the restaurant setting is remarkably safe in the way it is being managed because businesses have spent precious funds on adapting their premises to comply with social distancing.

The number of cases traceable to restaurant settings is very low indeed, with the data suggesting something like 2% to 3%. It feels like the whole sector is being punished for no apparent reason. Perhaps the Minister could explain why the Government have come to this conclusion and tell the House what evidence was used to make this decision. Did the scientists recommend this ruling? The public deserve to know to gain confidence.

Another serious blow to this industry is the plan to end VAT-free shopping for international visitors. This will severely impact the number of overseas visitors and tourists who are potential restaurant customers. These tourists will be more likely to visit other European countries, taking away much-valued trade. Will the Government reconsider these plans—otherwise they could be the final nail in the coffin for what used to be a thriving hospitality industry? It is time to press the reset button.

11.52 am

Lord Berkeley of Knighton (CB) [V]: My Lords, the noble Lord, Lord Stevenson of Balmacara, mentioned the plight of freelancers in the creative industries, which these restrictions could hit still further. While I understand completely the desire of the Government to control in any way possible the spread of the virus, can we not find a way to support those freelancers falling between the pillars of support so far announced? The Chancellor has suggested that freelancers might retrain. For a highly trained instrumentalist, this is not as simple as a brass player suddenly becoming a plumber, a woodwind player becoming a carpenter or a conductor going on the buses. Can we not find a system like that in Wales, where a percentage of the £1.75 billion found by the Chancellor for the arts—and my goodness, that is welcome—is given to freelancers, without whom we could find that we have theatres and venues, but no artists to play and perform in them?

11.54 am

Lord Robathan (Con): My Lords, another day, another set of restrictions. Of course, they are all as plain as day and not confusing at all, which is why we are discussing an amendment to the regulations about singing and dancing laid only nine days after the original.

I am sure that all noble Lords, when they were about 10 or 11 years old, had a teacher who could not keep order in class. At my school it was a he. He would stamp his little foot and say, "If you don't do as you're told, I will keep you all in for a detention." I say to my noble friend on the Front Bench, first, hard luck being dealt the hospital pass of defending all these regulations. Secondly, I see that the Government are now blaming the people, and that is really not a good idea. We have these new measures, which, as we know, the Prime Minister finds confusing. I find them contradictory, draconian and very difficult to enforce.

The question has to be: are the regulations working? Leicester, near where I live, has been locked down for over 100 days, but infections have gone up. Is the policy working? I understand that Calderdale, which has been locked down for 10 weeks, has seen infections rise fivefold. "Let's blame the people; it's all their fault." In Bolton, infection rates have risen tenfold. Should we blame the people? I suggest that we should blame the policies. We should go back to first principles—a reset, as has just been said. We should find out how many people are dying, what good the policy is doing, and work from there, rather than from what we are getting far too much of at the moment.

I was in a Zoom meeting with Matt Hancock just now. He has told us that more than 200 people are dying from the virus a week, but over 11,000 people die every week. I heard Professor Van-Tam say that these are the biggest restrictions that we have seen in peacetime, but this is not a war. I urge the Government not to double down on failing policies but to look at the evidence and not deal with scare stories in the media, scientific modelling that does not work or opinion polls.

11.56 am

Baroness Donaghy (Lab): My Lords, I speak in support of my noble friend Lord Stevenson of Balmacara. If the restrictions do not make sense, people will not

[Baroness Donaghy]
follow them. The first time round they accepted them, as the noble Baroness, Lady Walmsley, said, because there was some trust that the Government knew what they were doing and that we would have a test and trace system second to none. We now realise that the Government are flip-flopping around on their policy and have a test and trace system that is the subject of a minefield of jokes.

The noble Lord talked about robust collaboration but said little about the vital importance of local government. The leaders of councils in the north have written to the Government to outline their plan, but the response has been dismissive and almost contemptuous. Why are the Government not listening to local government?

For some 16 years, I was a licensee in a students' union, so I know a little bit about young people's drinking habits. I appreciate that these regulations are a compromise by the Government to help the hospitality industry, but it is probably the worst of all worlds to have a 10 pm curfew. The Government have never offered a comprehensive explanation of the scientific evidence for cutting off trade at 10 pm. The noble Lord also talked about ensuring that business plays its part. The hospitality industry has played its part by ensuring social distancing and hygiene. Businesses need either to open or to be financially supported. The Government need to be clear.

Someone said on the radio this morning, "If a car drives round and round in circles, you change the driver." That sums it up.

11.58 am

Lord Mann (Non-Afl): Some 25 of us could leave the House today and book places on a coach tour for the weekend and travel the country, calling at multiple tourist sites. Several coachloads could book into the same hotel. We can stay and eat in the hotel and, remarkably, if we did so, almost certainly Members of this House would lower the average age of the participants doing precisely that this weekend. Each week, private dinners take place in the Palace of Westminster, yet six of us cannot pay for a private box at a sports venue.

Tomorrow, 500 people could huddle together under the only rain covering at a lower league football match, at a capacity of, say, 50%, yet 5,000 cannot go in a socially distanced way, perfectly safely, to an outdoor rugby league match, where everything is planned in advance within government standards. There needs to be a change of approach between indoors and outdoors. If pensioners can tour in coaches this weekend and it is deemed safe—and it is—sports such as rugby league should be allowed to survive by having a social distancing plan and getting in some revenue.

Noon

Lord Naseby (Con): My Lords, I will make two points, the first on communication. My Government communicate; the problem is that they are not communicating in the right way. Young people need communication that is targeted to those they respect within their community. Secondly, local government, which I was in, must be communicated with closely, as must trade associations. The Government are trying, but it is obviously not quite working. Rugby league was just mentioned; I put rugby union alongside it.

I did a little work on death certificates yesterday. In the period 10 August to 7 October, there were 43 death certificates that registered Covid. Of those, nobody was aged nought to 19; one was 20 to 39; four were 40 to 59; 14 were 60 to 79; and 24 were 80-plus; so 88% were over 60 and 56% were over 80. The question we all have to think about is: are all these lockdown measures necessary, or should we just be protecting the elderly with multiple morbidities, so that we can let everybody else get back to normal?

12.01 pm

Baroness Wheatcroft (Non-Afl) [V]: My Lords, the regulations related to hospitality do not make sense. Other noble Lords have pointed out the illogicalities, particularly around dancing. The Minister insists that consultation has driven government thinking. Consultation with the restaurant and pub business would have told the Government that the 10 pm curfew could not be justified. There has been little evidence of scientific reason behind it. Restaurants practising social distancing could survive if they were able to do two sittings at dinner, but the 10 pm curfew makes that impossible.

Publicans have to watch their customers leave and head straight to the supermarket or off-licence to buy more alcohol, which they can then drink outdoors without following any social distancing rules at all. Local authority leaders have pleaded with the Government for changes to this legislation on drink sales but have had no success. The regulations are not being respected because people do not understand government thinking.

Are we really facing an appalling rise in Covid cases, as the scientists say? Even Health Minister Nadine Dorries has warned that our intensive care beds could be overrun within 10 days if the current rate of increase in Covid cases continues. If that is the case, why are we debating these already outdated regulations? We are consistently told that the Government are following the science, but at what distance?

With a virus that spreads in this way, we need immediate action. It will be painful but, without decisive action, the long-term pain will be even greater. If we need more draconian measures, let us have them now, when they might stave off the problem, not when it is too late. The leader of the Opposition, Keir Starmer, wrote this morning that the current dithering is causing confusion.

Baroness Bloomfield of Hinton Waldrist (Con): I ask the noble Baroness to draw her comments to a close because we are very tight on time.

12.04 pm

Lord McColl of Dulwich (Con) [V]: My Lords, I thank the Minister for his helpful and informative introduction to these regulations. I fully support them, as they are important to deal with the increasing number of cases of the virus. When critics repeatedly criticise the Government, should we not ask them

what they suggest? For instance, if they object to the rule of six, what number would they suggest? What is the scientific evidence to justify their view?

I was interested in the remarks of the noble Lord, Lord Lilley, about masks. As a surgeon, I wore a mask almost every day for 60 years, so I know a great deal about them. I repeatedly see people putting their masks below their chins, then replacing them. They are then ineffective. As for coughing and sneezing, I notice that they turn their head to the right or left, which ensures that the content of the cough or sneeze goes straight into the face of the person opposite. What advice has been given to them? What about microdroplets, which go straight through the masks? There is so much that we still do not know about this virus.

12.06 pm

Lord Bilimoria (CB) [V]: According to the British Beer and Pub Association, up to 12,000 pubs could close next year, with the loss of 291,000 jobs. This is really serious. Could the Minister please give us the evidence on which the 10 pm curfew is based? We are hearing that the scientific evidence is that less than 5%—in fact, 3.6%—of new infections come from pubs, restaurants and the hospitality sector. This is according to Public Health England data. Could we see the evidence? In the trade, declaring my interest, we are told that only 10% of drinking takes place after 10 pm, so why have this curfew when we could have normal rules? Restaurants, bars and pubs have gone to huge lengths and expense to make themselves Covid-secure.

UKHospitality has said clearly that many outlets have not even opened, thanks to the pandemic, having been shut from March until 4 July. They are doing nowhere near as much trade. Some businesses are 70% down. Some 80% of hospitality businesses are SMEs and many are family businesses. They are in complete distress. One-third of the hospitality industry's business takes place between Halloween and the new year, so we are coming to a time when they need the most help and to be able to operate as normally as possible. We have to prevent the unemployment. What measures will the Government put in place when almost 30% of the country is in some form of lockdown or restriction? This industry is suffering so much and is so vital, because it will generate one in six new jobs in the recovery and tens of billions in taxes. We must prevent economic scarring in the future.

12.08 pm

Lord Moynihan (Con): My Lords, Members from all sides of the Chamber will want to congratulate the Minister and thank him for his commitment and dedication to his work, undoubtedly under considerable pressure. A fast-moving current is the most difficult to navigate, as I know all too well from many years on the boat race course. These regulations are no exception to that rule and may last only until Monday. This debate has highlighted the need for clarity of messaging and the importance of avoiding excessive detail around decibel levels and who can dance with whom, under what circumstances. These details undermine the authority of clear consistent messaging, based on common sense. Unless the guidance and advice are clear and reasonable, the messaging will be lost, as will political will and public support.

The hospitality sector clearly meets the criterion of increasing social engagement and, as a result, potential transmission of the disease. However, it is much safer to have a meal or drink in a well-ventilated, clearly spaced, screen-divided, socially distanced restaurant or bar than in residential settings or when supermarket shopping. As I saw again last night, substantial groups of people were gathering and moving in close proximity along pavements. People, not socially distanced nor with their faces covered, were congregating outside venues closing simultaneously at 10 pm. If the Government are committed to stay with the 10 pm curfew and the measures before us today, they need to demonstrate the scientific evidence that supports them, which has not been forthcoming.

12.10 pm

Lord Rooker (Lab) [V]: My Lords, hospitality venues, in places as different from one another as Ludlow in Shropshire and the city centre of Birmingham, have done enormous work to be made safe for the public. A restaurant is not a public house and they should be treated differently. I agree with many of the speakers, particularly the noble Baroness, Lady Benjamin, and the noble Lord, Lord Mann. My noble friend on the Front Bench also made the point about resources. People need help. Businesses will disappear.

The other issue is the complete lack of active job creation activities. I know what is planned for next March, but that is no good. There is a complete lack of trust, we have mixed messages and we are bouncing along from one aspect to another without a plan, and not bouncing on the science, because we are not telling the public the real reasons for the changes.

Those are the key issues: lack of trust, lack of active job creation, mixed messages, and restaurants not being public houses. I agree with the noble Baroness, Lady Benjamin, that it is time for a reset.

12.11 pm

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, I thank the Minister for his explanation of the regulations, but I am afraid I agree with the noble Lord, Lord Stevenson of Balmacara. Places in the hospitality sector—restaurants and pubs—require financial incentives if they are to overcome these quite stringent regulations, because clearly the debate around these regulations, and the specific ones today, now pivots on the tension between the people's health and the economy, particularly the hospitality industry.

There is also an issue in this debate, raised by various noble Lords, about the inconsistency in the type, nature and application of the rules and regulations. Coming from Northern Ireland, I have found that there is a difference in the nature and application of the rules between the Westminster Government and the devolved regions regarding the hospitality sector, probably due to the changing nature of the rate of transmission of the virus, densities of population and levels of poverty. Can the Minister indicate what process

[Baroness Ritchie of Downpatrick]
is under way to assess the effectiveness of such regulations as they relate to the hospitality industry? From this assessment, will it be possible to adopt best practice across England and the devolved regions, with the maximum impact in reducing the rate of transmission and the number of cases, and uplifting our economy, while complying with the regulations in terms of pubs and restaurants? Also, if such analysis has been done, what learning has been captured, and could this best practice be rolled out throughout the UK?

12.13 pm

Lord Greaves (LD) [V]: My Lords, as we have come to expect, this has been a two-level debate, talking about the hospitality regulations we have in front of us, but with a number of noble Lords taking advantage of it, not unreasonably, to make general points about where we are now with the plethora of confused and confusing regulations that we must deal with, and our being told that the whole system will be thrown up in the air next week when we get a new, three-tier system. We do not know quite how it will work or when we might get what will presumably be a new, all-encompassing regulation to bring it in. As far as hospitality is concerned, I support the comments made by my noble friends Lady Walmsley and Lady Benjamin, and many other noble Lords, including the noble Baroness, Lady Ritchie. They are all very important points, to which I hope the Minister will apply his attention.

I want to pick up on one or two other matters, moving away from hospitality except to quote what the Minister said at the beginning. He said that we can keep our hospitality venues open and that no one wants to return to lockdown. As the noble Lord, Lord Stevenson, replied, we are already under considerable lockdown in many places, and what is being proposed for next week is a very substantial lockdown for hospitality in many areas. We have gone past "we can keep our hospitality venues open". What will be done to support those forced to close, and how will that be decided? Which criteria will be used in different parts of the country under this new three-tier system?

I will briefly revert to two questions that I have asked in two recent debates on regulations, relating to enforcement in places that have two tiers of local authority, the county tier and the district tier. Many of the regulations specifically state that enforcement is a power at county, not district, level, but on the ground—in the communities, the towns—it is the district officers or environmental health officers, who a long time ago were called public health inspectors, who do the legwork and have the information and skills to do it. Yet they do not have the powers to make the fines and do the enforcement, so it must go back to county level, causing delays and difficulties. It is not clear to me in the regulations before us exactly who has these powers. I have asked different Ministers twice and now have a third Minister on the Government Front Bench. Can he take this away and look at whether, when the new three-tier regulations come in, it can be made clear that enforcement powers rest at both levels in two-tier local authority areas, so that the districts doing the work can get on and do the job?

We are to have a debate about the new north of England regulations on Monday. What prior parliamentary consultation will take place on what we understand will be a new, all-encompassing system, which presumably will come in an all-encompassing new regulation? What parliamentary approval will be required before this new nationwide, countrywide, England-wide system is brought in? Also, when the new system is brought in and we have three tiers—if that is what we get—what systems will there be for proper consultation with local authorities and people on the ground before they are allocated to one tier or another? Time and time again, as we have heard from noble Lords during this debate, consultation on what happens on the ground in different places has been and continues to be utterly inadequate. I continue to get complaints from authorities in Lancashire that they are being treated as agents of central government, not as proper partners.

A lot has been said in relation to hospitality about the statistics and where infection is coming from. Clearly, there are very different interpretations of this. It would help very much if the Government could issue a comprehensive and sensible explanation of the evidence of where they think infections are now being spread. Having said that, I look forward to the Minister's reply.

12.20 pm

Lord Callanan (Con): My Lords, I first thank all noble Lords for their contributions. As always, we had some very important and vital speeches. I have taken careful note of all the points made. I particularly enjoyed the proposal made by the noble Lord, Lord Singh, about the "rule of Sikhs". Obviously this is a tragic situation, but it is important to retain our sense of humour at this time. The noble Lord also made some important points. I would say that many of our guides remind employers of their responsibilities under equalities law, in particular on protected characteristics. The noble Lord, Lord Stevenson, moved an amendment expressing regret, yet the need for approval during this pandemic is, in our view, vital. I will address the key points that were raised, both here and outside this forum.

As the Prime Minister said, these regulations were not rushed through quickly. They are not draconian measures. We are faced with an unprecedented pandemic. Were we to delay bringing these regulations into force, using normal procedures with a draft before each House, the virus could unleash its proven potential for exponential growth. Therefore, I believe that it is right that we act with due haste against it. As has been discussed, the test for the use of the emergency procedures under Section 45R of the enabling legislation—that is, the Public Health (Control of Disease) Act 1984—is that of urgency, and I can think of no greater issue of urgency than the health and lives of many people in this nation.

The nature of this virus means that incidence rates can change very quickly, which is why we have had to act—and with speed—to prevent further spread. We are, therefore, correct in moving these regulations forward and taking the actions that we have taken. As

I said earlier, the spread of the virus over September is ample evidence of the need for these regulations. Clear rules increase compliance. They also make it easier for those rules to be enforced, and the police have been clear that simpler rules help them do their job more effectively.

A number of noble Lords rightly raised the important issue of the 10 pm closing time. My noble friends Lord Cormack, Lord Bourne and Lady Wheatcroft, the noble Baroness, Lady Benjamin, and the noble Lord, Lord Bilimoria, all highlighted this point. Early data suggests that a significant proportion of exposure to the virus is seen in the hospitality sector, and it is even more pronounced in younger age groups. We will continue to gather evidence and, of course, to monitor the data, but this is why we are putting in place these restrictions on operating hours. Alongside the other measures, this action will help to reduce the potential for unnecessarily close contact with people that you do not usually meet. We have seen how effective operating restrictions can be from the example of Belgium, where a marked decline in case numbers was seen after early closing measures were introduced. Other countries are taking similar steps: the Netherlands, Denmark and about half of Spain's regions also have 10 pm closing areas.

My noble friend Lord Lilley made a very important point about the use of masks. I can tell him that all the measures we have introduced follow the science. Of course, we also recognise the pace of new developments; we must therefore act quickly to follow further evidence as it becomes available.

I reiterate that these measures are not intended to penalise our vital hospitality businesses through errant focus. Many—indeed, most—are complying with our Covid-secure measures. However, one or two have not and, in the future, may not. These regulations will give enforcement authorities the additional powers that they need to help address and deter breaches that could cause coronavirus to spread—and spread quickly.

I will now respond directly to the points made by the noble Lord, Lord Stevenson, about support for the hospitality industry. We do not act without sympathy for and understanding of those affected by the regulations. We recognise the impact that additional measures, as with past measures, place on affected businesses and their customers. Many noble Lords—my noble friend Lady Altmann, the noble Baronesses, Lady Uddin, Lady Benjamin, and Lady Ritchie, my noble friend Lord Moynihan and the noble Lord, Lord Rooker—asked about similar issues. We have put in place an unprecedented package to support impacted businesses, including over £11 billion which has already been paid out through the small business grants fund and the retail, hospitality and leisure business grants fund to over 897,000 businesses across the country, with a further £617 million available to councils to use at their discretion to support small businesses that are not eligible for the main grant system.

As well as the Eat Out to Help Out scheme earlier this year, we have put in place through our comprehensive plan for jobs a wider package of hospitality support that goes beyond the summer. We have also cut VAT to 5%, and we have been paying the wages of furloughed staff, as well as business rates relief and billions in tax deferrals and loans—all helping to protect nearly 2 million jobs in the hospitality and tourism industries. And, of course, noble Lords will be well aware that we will constantly keep this package of economic support under review and will not hesitate to take further action if that is required.

In direct response to the question asked of me by the noble Lord, Lord Stevenson, about the possibility of further measures, I will say that we are seeing coronavirus cases rise across the entire country. However, they are rising faster in my home region of the north-east, as well as in the north-west. We are keeping the data under close review and considering a range of further options to reduce the spread of the virus in order to protect communities and, ultimately, to save lives.

If time permits, I will deal directly with a number of the questions that I was asked. The noble Lord, Lord Loomba, and the noble Lord, Lord Blunkett, asked about the rule of six. We realise the impact that these regulations have on people. We aim to minimise the impact wherever possible, and where the science allows us to limit the risk of transmission. We are especially concerned with reducing the impact on children, while also limiting the number of innately social activities that take place in higher-risk settings.

The noble Baroness, Lady Benjamin, asked about hospitality venues. As the Secretary of State for Health and Social Care explained on 1 October, the measures have led us to understand that the virus spreads most outside households when other households meet together, including in hospitality venues. Pubs and restaurants without good management of social distancing and hygiene can be ripe areas for the virus to be transmitted among large groups of people, as someone highly infectious could easily spread Covid-19 to other people without knowing.

My noble friends Lord Cormack and Lord Robathan asked about the "rushing through", as they put it, of these regulations. In the other place, my right honourable friend has made a commitment to greater parliamentary scrutiny and said that regulations such as these with a national impact would be brought before this Chamber, and the other place, before they are laid. I remind noble Lords that it is up to the usual channels to programme the business of the House, and the Joint Committee on Statutory Instruments reviews SIs such as this before they come to the House.

My noble friend Lady Warsi made some important points about vulnerable groups. Of course, we conducted an equalities impact assessment on all these measures and our guides highlight the importance of an employer's duty in this respect. The noble Baroness, Lady Donaghy, and my noble friend Lady Wheatcroft raised points about the test and trace system. These measures are working. One in eight people in England have now been tested for coronavirus at least once since the service launched. As always, our top priority is making sure that tests are allocated where they are needed most to save lives, where they protect the most vulnerable and where they support critical health and care services. We have strengthened our support for regional contact tracing, with dedicated teams of contact tracers for local areas. Some 68 local authority contact tracing teams are now live across the country, with more due

[Lord Callanan]
to come online over the coming weeks. Of course, we will also continue to review processes to make sure that we can match demand in the test and trace service.

The noble Baroness, Lady Warsi, and the noble Lord, Lord Blunkett, highlighted the vexed issue of dancing at weddings. I take on board and accept the points that they made but these are difficult circumstances. We try to be as accommodating as possible, which is why we have allowed the all-important first dance at weddings. As always, we keep these measures under constant review.

The noble Baroness, Lady Ritchie, talked about applying lessons learned in Northern Ireland to the rest of the UK. She will of course understand that public health is a devolved issue. However, we are working with all four nations of the UK to tackle this virus and will continue to do so as the fight progresses.

The enforcement of the regulations was raised by the noble Baroness, Lady Walmsley, the noble Lord, Lord Stevenson, and, most recently, by the noble Lord, Lord Greaves. The regulations will be enforced by authorised persons including officers of trading standards, environmental health, local authorities and ultimately the police. Enforcing officers will have the ability to issue fixed penalty notices immediately upon the breach occurring.

I am now being told that I have to wind up. I thank noble Lords for paying attention during the debate, I thank everyone for their contributions and I commend the regulations to the House.

12.31 pm

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I am grateful to the Minister for his very full reply. He always does credit to the job of making sure that we fully understand the implications behind the regulations, and he has done us a service in responding to so many questions. We have covered a lot of ground. There is a lot to take away from this debate and I hope that he will ensure that we are informed of future policy.

There are two main asks for the Government. First, will they please share the evidence, otherwise people are going to lose faith just as we need everyone to pull together? Secondly, the Government have to improve their communications; it is a two-way process and the local dimension is clearly missing.

The best outcomes for public policy are those that seemed in retrospect to be common sense. We are not there yet. Having said that, I beg leave to withdraw the amendment.

Amendment to the Motion withdrawn.

Motion agreed.

Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) (Amendment) Regulations 2020

Motion to Approve

12.32 pm

Moved by ***Lord Callanan***

That the Regulations laid before the House on 28 September be approved.

Relevant document: 29th Report from the Secondary Legislation Scrutiny Committee

Motion agreed.

Insolvency (Moratorium) (Special Administration for Energy Licensees) Regulations 2020

Motion to Approve

12.33 pm

Moved by ***Lord Callanan***

That the Regulations laid before the House on 4 September be approved.

Relevant document: 26th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): I hope that these regulations will be slightly less controversial than the previous ones. The noble Lord, Lord Paddick, looks sceptical.

In the summer, the Government moved quickly to introduce the Corporate Insolvency and Governance Act 2020—many Members here took part in those debates—which inserted new Part A1 into the Insolvency Act 1986, introducing a moratorium regime for companies in financial distress. The moratorium gives those financially distressed companies breathing space from their creditors to pursue a rescue or restructure. The company's existing management remains in control during the moratorium period but a monitor is appointed to oversee the moratorium.

There was wide support in your Lordships' House for the new moratorium provisions and the other measures in the Act to help financially distressed businesses, particularly at this time, and I thank noble Lords for that. The Government will be publishing statistics on the use of the new procedures of company moratoriums and restructuring plans later this month. The Corporate Insolvency and Governance Act also inserted Section A50 into the Insolvency Act 1986, which enables regulations to be made to modify the application of Part A1, the moratorium provisions, in relation to a company for which there is a special administration regime.

Similar to other sectors, there are special administration regimes in the energy sector. These cover companies that hold an electricity distribution or transmission licence or a gas transporter licence, a smart meter communication licensee and energy supply companies. The energy special administration powers exist to ensure that essential services, such as electricity and gas supply or the maintenance of distribution networks, continue and that customers continue to be served at the lowest reasonable cost. These powers can also be used to mitigate the risk of financial contagion and to maintain market stability and consumer confidence. This instrument will modify the application of Part A1, the moratorium provisions, in relation to these energy companies.

Therefore, if a relevant energy company enters or has applied to enter a moratorium, the Secretary of State and Ofgem will want to promptly consider whether there is any need to apply for a special administration order. Special administration has never been used in the energy sector and the Government's assessment is

that it remains unlikely, but as a prudent Government we must ensure that we have the powers and processes in place to act swiftly to protect consumers and other market participants should that become necessary.

This instrument will ensure that the Secretary of State and Ofgem will be promptly notified of any moratorium or proposed moratorium for a relevant energy company so that an application for a special administration order can be considered. This will avoid any delay in making that decision and therefore reduce uncertainty for consumers and market participants.

This instrument does one other thing. A relevant energy company in a moratorium will continue to trade and operate as an entity licensed and regulated by Ofgem. Therefore this instrument will ensure that during the moratorium Ofgem can continue to engage in legal processes in relation to relevant energy companies, including to enforce licence obligations and revoke licences without first having to seek the court's permission, as it would have to where a company was not in a moratorium. This will avoid any delay in Ofgem acting to protect the interests of consumers.

These regulations build on the moratorium provisions in the 2020 Act to ensure that those provisions work effectively alongside the special administration powers for energy supply, energy networks and smart metering, and that the Government and the regulator, Ofgem, are able to take all necessary action to protect the interests of consumers. The regulations, unlike the previous ones, are a short, simple and proportionate step to align the moratorium provision with the need to protect the interests of energy consumers and other market participants. I beg to move.

12.38 pm

Lord Paddick (LD): My Lords, I am guessing that the difference between these regulations with their sparsity of speakers and the previous regulations where there were a lot of speakers is that many people know about the hospitality sector but not many know about administration and insolvency moratoriums as they apply to energy companies. I include myself in that, but let us give it a go.

As I understand it, there are already regulations in place whereby the Secretary of State or Ofgem can ensure continuity of supply of gas and electricity to consumers in the event of insolvency of energy companies. In the event of a large supplier of gas or electricity, electricity and gas transmission companies or network distribution companies becoming insolvent, arrangements can be put in place to ensure that customers continue to be supplied with gas or electricity as cost-effectively as possible until the company in difficulty is either rescued or sold or its customers are transferred to other suppliers.

That is done by the Secretary of State, or Ofgem with the Secretary of State's consent, applying to the court for an energy administration order, a smart meter communication licensee administration order or an energy supply company administration order. However, as the Minister has said, companies that are in financial distress, including energy companies, can apply for the protection of a moratorium under Part A1 of the Insolvency Act 1986, which was inserted into the 1986 Act by the Corporate Insolvency and Governance Act 2020. Without these regulations, Ofgem or the Secretary of State would be unable to intervene to ensure security of supply without the permission of the court because of the protections provided by the moratorium, which could result in an interruption of supply.

The Government claim that the urgency of passing this legislation is twofold: first, because energy companies face significantly increased financial pressures due to the coronavirus pandemic; and secondly, because these pressures will become more acute in the autumn and winter of 2020, for example, as electricity suppliers are liable for significant payments that are due under the renewables obligation scheme by the end of October. This scheme requires a certain level of electricity to be generated from renewables or a payment in lieu if that threshold is not reached.

The Minister will correct me if I am wrong on any of this but if I have understood everything correctly, then several questions arise. Why was the potential difficulty of energy companies applying for a moratorium under Part A1 of the Insolvency Act 1986, as inserted by the Corporate Insolvency and Governance Act 2020, not foreseen when the 2020 Act was drafted? The Minister said that the Government moved quickly to bring in this legislation; one has to wonder whether it was brought in too quickly.

How will the Secretary of State ensure that the provisions in this statutory instrument will not discourage energy companies from looking into restructuring and rescue options before filing for insolvency? What are the specific causes of the increased financial pressures on energy companies as a result of the coronavirus pandemic? The Minister says it is unlikely that these regulations will be needed, yet the accompanying advice from his department to noble Lords says that they are necessary and urgent.

What scope is there for the Government to defer payments due under the renewables obligation scheme for energy companies in financial distress to prevent them having to apply for insolvency or a moratorium on insolvency? What scope is there for the Government to provide other forms of financial assistance that have been given to support other sectors during the coronavirus pandemic, as an alternative to these regulations?

In normal times, such interventions are to enable another supplier to be put in place to provide continuity of supply. Although the Minister, on the one hand, paints a rosy picture about these regulations not being likely to be needed, on the other the advice is that they are needed urgently. To what extent is the whole energy industry facing difficulty, such that it requires this urgent action by the Government? Can the Minister assure consumers that the Government will take whatever steps are necessary to ensure continuity of supply, even outside the provisions of these regulations? I look forward to hearing the Minister's reply.

12.43 pm

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I thank the Minister for his introduction to this SI. Insolvencies of energy companies have occurred in

[Lord Stevenson of Balmacara]
increasing numbers in recent years. They have a number of causes, but does the Minister agree that they include: undercapitalisation of new entrants to the supply market; overoptimistic plans for growth in new customers; and inadequate provisions of levies and other requirements on energy companies that are part of the funding landscape? Five relatively small energy providers, with fewer than 200,000 customers, went bankrupt last year and since 2016 a total of 13 companies, some of which were considerably larger, have gone under.

As the Minister said, the SI modifies the working of the moratorium regime in Part A1 of the Insolvency Act 1986 in respect of particular energy companies involved in the provision or distribution of gas, electricity and smart meter services. The key provision that the SI introduces will require struggling companies to notify the Department for Business, Energy and Industrial Strategy that they are in a moratorium, so that the Secretary of State can consider whether to apply for a special administration order that would enable Ofgem to protect continuity of supply and, if appropriate, commence proceedings for the transfer of supply to another company through the supplier of last resort proceedings.

Standing back from this process, in effect it is equivalent to a successful competitive bid from another energy company for the customers of a failed company, with provisions about continuity of tariffs, prices and so on being part of the bid process. The company taking over other companies may of course be compensated for the work involved in doing so through payments spread across the sector. But because of the risk of a high number of sizeable companies going bust, these payments have become a real source of concern for otherwise stable energy companies which find themselves having to underwrite payments for failed companies that may previously have tried to undercut them with cheap but unsustainable customer tariffs. Can the Minister confirm that this issue is being kept under review?

A related concern appears to be borrowing to fund the levy payments of troubled companies, as they are using the sums required to pay these levies to keep themselves afloat. In 2019 we lost eight domestic energy suppliers, meaning that half a million customers were moved to suppliers that they had not picked, with 87% ending back at one of the big six companies. Are the Government considering short or long-term changes to the conditions for payment of these levies by energy companies, in the light of this year's circumstances?

A combination of the energy price cap, the effects of Covid-19 and the imminent emergence of this year's levy payment point may cause a further number of energy companies to go under this year—perhaps the Government are effectively acknowledging this through the SI. Can the Minister tell the House how many companies he anticipates may become insolvent this year, and distinguish between those companies that are in difficulty because of immediate problems and those in difficulty because of their own business models and poor management of liabilities?

My party has always supported a competitive energy market that provides cheap and reliable services to customers, but this cannot be at the expense of letting consumers have rights of access to the essential energy provisions that they need. I look forward to the Minister's response.

12.46 pm

Lord Callanan (Con): I thank both noble Lords for their contributions to this debate. The moratorium provisions in the Corporate Insolvency and Governance Act will help businesses in financial distress, giving them the appropriate breathing space from their creditors to pursue a rescue or restructure. This SI builds on that, ensuring that the Government and Ofgem can act swiftly in response to events. It will ensure that consumers will be protected if and when an energy company enters a moratorium.

However, the energy sector is fundamentally robust, even in the face of events such as Covid-19. For instance, in the supply market, there are around 57 energy suppliers that serve households, which is up from 12 in 2010. In the business energy market, there are around 80 licensed electricity and gas suppliers. New-entrant suppliers now serve more than 40% of the household gas and electricity markets, which is up from around 1% in 2010. The Government welcome this increasingly competitive and innovative market, and we continue to promote competition as the best driver of value and service for customers.

However, as in any competitive market, it is normal for energy suppliers to fail from time to time. Ofgem and the Government are focused on ensuring that exits are orderly and that, during the process, customers are protected. When an energy supplier fails, the supplier of last resort process is triggered. Ofgem revokes the supplier's licence and appoints another supplier to take over its customers. The process allows for a quick transfer of customers. In the first instance, Ofgem invites suppliers to bid to take on the customers and chooses the supplier that will offer the best value for consumers. Ofgem has successfully used this process for multiple supplier insolvencies and is confident that the process remains robust.

In the event that the use of the supplier of last resort would not be practicable, there is a special administration regime. This has never been used in the energy sector, and the Government's assessment is that it remains unlikely. However, of course, as a prudent Government, we have to ensure that we have the powers and processes in place to act swiftly to protect consumers and other market participants should it become necessary.

I will now deal with a number of the questions that were asked by both noble Lords. The noble Lord, Lord Paddick, asked why the changes were not included on the face of the Corporate Insolvency and Governance Act. It was important to move quickly to bring forward this Act in order to help businesses in financial distress at the time. This meant that we had to prioritise the content of the Bill and deliver some provisions, such as this one, in following secondary legislation.

The noble Lords, Lord Paddick and Lord Stevenson, asked about the moratorium and whether it would increase costs for energy consumers. The answer is no.

The purpose of the moratorium is to provide the time and space to pursue a rescue or restructuring of the company, which would avoid the company failing. It is normally in the interests of creditors, including customers, to avoid the failure of an energy company. However, if one does fail, domestic customers have the credit balances on their accounts protected.

The noble Lord, Lord Paddick, also asked about the number of energy companies that we expect to access a moratorium. As I said, the sector is fundamentally robust, but it is normal in a competitive market for some businesses to fail. However, the market is strong, with around 60 suppliers. Ultimately, of course, a decision to enter a moratorium is one for the company's directors, working alongside the monitor, so he will understand that I cannot speculate on numbers.

The noble Lords, Lord Paddick and Lord Stevenson, asked about the payment of levies. We are working with Ofgem on potential reforms to reduce the likelihood that suppliers fail to meet their payment obligations and to mitigate the impact in the event of non-payment. Ofgem has already made licence modifications aimed at increasing the robustness of suppliers' financial practices and is consulting on further changes.

Again, the noble Lords, Lord Paddick and Lord Stevenson, asked me about the number of energy companies that we anticipate may become insolvent. Again, I am sure that both noble Lords will understand that I cannot speculate on numbers, but we think that the market is fundamentally robust. The noble Lord, Lord Stevenson, asked how likely it was that a company would go insolvent. I say again that the market is robust, and, occasionally, companies will fail, but we do not expect very many to do so. I think that deals with all the questions from both noble Lords.

These regulations align the operation of the corporate moratorium regime that we introduced in the summer with the existing powers to protect the interests of energy consumers and other market participants when energy companies are in financial distress. I commend these regulations to the House.

Motion agreed.

12.52 pm

Sitting suspended.

1 pm

The Deputy Speaker (Lord Alderdice) (LD): My Lords, the Hybrid Sitting of the House will now resume.

Covid-19: Local Restrictions

Private Notice Question

1 pm

Tabled by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government what plans they have to seek Parliamentary approval for new local COVID-19 restrictions before they come into force.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, as the Secretary of State for Health and Social Care told the other place last week, for significant national measures with effect on the whole of England or UK-wide, the Government will consult the House of Commons wherever possible and hold votes before such regulations come into force. The arrangement of business and scheduling of debates in this House is a matter for discussion through the usual channels. Noble Lords will know that in this House the Government do not schedule debates without consulting the usual channels first.

Lord Hunt of Kings Heath (Lab) [V]: My Lords, that is a very disappointing Answer. Last week, Mr Speaker criticised the Government for treating the Commons with contempt in the way that Covid regulations were dealt with and called for the most significant to be debated and decided on at the earliest point. The Government now propose to introduce a new tiered level of restrictions for local lockdowns. They are of national significance; whatever their justification, they involve a serious restriction of people's personal liberties and will put many businesses in jeopardy. Does the Minister accept that Parliament should be asked to approve them before they come into force? Can he tell me what discussions have taken place to ensure that this happens?

Lord Bethell (Con): My Lords, any new regulations will be scrutinised by both Houses in line with the requirements set out by Parliament in the relevant parent Act. The procedures for approving affirmative instruments are set out in your Lordships' Standing Orders, and it is not in my gift to amend, suspend or ignore these. The local measures need to be enforced quickly if they are to be effective.

Lord Robertson of Port Ellen (Lab) [V]: Do the Government realise that they are losing control of the virus because they are losing control of public support? Public support and the self-discipline that we have seen up to now requires that any more rigorous regime is the subject of people seeing and believing the evidence on which the Government make their decision. In addition to that, local and national elected representatives should be able to see and believe the evidence for the decision being made. Up to now, that has not been happening.

Lord Bethell (Con): Well, I very much welcome the noble Lord's comments, but I reiterate what I said earlier. As my right honourable friend the Secretary of State for Health and Social Care said on 30 September, for significant national measures with effect for the whole of England or UK-wide we will consult Parliament—and, wherever possible, we will hold votes before such regulations come into force. Of course, we will balance that with ensuring that our response to the virus means that it is delivered with speed when required. We cannot hold up urgent regulations that are needed to control the virus and save lives.

Baroness Barker (LD): What evidence do the Government have that introducing statutory instruments without notice rather than with parliamentary debate and approval is more effective than developing effective local Covid strategies which are understood and adhered to by the population?

Lord Bethell (Con): My Lords, where the department has used secondary legislation to put in place measures to tackle the coronavirus pandemic, these regulations stipulate that a review of the measures will take place within 28 days. In making a decision on how to proceed, we comply with our legal duties, and all the relevant Acts—the Equality Act, Public Health Act, National Health Act and the family test. We keep the situation under continuous review to consider whether the measures contained in the regulations are still a necessary component of our effective response.

Baroness Hayman (CB) [V]: My Lords, Covid is not a one-off, short-term emergency. There will be difficult judgments and hard decisions to be made for many months ahead. Does the Minister accept that it is imperative that we find a way to ensure legitimacy for those decisions by gaining parliamentary assent before, not after, they are taken, and that parliamentary assent before should be the rule, not the exception? Does he further accept, as I believe, that those decisions would actually be improved and better accepted by the population because of the challenge they would receive in public, in Parliament?

Lord Bethell (Con): Well, my Lords, our rule—if there is a rule—is that we are clear that our measures should be locally led. We work with local leaders first and communities to take swift action to prevent and manage outbreaks, ensuring that our responses work for them, supported by a national service which they plug into. It is for that reason that we are considering local tiers. Local alert levels or tiers are designed to standardise the interventions in place in local areas across England to make it easier to communicate what restrictions apply, and in what areas, to the public.

Baroness Thornton (Lab): I follow on from the question asked by the noble Baroness, Lady Hayman. I thought the answer was remarkable, but maybe the Minister did not understand the question. In March, the Government were very keen to work with all parties and many others to get the emergency powers in place and, since then, really it has been nothing—letters to leaders informing them, diktats to local government, and accusations of undermining the national effort when legitimate questions are asked and comments are made. As we face another spike, will the Government change their habits and let stakeholders and Parliament, including your Lordships' House, play a fuller role in designing and agreeing the national effort?

Lord Bethell (Con): My Lords, I take exception to the noble Baroness's characterisation of our approach. In fact, local planning and response are recognised as an essential part of our response to Covid, and are very much at the heart of the service. We want to have local outbreak control plans across the country. The development of local outbreak control plans is led by directors of public health; they are done on behalf of upper-tier local authorities, where the statutory responsibility for directors of public health sits, and are regularly reviewed by the local NHS, GPs, local employers, voluntary organisations and other community partners. There is also a link with local resilience forums, integrated care systems, combined local authorities and directly elected mayors as appropriate.

Lord Craig of Radley (CB) [V]: My Lords, this begs the question of whether local administrations in England might be given blanket parliamentary authority to make their own rules and guidance, as do devolved regions. Is that acceptable to the Government? What evidence do the Government have on whether these divergences in rules and guidance create public confusion, misunderstanding and breaches of them?

Lord Bethell (Con): Our approach is based on the partnership between central and local government. Local government has a distinctive and unique role to play; local authorities work with employers, businesses and other relevant commercial groups to help prevent and control outbreaks, and their local outbreak plans will provide opportunities to build on that information best to support businesses and other local services to return to normal operations in a safe way. It is that partnership between national and local government that will build a successful response to the Covid epidemic.

Baroness Clark of Kilwinning (Lab): Parliamentarians on all sides in both Houses say that they feel that they have not been included in decision-making so far. Mayors and leaders of local authorities have made it really clear over the last few days that there has not been communication with them; they seem very angry about the way the Government have conducted themselves. There was huge compliance with the restrictions imposed during the lockdown. Surely the Minister accepts that he needs to ensure that local authorities, mayors, and indeed local MPs need to be on-side and he needs to rebuild that trust. What can he do to make sure the Government take on board the points being made?

Lord Bethell (Con): My Lords, I completely recognise the importance of stakeholder engagement, building alliances and collaboration. I emphasise our commitment to the partnership between local and national government. When it comes to Parliament's engagement in these measures, I can only repeat what I said earlier: my right honourable friend has made it very clear that for significant national measures with effect in the whole of England or UK-wide, we will consult Parliament and, wherever possible, hold votes before such regulations come into force. Until then, it is through the usual channels that the schedule of the House of Lords will be arranged.

Baroness Finlay of Llandaff (CB): Building on the Minister's commitment to locally led decision-making, will the Government confirm that they will now consult daily with the devolved Administrations and share evidence prior to any press release, as confused messages have undermined public confidence? That way, they may avoid some of the debacles that have happened when local authority decisions have been undermined by leaks to the press.

Lord Bethell (Con): I completely defer to the noble Baroness's expertise in matters to do with the devolved Administrations, but I reassure her that there are

numerous calls every day between Whitehall and the DAs on Covid. We very much celebrate the achievement of a four-nations approach. There are divergences in some procedural matters between the different countries; that is entirely to be expected—indeed, celebrated—as it enhances the effectiveness of our measures. But I completely take on board the noble Baroness's points and we will endeavour to ensure that communication between Whitehall and the DAs remains firm and solid.

The Deputy Speaker (Lord Alderdice) (LD): The noble Lord, Lord Mann, has withdrawn, so I call the next speaker, the noble Viscount, Lord Waverley.

Viscount Waverley (CB) [V]: My Lords, the issue is indeed about collaboration with local government. However, the Government's decision to introduce the Coronavirus Act marred the use of secondary legislation in respect of the Civil Contingencies Act, suggesting that the Executive believe that existing legislation is not robust enough to counter the threat of pandemics. Given that we live in such a world, what plans do HMG have to review the robustness of all existing legislation? If they do, can they confirm that it will not infringe on parliamentary sovereignty?

Lord Bethell (Con): My Lords, I note and take very seriously the noble Viscount's comments on the state of our legislative response to the epidemic. There will no doubt be a time for reflection, learning the lessons of the epidemic and reviewing the legislative processes that we have available. This is not the time; the challenge of Covid is still very much a clear and present danger, but we will take on board his recommendation to reflect and improve on the structures we already have.

Baroness Andrews (Lab) [V]: My Lords, to go back to my noble friend Lord Hunt's question, given the exponential rate of the increase in Covid in the north and Midlands, have we not again lost the advantage of acting early and acting fast? Now we are told that the Government are considering introducing a national scheme based on three tiers of severity. What is holding this up? To what extent and how are local authority leaders—who still say publicly that they are being treated with contempt—involved in this decision? And when will Parliament be told?

Lord Bethell (Con): My Lords, I cannot help but observe the palpable irony of being told, on the one hand, to engage, form alliances and double up on stakeholder engagement and, on the other, being told to hurry up and get a move on. An effective response means a combination of both national and local systems. A huge amount of work needs to be done to build the consensus, support and technical arrangements for that response. We are putting a huge amount of work into that process and look forward to making announcements on it. Until then, I reassure the noble Baroness that officials and politicians are working night and day to make that response as effective as possible.

Lord Bilimoria (CB) [V]: My Lords, does the Minister agree that, with almost 30% of the country under lockdown and more lockdowns to come, the key solution is mass testing? Does he also agree that we could have the equivalent of the ventilator challenge to manufacture the portable LAMP machines, which could greatly enhance testing capability, and have the Abbott Laboratories Binax-type, $5, 15-minute test available widely? Why are we not hearing more about this being implemented urgently?

Lord Bethell (Con): I reassure the noble Lord that we are making progress. He is entirely right: the ventilator challenge is an inspiration, and I note that we have hit our target of 30,000 ventilators. I note that we have 300,000 tests a day at the current run rate; we have re-registered 50,000 new clinicians to return to support the NHS; we have had 16 million downloads of the NHS app; we have recruited 14,200 nurses as part of our recent recruitment; we have processed over 24 million tests in laboratories as of 8 October 2020; and the Vaccine Taskforce has secured access to six different vaccine candidates across four different vaccine prototypes. These are enormous achievements and we will continue to pursue our response with energy and vigour.

The Deputy Speaker (Lord Alderdice) (LD): My Lords, the time allowed for this Private Notice Question has elapsed. I regret that we have not been able to hear all the speakers.

Charitable Incorporated Organisations (Insolvency and Dissolution) (Amendment) (No.2) Regulations 2020

Motion to Approve

1.16 pm

Moved by ***Baroness Barran***

That the Regulations laid before the House on 13 August be approved.

Relevant documents: 23rd Report from the Joint Committee on Statutory Instruments (special attention drawn to the instrument)

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con): My Lords, I am pleased to introduce a statutory instrument laid before the House on 13 August. The Joint Committee on Statutory Instruments reported the regulations for unexpected use of the enabling powers due to an issue regarding inconsistency with regulations made by the Department for Work and Pensions. I shall discuss this in detail later in my speech. The Secondary Legislation Scrutiny Committee has not drawn the House's attention to this instrument.

Before moving on to the detail of the instrument, I just take this opportunity to pay tribute to the role that charities all around our four nations have been playing in the national fight against coronavirus. They have been crucial in supporting communities, delivering food, combating loneliness and many other aspects, and we recognise that contribution.

The regulations we are discussing today make minor and technical modifications to the way that the Insolvency Act 1986 applies to charitable incorporated organisations,

[Baroness Barran]
via the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012. They are necessary due to amendments to the Insolvency Act 1986 by the Corporate Insolvency and Governance Act 2020, which received Royal Assent on 25 June 2020.

The Corporate Insolvency and Governance Act 2020 delivered a package of measures, including an amendment to insolvency law allowing corporate bodies, including charitable incorporated organisations, to continue trading while exploring options for rescue and restructure to avoid insolvency; and to provide them with temporary flexibility to hold their annual general meetings online or postpone them. This is to ensure that such meetings are held safely, and in line with the restrictions on movement and gatherings.

A key measure in the Act is the introduction of a new, free-standing moratorium procedure intended to give corporate bodies, including charitable incorporated organisations, regulated breathing space to explore restructure options, free from creditor action. The new moratorium provisions were applied by adding a new Part A1 to the Insolvency Act 1986. The amendments to the Insolvency Act 1986 apply to charitable incorporated organisations. However, this instrument disapplies provisions of the moratorium procedure that are not applicable or relevant to CIOs. These ensure the effective application of the moratorium provisions to CIOs and avoid unnecessary complexity for those relying on them.

The regulations also contain a slightly more substantive provision, which is to ensure that a CIO cannot apply to the Charity Commission for solvent voluntary dissolution during a moratorium period during which it is protected from creditor action. The voluntary dissolution procedure is unique to CIOs. It allows a solvent CIO to apply to the commission for it to be wound up, subject to its remaining assets—after settling all liabilities—being passed to another charity with the same or similar purposes. We would expect a CIO to exit a moratorium before making an application for solvent, voluntary dissolution, and the regulations reflect this.

As I mentioned at the start of my speech, the Joint Committee on Statutory Instruments reported the regulations for unexpected use of the enabling powers. Our approach in applying the new moratorium procedure to CIOs was to simplify the moratorium regime. Therefore we disapplied provisions considered unnecessary or extremely unlikely to have any practical application to such organisations. This included disapplying Section A51 of the Insolvency Act 1986, which provides power to make provision in regulations in connection with pension schemes. However, on 6 July 2020, the DWP used this provision to enact secondary legislation to extend its Pension Protection Fund moratorium provisions to CIOs. DCMS considers the likelihood of the Pension Protection Fund needing to intervene in a moratorium of a CIO as extremely low. However, to ensure that all relevant corporate forms are covered by the provision, DCMS will bring forward legislation, when parliamentary time allows, to enable these provisions to apply to CIOs. In the meantime, we do not anticipate there being any practical impacts on stakeholders whatever.

The JCSI report asks what communication took place between DCMS and the Department for Work and Pensions before either this SI or the DWP SI were made. Due to the urgency with which both sets of regulations were being made, unfortunately only limited communication took place but we have already taken steps to ensure better co-ordination in the future.

I bring one further issue to the attention of the House. DCMS made an initial set of regulations on 6 July but, due to an administrative error, the draft submitted was not the final draft of the instrument and therefore it included inaccuracies. Once this error was identified, DCMS made correcting regulations—the ones we are discussing today—as quickly as possible on 12 August. The department does not believe that stakeholders suffered or were inconvenienced in any way due to this error as the amendments are minor and technical and it is extremely unlikely they will have been relied on within the relevant period. However, DCMS wrote to the Joint Committee on Statutory Instruments to apologise. Having corrected this error, these regulations will be of great benefit to CIOs that wish to use the moratorium procedure, and I commend them to the House. I beg to move.

1.25 pm

Lord Foulkes of Cumnock (Lab Co-op) [V]: My Lords, I am really grateful to the Minister for her full and helpful explanation of the regulations. Like her, I shall first say a few words to put them into context and in doing so I declare an interest as a former chair of Age Scotland and, many years ago, a director of Age Concern Scotland. I know from that experience how difficult it is to fundraise. The pressures on charities to raise money to support vital work to help poor, vulnerable and lonely people are very great indeed, even in normal times.

The impact of Covid-19 on the charity sector has been significant, in some cases devastating, exacerbating many of the financial challenges facing charities across the United Kingdom, which were increasingly relied on to provide vital services—to older people in the case of Age UK—during the pandemic. Charities such as Age Scotland and Age UK and their regional and local partners have been doing their utmost to provide services to support older people despite these financial difficulties. For example, during lockdown Age UK lost one-third of its income overnight due to the closure of 400 of its charity shops. That was £900,000 a week. While the charity has made significant changes nationally to respond to this drop in income, many local Age UK branches have also had to make significant cutbacks, closing services and making staff redundant, with consequent effects on their clients. Some Age UK branches have closed, and many more will have to make similar decisions in the coming months, as the impact of the virus on the income of the organisation is becoming clearer. For Age UK such financial hardship could likely mean that many older people were left without support in future. It is incredibly sad and difficult for the staff in the partner charities who work tirelessly to support those most vulnerable in our community. For our elderly in society this is of grave concern, especially as we slowly see the

erosion of other vital services that have successfully been provided until now for older people—for instance, the withdrawal of free TV licences for the over-75s. I am worried that this is a straw in the wind and that we will see the erosion of other services for the elderly.

While Age UK has now reopened around two-thirds of its charity shops and is beginning some recovery of its income, uncertainty around life getting back to normal and the threat of local and national lockdowns are a continuous threat to the charity and others. While the Government are providing some financial support to charities—after much cross-party pressure—it does not go far enough when many are likely to face even greater financial hardship and increasing workloads over the coming months. Indeed, the advice officered by the Government to charities in managing finances is vague and impractical. The GOV.UK website suggests

"developing alternative sources of funding or launching an emergency appeal",

which is unlikely to be possible,

"borrowing money from banks"—

again, not likely to be successful—and

"reducing actual or planned spending",

which is what they are doing, but that reduces services. Finally, it suggests

"stopping doing some of your charity's activities",

which is exactly what is happening, so the advice is not really very helpful.

I now turn to some specific points related to the regulations before us. The moratorium period is said to give an organisation breathing space during which time some creditors cannot take specific action of enforcement. Why only some of them and not all creditors? The breathing space that these regulations give is provided while remedies are sought. Will the Minister say what remedies and from where? Can she enlighten us on that? Furthermore, does the Minister believe that a 20-day delay is long enough, particularly given the extraordinary circumstances that we are in? Did the Government, for example, conduct an assessment before deciding on those 20 days? As the Minister sees, I have some concerns about the position charities are in and whether these regulations will be a significant help. Nevertheless, I support them today.

1.30 pm

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, I thank the Minister for the open and transparent introduction to this statutory instrument. I come to this debate as a veteran of the Corporate Insolvency and Governance Act, which, as the legislative background to the Explanatory Memorandum states, applies to CIOs apart from some housing cases.

When I saw the original SI listed for debate, I signed up to speak vaguely hoping that there might have been some special tailoring for CIOs, because in my heart I am still not convinced that the moratorium is as wholesome as hoped, due to the way in which, if there is an eventual insolvency after a moratorium, it results in creditor superpreference for banks, although this House did manage to chip away at some of that. However, we are where we are, and I guess we will find out how it works out in the end.

Unfortunately, the Explanatory Memorandum for this SI is one of the most unhelpful I have ever seen. While it says that the SI deletes irrelevant things, it says nothing about what is considered irrelevant. I spent some time collating the amendments with the amended Insolvency Act, the 2012 regulations and other regulations, and discovered for myself, as the Minister has admitted, that this will not be the end of the chain. I found that the DCMS did not know what the DWP was doing with regard to the Pension Protection Fund. It was in another concession to this House during the passage of the moratorium legislation that the DWP was given power to regulate for the Pension Protection Fund to have a place at the moratorium table. When regulating for that, the DWP—wisely, in my view—drafted it widely enough to cover CIO pension schemes.

Today, we are debating the second version of the DCMS's SI, and it is still wrong, because section A51, which relates to the Pension Protection Fund provision, has been deleted. Thus, we will be getting another correction, and, indeed, I note in the *Forthcoming Business* that on 21 October we are getting another top-up SI from the DWP. Who knows what else may be wrong? That is my criticism: it is impossible to tell from the Explanatory Memorandum what is going on, and it leaves the reader to do all the work. What do we get explained? Well, it explains that the previous statutory instrument was wrongly drafted, and that the second regulation really—really—makes sure that the amendments of the first regulation fall away and we are back to the beginning.

The sole explanation of what else it does is in paragraph 7.2:

"This instrument makes minor and technical modifications to ensure the effective application of the moratorium provisions".

Finito. Even though the last SI was wrong, and this one is wrong about the interaction with the DWP regulations, we are expected to accept that all is hunky-dory without explanation. Worse, the ordinary person is expected to accept and understand that, because that is who the Explanatory Memorandum is for; it is not just for Members of this House or the other place, who may get suspicious and dig.

The Explanatory Memorandum might have tried a little harder and listed the reasons for the various clusters of amendments, such as "because they relate to Scotland", which CIOs do not cover. It might have explained that definitions from deleted section A27 have been moved to new subsection 13 in section A31. Indeed, had it explained that section A51 was deleted because it was not thought that CIOs would have pension schemes, someone reading such an explanation might have noticed the mistake; or, thinking about that statement, such a person might have suggested that it would not do any harm to leave it in, even if it remained unused, just in case, and that that would be a better solution.

I am sorry to say it is badly done, because I do appreciate that everyone is under a lot of pressure—but think of all the time wasted on having three SIs when one should have been enough. So, I ask, please try to do better and explain better.

[Baroness Bowles of Berkhamsted]

Finally, there was no mention of the solvent voluntary liquidation provision—a substantive provision—in the Explanatory Memorandum, or how that interacts with the change in the creditor order as a result of a moratorium being attempted first. Will the Minister confirm that a different result will happen dependent upon whether or not a moratorium had been tried first, because of the disturbance to the creditor order created by the act of having the moratorium?

Of course, today we will pass this flawed SI—and wait for the next round.

1.35 pm

Lord Kirkhope of Harrogate (Con) [V]: My Lords, I am participating in this debate on what could at first sight appear to be a very simple piece of rectifying legislation. It comes before us in the same week as did other measures of a similar nature, including the draft Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020, the debate on which I participated in, as a former Mental Health Act commissioner, last Tuesday.

The general thrust of both measures is to offer a breathing space in the event of debts being incurred during the current Covid crisis. I support that approach, but I believe that these good intentions of the Government need to be reflected in legislation which is both clear and appropriate in specific circumstances, and is fully understood by both those who benefit and those who, as creditors, may feel under their own pressures as a result of Covid and the measures introduced.

On Tuesday, I felt the need to make this point clear in regard to mental health patients in crisis. Today, I want to do so for the charitable incorporated organisations. I find it interesting to note, having read through the entire *Hansard* record in both Houses of the passage of the Corporate Insolvency and Governance Act 2020—the primary legislation to which this SI is related—how little the plight of CIOs has been mentioned. MPs and noble Lords spoke at length and amended with enthusiasm areas of the legislation concerned with major corporate entities, many of them known to the tabloid-reading public as well as those who got their fingers burnt when dealing with them. As for CIOs, I searched in vain for any real interest in their fate—little wonder that this SI is before us because of drafting errors in an earlier attempt. The Government did point out that the first SI had, as far as they were concerned, done little damage.

It is worth us considering what CIOs are and how they are affected in the present Covid crisis particularly. Originally, many charities had been set up, as noble Lords will know, as charitable companies regulated by both the Charity Commission and Companies House. These are known as community interest companies. It is now often preferred for charities to convert to, or be established as, charitable incorporated organisations, because the process is easy and the benefits tangible. First, the regulation lies solely with the Charity Commission, not Companies House. Secondly, there are clear tax and other fiscal benefits, as well as a clearer path for the receipt of public grants and donations to pursue their core charitable aims, together with eligibility for gift aid on donations. Add to those rate relief on premises, avoidance of stamp duty land tax on property transactions and free software, et cetera, and it is clear that being a CIO has many advantages that help to power such organisations.

The only downside, if you can call it that, is that the Charity Commission requires much greater reporting requirements and regulations, and structure requirements; thresholds for requiring independent examination and an audit are much lower than for other charities. That said, one wonders how often the concessions in this piece of secondary legislation will be required. Can my noble friend the Minister tell us how often, despite the tighter control, CIOs go bust? How often does she think this moratorium might be used and be very helpful? Can she also give us a clearer idea of the status of the insolvency practitioners who must oversee the moratorium? Will future government guidance specify these, and are there any limits on the costs that might be incurred?

I see in the present GOV.UK Covid-19 guidance note that reference is made to the provisions of assistance, but little is said about the details. The guidance offers

"temporary suspension of the use of statutory demands and a restriction on winding up petitions, where a … CIO cannot pay its bills due to the coronavirus emergency".

That is helpful, but surely in view of the controls and financial status of the CIO, it will or should occur in only a small number of cases. Much of the income comes from the very bodies which could issue statutory demands anyway.

This measure and so many others are no doubt necessary in the present crisis, but it is essential that we keep them proportionate to the perceived problems and try to make them as realistic and understandable as possible.

1.41 pm

Baroness Scott of Needham Market (LD) [V]: My Lords, it is fascinating how a debate on a modest SI on a Friday afternoon is throwing up such interesting and potentially far-reaching issues. I declare an interest as a trustee of two charities: the Industry and Parliament Trust and Community Action Suffolk. I absolutely associate myself with the remarks of the Minister about the role that charities play in public life generally and during the difficult pandemic period. I also back up the remarks of the noble Lord, Lord Foulkes, on how difficult many charities and voluntary organisations are finding things.

I will confine my remarks to points raised by the Joint Committee on Statutory Instruments, of which I am a member. As the Minister outlined in her full introduction, the predecessor SI had something of a chequered history in its drafting and procedure. These regulations modify the initial regulations laid on 6 July, which, as we have heard, contained a number of errors which were picked up by the JCSI. The Minister has assured us that no stakeholders have been negatively impacted by these problems, but I respectfully note that that is rather beside the point—had they been badly impacted, it would have been worse in some ways, but this shows how much better it is to get it right first time.

The JCSI picked up the question of communications between the DWP and DCMS, which clearly fell down here. The Minister has been very open about that and we welcome her reassurance that they will try to do better going forward. What she has not referred to, and which is very serious in my view and that of the committee, is the requirement to notify both Speakers when a regulation comes into force before it is laid before Parliament. The Speakers should be notified immediately, and in this case they were not; the notification arrived 13 days later. Having asked for an explanation, we have not seen a satisfactory reason why this delay took place. This is very serious.

I am not picking on the Bill team here. There is clearly is quite a problem across the Civil Service. The Secondary Legislation Scrutiny Committee report of 1 October highlights that, so far in this Session, 8.5% of instruments have had to be replaced or corrected. It regards 5% as the absolute maximum to which that should apply.

In recent weeks, both Houses have spent a lot of time debating and thinking about a meaningful role for Parliament in the scrutiny and agreeing of secondary legislation, but I would also argue that proper drafting is an important part of this that we must not neglect. That legal certainty is important.

In my 20 years in the House, I have seen an increased tendency for legislation to rely for important detail on swathes of delegated powers that come forward, sometimes many years later, in the form of regulations and secondary instruments. When you add that trend to the immediate challenges of legislation related to both Brexit and Covid, the Civil Service is having to draft SIs at a pace that could never have been foreseen. Nevertheless, we must get it right.

I will finish with a quick remark about the role of the Joint Committee on Statutory Instruments. The legal advisers available to work with the committee are absolutely superb; I see this every week in my working life. It is fair to say that, although they are not exactly the friends of the department—it is important that they maintain independence on Parliament's behalf to ensure a split between the Executive and Parliament—they are not the enemies of the department either. They just see themselves as complementary and are always happy to work with departments that have any doubts about procedure. If departments could see them more as a kind of critical friend, it might save us having to come back and revisit the 8.5% of SIs that we have heard about.

1.47 pm

Lord Bhatia (Non-Afl) [V]: My Lords, I welcome the regulations because charities play a vital role in protecting communities, individuals and other not-for-profit organisations. The provision of a moratorium is therefore important and will protect charities from going under. Charities often have a short-term cash-flow problem; these regulations provide breathing space for them.

The regulations also provide for new elements of the moratorium for charitable organisations to facilitate their rescue from financial difficulties. They are somewhat similar to chapter 11 provisions in the US. In difficult times, such as the Covid pandemic, many charities that owe rent or the repayment of loans given to community organisations find themselves in difficulty and unable to pay their creditors. These regulations will stop creditors attempting to take legal action against charities with defined new funds or grants. It becomes a legal battlefield as each creditor or debtor tries to get its money back. Often, the lawyers are the ones who gain the most. Arbitration—[*Inaudible*]—to avoid the legal costs.

As I said, charities play a vital role in supporting communities and individuals. All assistance must therefore be given to protect them. Indeed, the Government should consider giving grants or loans to charities in difficulty.

1.48 pm

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I declare my interests in charitable organisations as set out in the register. Like the noble Baroness, Lady Bowles of Berkhamsted, I am also a veteran of the Corporate Insolvency and Governance Act, as it now is, having spent many happy hours on it. Although I can confirm that we did not consult on or talk about this matter beforehand, I find myself in agreement with much of what she said in her presentation.

Before I get to that, I want to mention that, although I admire the effort of the noble Lord, Lord Kirkhope of Harrogate, to read through the entire saga of that Act, he missed the fact that both the noble Baroness, Lady Anelay of St Johns, and I raised the issue of CIOs and charitable bodies more generally in the then Bill, and their particular issues in relation to the legislation going forward. We asked that the interests they represent be taken care of as the Bill went forward both in Committee and on Report in your Lordships' House, so I am a bit surprised that the noble Lord did not bring that up. However, I can understand that his eyes might have glazed over when we reached that point in the proceedings.

I agree with the noble Baroness, Lady Bowles, that the Explanatory Memorandum for this statutory instrument is not up to the standard that the House expects. There may be many reasons for that and, when the noble Baroness introduced the SI, she hinted at the problems it has been going through—but I found it very difficult to read. I am therefore very grateful that the Library decided to publish a little aide memoire on this debate, which I found much more helpful.

The problem is not so much that this is the second or third attempt to try to get right something that was going off track earlier; it is that some quite substantial issues do not seem to have been addressed. I ask the Minister whether she would consider having a meeting with noble Lords who are interested enough to want one—perhaps just those who are involved in this debate—to see whether we can find out what is happening on the ground. I am confused about it: not just on the pension issue but on what legislation might be coming down the track later in this area. We do not get much opportunity to talk about charities and, as my noble friend Lord Foulkes said, there are real issues affecting them at the moment. It would be useful to get a sense of where the department is going with this, so we can

[Lord Stevenson of Balmacara]
be sure, in our own minds, where we can be most helpful in trying to protect the interests of charities, as a way forward.

When the Minister introduced this SI, she said it was a necessary part of the process and was mainly about disapplying provisions that might otherwise cause complications or not be relevant to the charities involved. But I felt very uncomfortable with that approach. That might be resolved by a meeting but, at the moment, all we have to go on is the SI. I have five very quick points to make.

First, I did not agree with her analysis that the voluntary solvent dissolution procedures should be disallowed, because they go with the grain of what was intended by the Corporate Insolvency and Governance Act. If a charity is thinking about winding up and is solvent, it will probably have other charities to which it could transfer its activities and processes. I do not understand why it would be necessary to disapply the provision for dissolution, if that were the case. Surely it would be in the best interests of all concerned to quickly transfer the assets, as a going concern, to the new charity, and any hold-up in that would be a bad thing. I put that to the Minister and look forward to her response.

Secondly, the noble Baroness, Lady Bowles of Berkhamsted, is a much more expert observer of the pension schemes issue than I am, but I thought the point was that pensions issues should be within the scope of the moratorium. In other words, the creditor interest represented by the pensions due to those people who are employed by the charity needs to be protected, and that trumps the worry about this being overcomplicated. I understand that the issue has arisen because of a lack of communication with the Department for Work and Pensions, but it is still not clear—nor is it in the Explanatory Memorandum—exactly why the Government have chosen to act as they have, particularly as they now think they have got it wrong and want to bring further legislation later. That seems a very complicated way forward.

Thirdly, the Minister paid tribute to the work of charities during the Covid-19 pandemic, as did other noble Lords who spoke during this debate. But the issue is that the voluntary and community sector is facing a huge deficit in its processes, as my noble friend Lord Foulkes mentioned. While the Government have brought forward a tiny proportion, the gap between where the charities would expect to operate and where they are at the moment is enormous. Is there any hope for more funding here? Could the Minister respond?

Fourthly, I will address a question that was touched on earlier in the debate and that I want to make sure was registered by the Minister. The charitable sector is very pleased that the Government took steps to make sure that the quite difficult end-of-year processes and governance arrangements in relation to lockdown and restrictions were being dealt with, and they welcome the Government's idea that trustees could have more time on these. However, I still think that there are concerns there. Could she put pressure on the Charity Commission to put out more practical guidance on this? From my own discussions, I understand that there are still concerns here.

Finally, a minor point was raised during the process of the Corporate Insolvency and Governance Act in relation to some charities who have collections within the ownership of the charitable bodies, which might be vulnerable if there were to be an insolvency. Clearly, the collections should be retained in the public interest, but there did not seem to be any mechanism when we raised this in the Bill for proceeding with that. Could the Minister respond to that?

1.55 pm

Baroness Barran (Con): My Lords, debating these regulations this afternoon has been a pleasure, and I appreciate the constructive tone brought to the debate very much. I will try to answer the points raised by your Lordships in the next few minutes. I think all noble Lords recognised the great and important impact of the voluntary sector, particularly during the Covid-19 pandemic.

Reference was made to the amount of funding needed by the sector. I remind your Lordships that the first sector-specific package announced by this Government was for the voluntary sector, to the tune of £750 million. Because I meet the sector very regularly, I know that there were a lot of concerns at the outset about the applicability of the coronavirus job retention scheme but, actually, billions of pounds have gone into the sector through the use of that scheme. We are delighted that we have been able to improve the resilience of the sector in that way.

The noble Lord, Lord Foulkes, asked about some creditors being prevented from taking enforcement action. Some of the restrictions that we have looked at are in relation to financial services and claims where proceedings are brought before an employment tribunal. He also asked whether 20 days was long enough. There is a mechanism whereby that can be extended once for the same amount of time without the involvement of the courts, and it can then be extended further with their approval.

The noble Baroness, Lady Bowles, and the noble Lord, Lord Stevenson of Balmacara, raised important points and I commend them both on their persistence in going through the SI in so much detail. It certainly was not the most user-friendly that I have ever tried to work my way through. She asked for some examples of the "minor and technical modifications". For example, modifications were made to the instrument to remove references to Scotland, Northern Ireland and overseas companies, none of which is relevant to CIOs as, unlike companies, they can exist only in England and Wales.

Another example, which the noble Baroness referred to and was also explained in the Explanatory Memorandum, was the transitional provision to ensure that any moratorium period entered prior to the commencement of the Corporate Insolvency and Governance Act continues under the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations, as they were made prior to the amendment of the Act. I hope that those are satisfactory examples.

The noble Baroness also asked about special tailoring for CIOs. Our aim in bringing forward these regulations is to create a level playing field with charities for CIOs.

Many charities are registered with Companies House, and this will put both governance structures on a level footing.

The noble Lord, Lord Stevenson, asked, as did the noble Baroness, Lady Bowles, about the Pension Protection Fund provisions and the likelihood of those being needed. We genuinely believe that the likelihood is extremely low, but perhaps I may run through the situation where they might be. The CIO would need to be in a position of severe financial distress, but with the realistic prospect of financial rescue, in order to enter a moratorium in the first place. The CIO would also need to employ staff who are participating in a defined benefit pension scheme, and since CIOs have been in existence only since 2012, we believe that very few would offer staff participation in a DB scheme. Once those two hurdles had been cleared, we would naturally expect trustees of a CIO in a moratorium to act reasonably and responsibly, and not in such a way as to undermine the rights of members of their pension scheme or impact on the Pension Protection Fund. I hope noble Lords agree that those are significant gates which they would have to pass through. This remains a theoretical possibility, so to ensure a level playing field, we will bring forward legislation when parliamentary time allows to reapply Section 51A to CIOs.

My noble friend Lord Kirkhope asked about the status of insolvency practitioners. My understanding is that they have to be qualified practitioners and that the details of the workings are set out in the Corporate Insolvency and Governance Act.

The noble Baroness, Lady Scott of Needham Market, asked about the delay in writing to the Speakers. I can assure her that we have made every effort to get those letters out as quickly as possible, and I can only apologise for the delay. I share her recognition of the importance of the accuracy of the legislation that we bring forward.

These regulations will help CIOs that need a protective breathing space to consider their options or to pursue a restructuring plan and, as such, I commend them to the House.

Motion agreed.

House adjourned at 2.03 pm.