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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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

The 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

Tuesday 3 November 2020

The House met in a hybrid proceeding.

Noon

Prayers—read by the Lord Bishop of Winchester.

Arrangement of Business
Announcement

12.07 pm

The Deputy Speaker (The Earl of Kinnoull) (Non-Afl): 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. Oral Questions will now commence. Please can those asking supplementary questions keep them no longer than 30 seconds and confined to two points; I ask that Ministers also give brief answers.

Integrated Review of Security, Defence, Development and Foreign Policy
Question

12.08 pm

Asked by ***Lord Howell of Guildford***

To ask Her Majesty's Government when the Integrated Review of Security, Defence, Development and Foreign Policy will be (1) completed, and (2) published.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, the integrated review continues but, in light of the decision to move to a one-year spending review, we are considering the implications for its completion. We will of course provide an update in due course.

Lord Howell of Guildford (Con) [V]: My Lords, I thank my noble friend for that reply. With the comprehensive spending review now delayed, can we be clear about which comes first: the much-needed review of defence spending or the fundamental review of our position in the world and how to defend it, which the integrated review is meant to address? Has my noble friend noted that the new call for evidence questions from the review, put out in August with an absurdly short window, make no mention at all of our trade and business prosperity in the new world conditions on which everything else will depend? Will he pass the word to the reviewers to correct that?

Lord Ahmad of Wimbledon (Con): My Lords, I always take my noble friend's advice and listen to it carefully. I will of course follow up on that point. On his wider question, the integrated review takes into account not just defence but our development programmes, as well as diplomacy. The intention is very much to ensure that we will, as I said, in due course be able to announce a date on the further progress of the integrated review.

Lord Collins of Highbury (Lab): My Lords, the current crisis highlights that international co-operation is the greatest tool for confronting global threats and advancing our values and interests. Sadly, under this Government the UK has lost much of its influence at the United Nations, along with losing its historical place at the ICJ, and has failed in a series of high-profile votes at the Security Council and the General Assembly. Will the review fully consider the UK's policy towards the UN and can the Minister explain how the Government will seek to strengthen and regain the UK's influence at this important institution?

Lord Ahmad of Wimbledon (Con): My Lords, it will not surprise the noble Lord that I disagree with him. We continue to have a very big influence at the United Nations, including at the UN Human Rights Council. He is all too aware of the recent incremental success we have had on the challenging subject of Xinjiang. On elections, the noble Lord refers back to that of 2017 on the ICJ; subsequently, there have been several UN positions, as well as an election to the important institution of the ITU, where the British candidate was successful. This was down to the influence we carry. I assure him that I agree with him on this point: it is important that we sustain and retain but also strengthen the role of the United Kingdom in global affairs, including through our work at the UN.

Baroness Smith of Newnham (LD) [V]: My Lords, the noble Lord, Lord Howell, referred to money and asked whether we would be looking at chicken or egg. Does the Minister agree that although it is vital that we spend at least 2% of GDP on our Armed Forces, in the context of a declining economy with Covid 2% may not be enough? What conversations are being had with the Treasury about this?

Lord Ahmad of Wimbledon (Con): My Lords, I am sure the noble Baroness appreciates that the whole idea behind a one-year spending review is to ensure that we prioritise the issue of the economy, as she rightly said, but also other challenges that we face in the Covid crisis. That said, when we look at the context of the thresholds set, particularly at NATO, I am proud that the United Kingdom continues to stand by our commitment to spend 2% of GDP on defence but also 0.7% on development.

Lord Lancaster of Kimbolton (Con): My Lords, the UK has some of the most advanced military capabilities in the world—the F35 fighter, the Type 45 Destroyer and cyber, to name but three—but our real military advantage comes when we can network these capabilities. With the addition of space and cyber to the traditional domains of land, air and maritime, can my noble friend reassure me that multi-domain integration will be at the heart of this review?

Lord Ahmad of Wimbledon (Con): My Lords, I welcome my noble friend. I assure him, and agree with him, that the United Kingdom will always prioritise how we respond to the threats that we face. As I am sure he will acknowledge and agree, our armed and security forces work tirelessly to protect the UK and our interests at home and abroad. However, I agree with him that we need to be dynamic in our response to the ever-changing and evolving world, including some of the new threats and opportunities, be they in cyber or space.

Lord Stirrup (CB): My Lords, a number of pending defence capital investment programmes will be crucial to both our future military capability and the UK's prosperity agenda, but a one-year financial settlement risks crippling them. Can the Minister assure the House that such important strategic issues will be decided by informed debate and not pre-empted by short-term Treasury fiat?

Lord Ahmad of Wimbledon (Con): I assure the noble and gallant Lord that we continue to stand by our Armed Forces. He will note that the Government are investing an additional £2.2 billion in defence over this year and next, which will put our total spending at £41.5 billion. I give him the added assurance that the Government will continue always to prioritise how we respond to the threats that the UK faces. Our Armed Forces and security services work tirelessly in this respect and are fully funded.

Lord West of Spithead (Lab): My Lords, the Treasury's decision that the comprehensive spending review will now be on a one-year settlement will be very damaging to defence. The military, particularly equipment procurement, is a relatively long-term business, as alluded to by the noble and gallant Lord, Lord Stirrup. The UK needs a clear statement of how Ministers see the UK's position in the world, not least to inform defence structure and spending in the future. If the integrated review is delayed, will the Government at least publish a foreign policy review—ideally, early in 2021—which will be able to take account of which way the United States is heading as well as future relationships with the EU?

Lord Ahmad of Wimbledon (Con): My Lords, I shall follow up on the noble Lord's suggestion and write to him. I assure him that the Foreign, Commonwealth & Development Office is now pursuing international priorities in an integrated manner, including working to ensure greater leverage in the Indo-Pacific area.

Baroness Northover (LD): My Lords, next autumn we are hosting COP 26, which must be a success both for the United Kingdom and globally. Given the delay to the CSR, how will we ensure that climate change is comprehensively addressed, what proportion of funding will come from our ODA commitments, and how will that affect our development programmes?

Lord Ahmad of Wimbledon (Con): My Lords, I have already alluded to our commitment to 0.7%, which is enshrined in law. The noble Baroness is of course right to raise COP 26; I assure her that Ministers across government are working to ensure that we deliver on its priorities and ambitions.

Lord Truscott (Ind Lab): My Lords, there has been much talk of global Britain post Brexit. Can the Minister define what that means? Secondly, can he tell your Lordships' House what values and principles underpin the integrated review?

Lord Ahmad of Wimbledon (Con): My Lords, in a few seconds, global Britain means our place in the world, whether through multilateral institutions such as the UN, through the Commonwealth or, indeed, through our bilateral relationships. The UK has strong influence and strong partnerships, and we will strengthen those partnerships and friendships going forward. On our overall positioning, I am very optimistic about the outlook for the UK in the global world. The results of the FCDO merger demonstrate why.

Baroness Helic (Con) [V]: My Lords, I regret that the publication of the integrated review has been postponed. We live in an era of extraordinary unpredictability that cannot be addressed by ad hoc reviews. Will the Government therefore consider introducing a legislatively mandated quadrennial defence, foreign policy and security review to ensure that we have an automatic and regular review of MoD and FCDO strategy and the threats facing our country, as is the case in the United States?

Lord Ahmad of Wimbledon (Con): Noble Lords have ample opportunity, as do Members in the other place, to question and challenge the Government, whether in defence, development or diplomacy, and that will continue.

Lord Craig of Radley (CB) [V]: My Lords, does the Minister agree that a nuclear deterrent lacks credibility unless it is underpinned by capable, modern, conventional capabilities? If so, does he agree that the current resilience and fighting strength of the three services is less than adequate and must be improved rapidly as part of this review?

Lord Ahmad of Wimbledon (Con): I agree with the noble Lord's first point. However, I have already alluded to our increased budget in defence spending, which underlines the importance and priority that Her Majesty's Government attach to our defence capabilities.

The Deputy Speaker (The Earl of Kinnoull) (Non-Afl): My Lords, the time allotted for this Question has now elapsed and we therefore move to the second Question.

Qualifications

Question

12.18 pm

Asked by ***Lord Haskel***

To ask Her Majesty's Government what steps they are taking (1) to rationalise the number of, and (2) to set standards for, qualifications to ensure that such qualifications are of value to (a) individuals, and (b) employers.

The Parliamentary Under-Secretary of State, Department for Education and Department for International Trade (Baroness Berridge) (Con): My Lords, we have announced reforms to higher technical qualifications and are consulting on reforms to qualifications at level 3 and below to provide clearer and simpler qualification choices post-16. We are strengthening the links between the classroom and the workplace by basing the majority of technical qualifications at levels 3, 4 and 5 on the same employer-led standards as apprenticeships and T-levels, ensuring that young people and adults develop the skills that employers need.

Lord Haskel (Lab) [V]: My Lords, I am pleased to hear that the Government are at least trying and do something about qualifications. For many people, the way to improve their chances of getting well-paid and secure work is, of course, to get a qualification. However, they are faced with some 13,000 qualifications currently available, many providing little or no value to either individuals or employers. Will the Government organise a review of the credibility of each qualification and an assessment of the rate of return, to help those taking this very sensible step to improve their chances?

Baroness Berridge (Con): The noble Lord is correct that there is a bewildering array of qualifications. At level 3, there are over 12,000 qualifications. The consultation that is out at the moment will make clear the role of a qualification that is not an A-level or T-level. Over 2,500 level 3 qualifications are in scope for their funding to be reduced or removed, due to low or no enrolments.

Lord Mackay of Clashfern (Con) [V]: My Lords, I ask my noble friend whether the value of technical qualifications is fully brought to younger people's notice, and whether they are steered towards them when they are more suitable for them than other qualifications.

Baroness Berridge (Con): The noble and learned Lord is correct that young people need to be aware of this. Therefore, we have ensured that the Careers & Enterprise Company, as well as the first providers, will promote the T-levels while they are being rolled out in stages. At this time, the elevation of technical qualifications is so important to our recovery from Covid.

The Lord Bishop of Winchester [V]: My Lords, a recent survey of apprenticeship employers published by the Department for Education indicates that employers see higher apprenticeships as better value for money than lower level 2 and 3 apprenticeships, so they are utilising levy funds to upskill existing staff, rather than to train new recruits. Can the Minister confirm what plans Her Majesty's Government have to prevent further decline in level 2 apprenticeships to ensure that these apprenticeship pathways are available to new recruits across the country?

Baroness Berridge (Con): My Lords, unfortunately, at the beginning of the apprenticeship enhancement, certain apprenticeships, particularly at level 2, were not of the value that both employers and apprentices needed. Therefore, we moved from frameworks to standards. It is positive, though, that many employers that were not able to promote BAME employees, for instance, used apprenticeships as a way to upskill their workforce and improve their BAME representation.

Lord Clark of Windermere (Lab) [V]: My Lords, remaining with apprenticeships, is the Minister satisfied that the current legislation, almost a decade old, still ensures value to both the individual and the employer? In particular, is the minimum apprenticeship of 12 months still sufficiently long to provide the basic skills for any employment?

Baroness Berridge (Con): The 12-month minimum period was brought in, as I said to the right reverend Prelate, when we had shorter apprenticeships and had to ensure that, by law, an apprenticeship meant a certain qualification. We have seen an increase in longer-term apprenticeships, such that we amended the regulations so that, if you were made redundant during your apprenticeship but had completed 75%, you could go to the endpoint of the apprenticeship without an employer.

Baroness Garden of Frognal (LD): My Lords, qualifications of value to employers are often work-based. I declare an interest as a vice-president of City & Guilds. I know that their qualifications have to meet very high levels of quality assurance, currency and relevance. Following on from the question from the noble and learned Lord, Lord Mackay, what are the Government doing to give schools incentives to encourage their less academic pupils, who may be technically and practically gifted, to pursue vocational qualifications and develop much-needed skills, which will benefit them, employers and the country?

Baroness Berridge (Con): My Lords, as I have outlined, schools are promoting this. If students at the transition point at age 14 want to go to a university technical college, the local authority and schools are now under a duty to promote that route to students. The consultation is about those City & Guild qualifications that do not overlap with level 3 T-levels and/or A-levels. We recognise their role, but all these qualifications must give the student the appropriate skills and the employer the confidence that that person is equipped for the job.

Lord Watson of Invergowrie (Lab): My Lords, the Question from my noble friend Lord Haskel rightly calls for qualifications that are of value to both individuals and employers. The Minister may be aware of a report published yesterday by the University Partnerships Programme foundation, which shows that the Government's commitment to a lifetime skills guarantee will not cover 75% to 80% of non-graduate workers who lose their jobs in the aftermath of the coronavirus pandemic. That is because many non-graduates want higher-level training, rather than just a new level 3 qualification. Will the Government therefore consider a more flexible higher education loan system, which would reflect the clear desire of learners to access training at a higher level, with a view to responding to skills shortages in the economy?

Baroness Berridge (Con): The noble Lord is correct that many in employment want to take a level 4 or 5 qualification. The Prime Minister announced that there

[Baroness Berridge]
will be a flexible lifetime loan entitlement, and that it should be as easy to get a loan to study a higher technical qualification as it is to get higher education funding. That is why the entitlement will be four years. We also recognise that those who have an undergraduate degree may want to do one year, and that levels 4 and 5 need be modular, so that they are flexible for people to train, if they have lost their jobs, or upskill, if they are in employment.

Lord Lucas (Con) [V]: My Lords, will my noble friend encourage the Institute for Apprenticeships and Technical Education to be more supportive of qualifications embedded within apprenticeships, where they can clearly give the apprentice a stamp of international approval and of being totally up to date in a technical discipline?

Baroness Berridge (Con): My Lords, the standards that the Institute for Apprenticeships and Technical Education applies can include a qualification when it is a professional or regulatory requirement, or if it is recognised that somebody would be disadvantaged in the marketplace by not having it. The main way for apprenticeships is the standard assured occupational competence, which is tested at an endpoint assessment.

Baroness Massey of Darwen (Lab) [V]: My Lords, many employers are looking for a wide range of skills in their recruits, such as teamwork and adaptability, as well as formal qualifications. How will such skills be developed alongside formal qualifications to ensure that those entering the workforce offer a valuable range of attributes?

Baroness Berridge (Con): My Lords, in the link between employers and qualifications, I have noticed that the description in relation to apprenticeships is knowledge, competences and behaviours, at levels 4 and 5. I hope that covers what the noble Baroness referred to: that certain behaviours that employers must have confidence are delivered by these qualifications, as well as knowledge.

Baroness Thornhill (LD) [V]: Minister, in a former life, I was a senior teacher in a very large comprehensive school, where it was evident that the 14-to-19 curriculum was uninspiring and inappropriate for many students and the ever-changing workplace. Thus I was willing the university technical colleges to succeed, which it is now generally accepted they have not. What will happen to those schools but, more importantly, the laudable intentions behind them?

Baroness Berridge (Con): Actually, the UTCs are a mixed picture. Some have achieved that link with local employers, where they have strong themes and do outreach. I hosted a round table of the successful UTCs, because it is important that we pass on their success, particularly in pupil recruitment, which is the key factor for those that are not successful. So we stand behind that, but I recognise that swift decisions need to be taken for those that, unfortunately, have not had such success.

The Deputy Speaker (The Earl of Kinnoull) (Non-Afl): My Lords, the time allowed for this Question has now elapsed. We come, therefore, to the third Oral Question.

Life in the UK Test

Question

12.29 pm

Asked by ***Baroness Bakewell***

To ask Her Majesty's Government what plans they have to review the contents of the Life in the UK Test.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the Life in the UK test, which is taken for settlement and citizenship purposes, is based on the content of the new handbook, *Life in the United Kingdom: A Guide for New Residents*. The Home Office reviews the handbook annually and makes corrections and amendments to ensure that the content remains factually accurate and up to date.

Baroness Bakewell (Lab) [V]: I thank the Minister for that Answer. She perhaps knows that, in July this year, some 600 of the country's historians, including 13 fellows of the British Academy, wrote a letter to the Home Office asking for an immediate review of the existing edition of *Life in the United Kingdom*, which, as the Minister said, is the set text for applying for British citizenship. They cited historical errors and misrepresentations. Given that the Home Office's latest plan in response to the Windrush scandal is to develop UK history training for its staff, can the text of this book now be up for urgent and expert revision?

Baroness Williams of Trafford (Con): My Lords, I read the exchange between my noble friend Lord Parkinson and Professor Trentmann with high interest. Our history is both broad and deep. We cannot possibly cover every element of it. The test is there to cover society, culture and history as accurately as we can. I understand that it is factually correct, but I recognise the differences of opinion between Professor Trentmann and my noble friend.

Baroness Quin (Lab) [V]: My Lords, I support the point just made by my noble friend Lady Bakewell. I want to raise the issue of the financial hurdles facing applicants. I have been told that free ESOL language courses have been significantly reduced and, of course, many applicants cannot afford college courses and are often ineligible for loans. Given these financial hurdles, are the Government giving consideration to the financial problems that applicants face?

Baroness Williams of Trafford (Con): The test costs £50 and the handbook costs £12.99. I have recognised before in your Lordships' House that the cost of citizenship is high for some individuals. In terms of ESOL, I recognise that all these things are a cost to the individual who undertakes them. There is assistance for people who cannot afford to pay the cost. For example, two or three years ago MHCLG provided free English language teaching for people.

Lord Mackenzie of Framwellgate (Non-Afl) [V]: My Lords, having seen the Life in the UK test, I have come to the conclusion that many British citizens would be

unable to answer many of the questions. Therefore, it is important that the test and supporting learning material should be reviewed regularly to make them topical and relevant. Will the Minister join me in congratulating those people from other countries who work extremely hard to pass the test, resulting in them becoming citizens of the best country in the world?

Baroness Williams of Trafford (Con): My Lords, I certainly join the noble Lord in congratulating everyone who has passed the test. I think the pass rate is between 80% and 90%.

Lord Blencathra (Con): I say to my noble friend that, having tried for interest half a dozen of the tests this morning and only failed one, I thought the content was generally correct as far as it goes. It is on the right lines. However, I suggest two tweaks. First, having just 24 questions is not nearly enough. It should be doubled to about 50 and more time given. Secondly, I found only one answer on the rule of law. There should be a lot more, stressing that this is a liberal, democratic country where democracy trumps religion and where we have respect and tolerance for everyone in society—oh, and no riding on the pavement, either.

Baroness Williams of Trafford (Con): I thank my noble friend for pointing those things out. I suspect if we took a straw poll of all views in this House the handbook would be very long.

Lord Greaves (LD) [V]: My Lords, I had a look at a lot of it. It seemed to me that it was very good training for taking part in pub quizzes. There is an extraordinary emphasis on a lot of irrelevant history, mainly about people who were white, rich and powerful. I did not see a lot in it about food banks or the laws in relation to planning permission and how to apply for planning permission. The question about what happened to hereditary Peers in 1999 seems bizarre. It seems to me that a thorough revision is required. Does the Minister agree?

Baroness Williams of Trafford (Con): No, I do not agree. The laws on planning applications could fill a tome by themselves—

Lord Cormack (Con): Everybody would fail.

Baroness Williams of Trafford (Con): Yes, probably. This is intended to be a broad-brush 24 questions on our history as an overview. The test also includes questions on society and culture.

Lord Randall of Uxbridge (Con) [V]: My Lords, I am sure we all have sympathy with those setting these test questions. As we have seen in the Chamber today, everyone will have a view about the suitability of individual questions. Perhaps I can suggest to my noble friend that periodically we undertake a mystery shopping exercise with politicians and civil servants to see how we would all fare in such a test. I hope we would emulate the triumph of my noble friend Lord Blencathra.

Baroness Williams of Trafford (Con): I thank my noble friend for that question. It goes to the heart of the fact that we do not all know everything about history.

Lord Singh of Wimbledon (CB) [V]: My Lords, the Life in the UK test is a bit of an obstacle course, requiring A-level English and a detailed knowledge of cultural trivia that, as mentioned, would defeat many of us. My main concern is about the reference to British values as if they were exclusive. Does the Minister agree that values such as democracy, the rule of law, and individual freedom and tolerance are not exclusively British? They are simply key universal values that aspiring citizens are required to respect.

Baroness Williams of Trafford (Con): I agree with the noble Lord that British values are common values. However, some of them may not be writ large in some of the countries that people come from. It is important to reiterate our common values—including the rule of law, as my noble friend Lord Blencathra said—in integrating people into British society.

Lord Blunkett (Lab): As someone responsible for introducing the first of the Life in the UK documents and tests, I recommend that people should read Professor Trentmann's article in the *Times Literary Supplement*. Will the Minister write to me to explain why the Government have not yet accepted the excellent recommendations of the Lords Select Committee, chaired by the noble Lord, Lord Hodgson, which dealt with some of the more outrageous anomalies in the present test and the document on which people are tested?

Baroness Williams of Trafford (Con): I thank the noble Lord and congratulate him for the first Life in the UK test. I know that the Home Secretary considers all feedback on what should be covered in the test. For example, the referendum on the EU is now covered. I will certainly take the noble Lord's point back.

Lord Jones of Cheltenham (LD) [V]: My Lords, I know someone who is applying for indefinite leave to remain, and I learned a lot from the interesting guide and other documents. Is it sensible or fair to expect applicants to be able to identify battles of the English civil war, how Cromwell dealt with the Irish rebellion or the names of the unfortunate wives of that old rogue, Henry VIII? Instead of learning about some of the appalling things our country got up to in the distant past, is it not more important for new citizens to understand what they can and cannot do now?

Baroness Williams of Trafford (Con): I take the noble Lord's point, but I do not think that we can erase history. History is both good and bad. The test also covers things such as society and culture. We should bear that in mind.

The Deputy Speaker (The Earl of Kinnoull) (Non-Afl): My Lords, the time allowed for this Question has now elapsed and we move to the fourth Question. I call the noble Lord, Lord Scriven.

Covid-19: Christmas Breaches of Restrictions

Question

12.39 pm

Asked by ***Lord Scriven***

To ask Her Majesty's Government what assessment they have made of the statement by the West Midlands Police and Crime Commissioner on 28 October that the police will investigate breaches at Christmas of the restrictions in place to address the Covid-19 pandemic.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the police will continue to enforce the measures that are in place, to protect the public and to save lives, as they have done throughout the pandemic. However, it is too early to determine what restrictions will be necessary over Christmas.

Lord Scriven (LD) [V]: My Lords, on average over 15 million journeys take place over the Christmas week, as people head back to their families. If, as the Prime Minister has indicated, after 2 December a tiered system is reintroduced, with different rules geographically on how many people you can have Christmas dinner or sing carols with, realistically how are the police expected to enforce what will be utter confusion?

Baroness Williams of Trafford (Con): Messaging and communication must be very clear in whatever regime we are in over Christmas, but it is too early to determine what might be necessary then. By acting now with a second national lockdown, we have the best chance of allowing more contact at Christmas, which we all want for ourselves and our families, but we will continue to be guided by the science.

Lord Forsyth of Drumlean (Con) [V]: My Lords, does my noble friend not think that stopping people getting married or entering churches for private prayer, and police commissioners threatening to investigate how families are celebrating Christmas and the birth of their saviour, is a tad over the top, particularly given the news this morning, from Professor Spector of King's College London, that the R number has fallen to 1 in England, rather than what we were told over the weekend?

Baroness Williams of Trafford (Con): My noble friend makes a good point, but the Government, guided by the scientists, will continue to monitor the situation. The next few weeks will be quite unpleasant for people across the country. I do not think that there is any chance of the police breaking into people's houses to check what they are doing, but they are there to uphold public protection and people's safety.

Baroness Prashar (CB) [V]: My Lords, does the Minister agree that the statement made by the West Midlands police and crime commissioner is contrary to the objective of policing by consent, where the co-operation of the public to observe laws is dependent upon winning their trust and encouraging responsible behaviour, not a heavy-handed approach?

Baroness Williams of Trafford (Con): Policing by consent is something that we as a society not only want to uphold, but hold very dear. Policing is not always in that vein in other countries across the world. In a statement issued on his website on 28 October, the PCC clarified:

"West Midlands Police will continue to use good sense"

in enforcing the rules

"appropriately and proportionately. That means that they have focussed on large and flagrant breaches of the rules."

He called at that time for clarity on the rules, which is very important for the Government.

Lord Rooker (Lab) [V]: My Lords, David Jamieson is a star among the police and crime commissioners. The Government make the rules; the job of the police is to enforce them. Is the Minister aware that the cuts to West Midlands Police mean that it can focus on only very large gatherings? Can the Minister guarantee that the Christmas guidance will arrive before Boxing Day? The police do not want to spoil anybody's fun, but they must halt the spread of the virus. I declare that my wife and I are members of the West Midlands Police family.

Baroness Williams of Trafford (Con): I can confirm that the Home Office has provided additional surge funding. I agree with the other points he made, certainly regarding the guidance. The pattern of the virus changes, going up exponentially and falling; we must respond to what it is doing at the time.

Lord Paddick (LD): My Lords, we have seen from the scenes of people partying in the streets of Nottingham last week, and outings to Barnard Castle, that just because something is illegal does not stop people from doing it if there is a desire to do so and a reasonable prospect of getting away with it. When will the Government stop relying on unenforceable laws and start putting their energy into educating people, explaining to them that socialising at home with people from different households is potentially putting their friends and loved ones' lives at risk?

Baroness Williams of Trafford (Con): The noble Lord makes a good point. There were 20,223 fixed penalty notices in England and Wales between the end of March and the middle of October. The most important point that the noble Lord makes is that individual responsibility will be crucial to tackling the virus. Like him, I have seen irresponsible behaviour, and while the healthy ones among us will be okay as a result of it, our grannies and those who are medically vulnerable may not be.

Lord Robathan (Con): My Lords, I have a high regard for my noble friend, so I hope that she does not take this personally. If restrictions such as the ones we are seeing at the moment are still in place at Christmas, a family of six have their elderly grandmother to

Christmas lunch, and the police knock on the door and start fining them, would that be a desirable aspect of the free society in which we have grown up?

Baroness Williams of Trafford (Con): We live in unique times. We are asking people to do things that are completely contrary to how this country usually operates. It is amazing that people have complied as much as they have, but it always comes back to the balance between people's health and the economic devastation that having people confined to their homes will cause.

Lord Rosser (Lab) [V]: Will the Government ensure that they do not lurch suddenly into new guidelines over the Christmas period or, as has happened with the imminent lockdown, repeatedly say something will not happen and then suddenly do a U-turn, so that the police and communities have time to prepare properly for what is expected of them over Christmas? Following up a point already made, what is the latest date the Government would deem acceptable for stating clearly what restrictions will and will not apply over the Christmas period, whether they be new arrangements or a continuation of those already applying?

Baroness Williams of Trafford (Con): My Lords, I bet everyone would love to know the answer to the noble Lord's final question. The Government have to keep an open view on what the numbers are looking like and the trajectory of the number of illnesses and deaths, so it is very difficult to put a date on that. However, going back to a previous question, how we behave as individuals between now and the beginning of December—2 December being the next point at which the Prime Minister has said he will review this—will be critical to how the numbers look as we approach Christmas.

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, at the start of the pandemic the Government kept changing their mind and consequently the police kept getting the law wrong. For example, the CPS reviewed some cases charged and brought by the police and found them to be 100% wrong. Will the Minister guarantee that all police forces will have the right rulebook for this lockdown, or Christmas, or whenever, so that innocent people are not arrested for doing innocent things?

Baroness Williams of Trafford (Con): To be absolutely fair to the police, at the beginning of lockdown in March there were a few examples of the police perhaps acting a little overjudiciously, but since then I have full praise for how they have dealt with the various changes in enforcement rules. The four-point process of engage, explain, encourage and enforce only as the final point has stood them and British society in good stead over the past few months.

The Deputy Speaker (The Earl of Kinnoull) (Non-Afl): My Lords, the time allowed for this fourth Question has now elapsed.

12.50 pm

Sitting suspended.

Covid-19: Places of Worship

Private Notice Question

1 pm

Asked by ***Lord Moylan***

To ask Her Majesty's Government, further to the official guidance to address the Covid-19 pandemic issued following the Prime Minister's remarks on Saturday 31 October, whether they will now produce the evidence that justifies the cessation of acts of public worship in places of worship.

The Minister of State, Home Office and Ministry of Housing, Communities and Local Government (Lord Greenhalgh) (Con): My Lords, we have come to a critical point in the fight against Covid-19. The R rate is above one across England, and the ONS estimates that an average of one in 100 people has the virus. To protect the NHS and get the R rate below one, we must limit our interaction with others. Therefore, with great regret, while places of worship will remain open for individual prayer, communal worship cannot take place at this time.

Lord Moylan (Con): My Lords, my Question had, I thought, the merit of inviting a simple binary answer, yes or no, but that is not quite what it got. This Question is about evidence. Evidence matters to science. Clearly, my noble friend the Minister is not going to announce a reversal of government policy, but can he at least give an assurance to your Lordships' House that if these measures are continued beyond 2 December or are reimposed in the future either nationally or locally, despite the many efforts to make places of worship Covid secure, that will not happen without the Government offering some evidence for these restrictions on acts of public worship being renewed or extended?

Lord Greenhalgh (Con): My Lords, I thank my noble friend for the focus on evidence. Following the meeting that I chaired on behalf of the Prime Minister of the Covid-19 places of worship task force, Public Health England is looking at the evidence around places of worship and proliferation of the virus. I am aware that a tremendous amount of effort has been put into ensuring that places of worship are Covid secure.

Lord Griffiths of Burry Port (Lab) [V]: My Lords, I am glad to hear the Minister's recognition that churches have acted diligently in making sure that things are safe. Over the last 10 weeks, I have either led or attended acts of worship in three different churches, and meticulous attention has been given to all aspects of proper behaviour in such circumstances. Methodists are even reduced to not singing our hymns: we are reduced to humming behind our masks or, indeed, some kind of Trappist silence. On behalf of the many elderly people for whom the act of worship is the only social activity they have from one week to another, when can their needs be taken seriously into account so that they can enjoy a sense of well-being, even in these difficult times?

Lord Greenhalgh (Con): My Lords, we recognise that this lockdown will be a very difficult period for people of faith too. The position is somewhat better than in the first lockdown, when places of worship were shut entirely. I note what the noble Lord has requested. We recognise that some significant events for all faiths will be taking place during this lockdown, and I am sure that this will be kept under review by the Government.

Baroness Eaton (Con) [V]: My Lords, the number of people suffering from mental illness and depression is rising during this pandemic. At such times, many people experience real spiritual hunger and wish for guidance. Where do they go if places of worship are closed? Worship and prayer are not a private matter; they feed the human spirit. It is that spiritual motivation that encourages people to support and work for the general good. As my noble friend said, churches and places of worship have become extremely Covid compliant. Can my noble friend the Minister recognise that and provide flexibility for Covid-compliant places of worship? When we come out of this pandemic, we will need people who have been able to gain strength from worship and prayer throughout.

Lord Greenhalgh (Con): My Lords, my noble friend will be pleased to know that the members of the places of worship task force have made that precise point to the Prime Minister: that public worship is Covid-19 secure; that it is essential to sustain our service; that it is necessary for social cohesion and connectedness; that it is important for the mental health of our nation; and that it is an essential sign of hope. Those points have been well made, but we understand that there is a difficult balance to be made, as we also need to ensure that we battle to contain the virus, whose prevalence is increasing. However, those points have been made to the Prime Minister.

Lord Harries of Pentregarth (CB) [V]: Although it is true that churches are remaining open for private prayer, is it not important to recognise that the Christian faith is essentially a corporate activity? It is a gathering of the Lord's people around the Lord's table on the Lord's day. Similarly, Islam is no less a communal religion. My experience has been exactly the same as that of the noble Lord, Lord Griffiths of Burry Port. The Anglican and Roman Catholic churches that I have experienced have been absolutely meticulous. I was glad to hear that the task force is examining the evidence. Will the Minister give an assurance that, as soon as some evidence is available about churches' impact, or lack of impact, on Covid-19, he will be able to report to this House?

Lord Greenhalgh (Con): My Lords, I am very happy to give that assurance. As soon as we have the specific evidence of the review by Public Health England, that will be made available to all.

Lord Cormack (Con): My Lords, my noble friend has not given a single shred of evidence as to why churches should not be open for public worship. I want to put a specific point to him. On the morning of Sunday 8 November, we are planning a remembrance service in Lincoln Cathedral—an immense space where everybody can be properly socially distanced. Instead, the Government have come up with an imbecilic answer—that the veterans, all of whom are 90 and over, can stand in the cold and be rained on but they cannot go into a safe, socially distanced cathedral. This is a disgrace.

Lord Greenhalgh (Con): My Lords, I recognise that this is a difficult time for people of all faiths. Remembrance Sunday services are of course an important part of celebrating what generations before have done for this country, but they can take place at the Cenotaph in a Covid-secure way. I recognise the point that my noble friend makes but we should also recognise that British Hindus will not be able to celebrate their version of Christmas—Diwali—during this period, and there is also the birthday of Guru Nanak for British Sikhs. We understand that these are sacrifices but, as someone who, during the first lockdown, lost his mother, who was very much a believer, spent three days in hospital before she died and said her rosary every day, I understand what it means to have faith. On Sunday, for the first time, I was able to take my father, who survived, to the church where they worshipped every week. That was very difficult for me—he was very emotional—so I understand the point that my noble friend makes.

Lord Kennedy of Southwark (Lab Co-op): My Lords, will the Minister, if he has not done so already, read the letters to their congregations from the Catholic Archbishop of Southwark, the most reverend John Wilson, and the right reverend Prelate the Bishop of Southwark? In times of great trouble, worry, hardship and national emergency, places of worship of all faiths offer beacons of light and comfort to many. The Minister has already heard the feelings from across the House about the points raised today; will he agree to talk to the Secretary of State and other ministerial colleagues to see what can be done to allow socially distanced worship to commence in some form as quickly as possible?

Lord Greenhalgh (Con): My Lords, I recognise that a difficult decision has been taken by this Government and we are bound by collective responsibility. However, I am very happy to make those representations on behalf of people of all faiths and none to ensure that the core mission of places of worship can be fulfilled at the earliest opportunity.

Baroness Altmann (Con): My Lords, I sympathise with my noble friend who in turn, as the House can tell, has enormous sympathy with the views expressed. I implore him to help colleagues and the Prime Minister understand the impact on mental well-being, the sense of belonging and the social capital of our nation. These are being eroded, and the sense of community that sometimes gets people out of bed in the morning has been put at risk. These places of worship have put in place so much protection: many are safer than your Lordships' House. I hope that the Government might reconsider.

Lord Greenhalgh (Con): My Lords, my noble friend puts her point very eloquently. I understand the effort that places of worship have taken to make themselves

Covid-secure for a whole range of activities, including the core important function of communal worship. Again, I will make every endeavour to ensure that the Government recognise that. I invoke the name of the Chief Rabbi, who told me that people of faith tend to live longer and have a better quality of life precisely because they converge in a communal way.

Lord Alton of Liverpool (CB): My Lords, is there not a grave danger that, in our increasingly secular society, too little account is taken of people's religious sensibilities, when millions of people from a variety of faiths live in this country? Do we not underestimate the importance of people's sacramental and spiritual needs, denial of which not only threatens the principle of religious freedom but jeopardises people's personal well-being, as the Minister acknowledged? What other European countries have taken such draconian powers? Is Angela Merkel not right in saying that, as a matter of principle, she could not justify such infringements of private and personal rights as well as communal needs while keeping open schools and nurseries? Why should it be any different here, and when does he think he will be able to publish the evidence to which he referred?

Lord Greenhalgh (Con): My Lords, the noble Lord, Lord Alton, makes a very important point. We should look to international comparisons to understand how places of worship have played a part in the spiritual well-being of people while not accelerating the virus. We need the data on that and as soon as it is available in this country it will be published at the earliest opportunity; I have committed to that. I will write to him about international comparisons.

Lord Lilley (Con): I too sympathise with my noble friend, who is obviously in an embarrassing position, but will he accept that we all worship what we value most, be it the God of love, the love of Mammon, or the power of the state? Does the fact that we are forbidden to worship God and encouraged to work in the economy but obliged to obey the rules of the state, even in the absence of any evidence, suggest that the Government put the state at the top of the list of things that they value?

Lord Greenhalgh (Con): My Lords, it is very difficult for me to hear such a question put so eloquently by someone whom I regard as a sort of childhood hero. Those who made this difficult decision feel that there can still be a form of communal worship, as many people of faith have gone through the experience of going to mass or a service in a mosque via Zoom or other technology. That shift has taken place. It is not the same, but even the service I went to was very limited in capacity but many more were participating remotely. That is available as we enter the second lockdown. I really pray that we learn to live with this virus in a way that does not impinge on people of faith.

Baroness Gardner of Parkes (Con) [V]: My Lords, in the consideration of all this, was any thought given to the projection of possible virus during singing, as opposed to other parts of the service, and whether there was a need for special attention to be paid to that detail to enable these churches to again be open? Even if they have sufficient spacing, there is a danger that someone who already is a carrier has a projectile element in their voice and their breath going out, so this should be taken into account.

Lord Greenhalgh (Con): My Lords, singing remains a high-risk activity at this time, so there cannot be any congregational singing in any form. Professionals may still practise music or record music for broadcast from a place of worship during this period.

Lord Balfe (Con): My Lords, I draw the Minister's attention to the statement from Cardinal Vincent Nichols on behalf of the Catholic hierarchy. He said that,

"we have not yet seen any evidence whatsoever that would make the banning of communal worship, with all its human costs, a productive part of combating the virus."

That is a very clear statement on behalf of all the Catholic bishops. The right honourable Sir Edward Leigh MP, the president of the Catholic Union—I declare an interest as a life member of that body—states in a letter to the Prime Minister:

"We have seen no evidence of people meeting for church services contributing to the spread of the virus in this country."

He has, however, suggested that the Government, as an exception, could allow religious services as long as all those attending apply online beforehand. A number of churches are using this method. Are the Government prepared to move even an inch on this, because there has not been a single statement in this debate in favour of what they are doing?

Lord Greenhalgh (Con): My Lords, I hear what my noble friend said, and I point to the Prime Minister's remarks in the other place. He said that this was a burden on people of faith, but he reminded everybody that this was only for 28 days. He offered the hope—the candle in the darkness—that, if we got this right, we would be able to go back to something much more like normal life before Christmas. The first day of Advent falls towards the end of this period; as we know, the period will be kept under review.

The Deputy Speaker (Lord Brougham and Vaux) (Con): My Lords, the time allocated for this Private Notice Question has elapsed.

Business of the House

Motion on Standing Orders

1.17 pm

Moved by ***Lord Ashton of Hyde***

That Standing Order 72 (*Affirmative Instruments*) be dispensed with on Wednesday 4 November to enable a motion to approve an affirmative instrument laid before the House under section 45 of the Public Health (Control of Disease) Act 1984 to be moved, notwithstanding that no report from the Joint Committee on Statutory Instruments on the instrument will have been laid before the House; and,

[Baroness Evans of Bowes Park]
notwithstanding the Business of the House Motion on 4 June, any debate on such an affirmative instrument shall be limited to 4 hours.

Lord Ashton of Hyde (Con): My Lords, on behalf of my noble friend the Lord Privy Seal, I beg to move the Motion standing in her name on the Order Paper. This Motion will allow the House to debate the statutory instrument containing the new national health protection measures tomorrow. The regulations will be published and laid before the House today; they are due to come into force on Thursday. The debate will be extended from the usual maximum of one and a half hours to four hours. These are significant national measures that warrant debate at the earliest opportunity and I am grateful to the usual channels for their support in making the necessary arrangements to debate them tomorrow.

Because of this decision, the consideration of the Medicines and Medical Devices Bill in Grand Committee tomorrow will need to conclude at around 4.30 pm, which is earlier than originally planned. Further dates for this important Bill will be advertised later in the week. The debate on the regulations will take place before both the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee have had the opportunity to consider them. I thank both committees for the important scrutiny work that they have been doing in respect of the various health protection regulations and, in particular, for the pace at which they have been doing it. The Government will, of course, take note of anything that either committee has to say when it reports.

Motion agreed.

Conduct Committee

Motion to Agree

1.19 pm

Moved by ***Lord Mance***

To move that the Report from the Select Committee *Valuing Everyone training; ICGS investigations—former MPs* be agreed to. (5th Report, HL Paper 158)

Lord Mance (CB) [V]: My Lords, the fifth report of the Conduct Committee is short and focuses on two issues: first, Valuing Everyone training and, secondly, the investigation of Members of one House for behaviour that took place while they were a Member of the other.

As to the first, our recommendation is that attendance at the Valuing Everyone training course should become a requirement of the code of conduct, and it should be a breach if a Peer does not attend. That course was introduced as part of the drive to tackle bullying, harassment and sexual misconduct throughout Parliament. It was a key recommendation of the report of Naomi Ellenbogen QC that all Members should attend such a course. In March this year, the Conduct Committee agreed a target of at least 50% of Members having attended the training by Summer Recess 2020. In the event, that was nearly met: some 47.8% of Members had attended, and 50% was almost reached by the end of the Recess.

We then had to decide what steps, if any, needed to be taken next. In that respect, we took on board the views of the Steering Group for Change, which is chaired by one of the members of my committee and is the group of Members and staff who are keeping under review the progress towards implementing the recommendations of the Ellenbogen report. It is the view of that group as well as of the Conduct Committee, after debate, that we need to move more quickly towards all Members undertaking the training. Undoubtedly, the remaining 50% would have taken longer than the first.

We therefore recommend that this House should make it a breach of the code not to have undertaken Valuing Everyone training by 1 April 2021. Of course, Peers who come back from a leave of absence or join the House thereafter will be given a three-month period in which to undertake the course. The date of 1 April 2021 provides sufficient time for all present Members to attend such a course, or at least to sign up to do so, and we sincerely hope that all Members will. There is capacity; the course is currently being run virtually, of course.

Our second recommendation is to amend the code of conduct to close a loophole so that former MPs who come to or are now in the Lords, and former Lords who become MPs—in the rare cases that that happens—are no longer exempt from investigation and no longer fall into a loophole if the complaint concerns bullying, harassment or sexual misconduct while they were in their former House.

The independent complaints and grievance scheme is a cross-parliamentary scheme, providing that former Members of either House can be investigated for alleged bullying, harassment or sexual misconduct during their time as a Member. This is the only loophole, and we invite the House to close it. We understand that the Committee on Standards will shortly be seeking the agreement of the House of Commons in similar terms. I beg to move.

The Deputy Speaker (Lord Brougham and Vaux) (Con): I will call the following speakers: the noble Lords, Lord McConnell, Lord Cormack and Lord Newby, and the noble Baroness, Lady Smith of Basildon. I call the noble Lord, Lord McConnell.

1.23 pm

Lord McConnell of Glenscorrodale (Lab): My Lords, I thank the noble and learned Lord, Lord Mance, for introducing the report and very eloquently explaining why these recommendations are in front of us today. I will ask two questions and make one additional point. I hope these are all helpful.

First, I strongly support the recommendation in the first part of the report that this should be a subject for the Code of Conduct. I look forward to the implementation of action for those who do not want to take part in this training. I wanted to ask about paragraph 11, where there is a reference to

"restricting their access to certain services"

for Members of your Lordships' House who face investigation, having not attended this training by the end of March next year. I wondered which services would be the subject of that restriction and whether it would include the ability to employ staff on the Parliamentary Estate, which seems fundamental if someone is not attending training in relation to bullying or other bad behaviour?

My second point on that first part of the report is that, during the discussion to which I was party on the Valuing Everyone training, there was a specific discussion about the situation faced by individual members of staff of individual Peers, who are very vulnerable because they do not have access to managers or supervisors, particularly if there are different members of staff sharing the same offices. If they have problems between themselves, there is no system in your Lordships' House for dealing with those difficulties; there is no one arbitrating or discussing with those involved how to resolve any differences that are occurring.

I have raised this a number of times with senior figures in both main parties and the House, and we do not yet have a resolution or a system for dealing with this. Since our training session, I have discussed it with the human resources department. I hope they are going to take some of these points on board and that, in looking at this issue, the committee will look at the impact of the training and the issues that are coming out of and arising from it, which could be tackled. I hope that at some stage, perhaps, it will prepare a report on the lessons that have been learned and the action that has been taken.

My second question relates to the second part of the report. Again, I strongly support the recommendations here: they are excellent and well thought through. I wanted to ask a specific question about the situation with Members who will serve, or have served, in the devolved Parliaments. This section of the report covers Members who have served in either the House of Commons or the House of Lords and have transferred between them.

However, there have been a number of Members of the House of Lords who have then gone on to serve in the devolved Parliaments and, increasingly, previous Members of the devolved Parliaments who have come to serve in the House of Lords. I wonder whether the committee has ever looked at that issue or would be prepared to look at it and some relationship between the devolved Parliaments and your Lordships' House in the future, where issues of conduct could be considered by either House in order to make sure that nobody falls through the cracks?

1.27 pm

Lord Cormack (Con): My Lords, it is a great pity that the noble and learned Lord, Lord Mance, could not be present in the Chamber, as Ministers are, when this important report was presented to us. I take no issue with the second part of the report: if a Member of either House is accused of behaving improperly, it is of course right that that Member should be thoroughly investigated and appropriate action taken.

However, I want to concentrate my few remarks on the first part of the report. Speaking as one who has served in Parliament for over 50 years now, it is a very sad day when I am told that I have to be trained on how to behave. That is extremely unfortunate, and I believe that it is unnecessary. Of course, if the House passes this resolution, which I am sure it will, I will be obedient, just as I am being obedient at the moment to the edicts of the benign police state that I now live in.

However, I regret and deplore it. After all, it is right that people accused of any offence should be appropriately dealt with, but I do not suppose that it would be thought appropriate for your Lordships to be given a course in how not to burgle. I really think that, when you cannot take it for granted that people in public service—and we are all public servants—should behave properly and be pursued if they do not, that is a very sad day, and I thought it appropriate that someone should put this on record.

1.30 pm

Baroness Smith of Basildon (Lab): I thank the noble and learned Lord, Lord Mance, for presenting the report today. He does a service to the House in doing so, and I am grateful to him for his comments. The comments made by the noble Lord, Lord McConnell, are useful, particularly in reference to sanctions, and I wonder if the noble and learned Lord, Lord Mance, has considered or looked at them. He talked about mediation, which will come to the heart of my comments about the comments of the noble Lord, Lord Cormack. Prevention is always better than cure, and if there is a way to prevent or mediate, when there are problems, it would be helpful for the committee to look at. It strikes me that it is the kind of issue that might be appropriately raised and taken further in the Ellenbogen report, as we are currently looking at that and there are workstreams on it.

The noble and learned Lord made particular reference to Peers' staff, and there are very few staff working for Peers, as he will know. If somebody is found by the committee to be treating staff badly, is there a mechanism by which they can be denied a pass to employ staff on the parliamentary estate? I do not know if that is possible, but it has to be looked at.

I also understand that ongoing work is looking at whether third-party complaints can take place so that, while an individual may feel unable to make a complaint due to a power relationship with an employer, someone else can do so on their behalf. That would be a welcome step. On the issue of devolved Parliaments, this issue tends to rise in the same way as it does with MPs, but I am sure the noble and learned Lord, Lord Mance, will respond to that.

I found the comments of the noble Lord, Lord Cormack, disappointing and less constructive. I understand that he prides himself on being courteous, so he thinks he does not need the training. I did not feel I needed much training either, and my parliamentary time has not been as lengthy as his—I have only been here a mere 23 years—but having undertaken the training, I found it worth while. There are things we can all learn in our relationships with others, those we work with and those we work alongside. It is not a criticism of anyone at all to suggest such training around how the modern workplace works and what employees can expect of us. Not just direct employees, but those who work around the House, are entitled to

[Baroness Smith of Basildon]
the courtesy and respect of everybody else here. The noble Lord nods at me, but I do not know the alternative. It is fair to say that everybody should do it—or does he just want to single out people he thinks may not have shown that respect for others? The approach of asking everyone to do it is a fair one; it is respectful to the staff of this House.

One thing I would pick up with the noble and learned Lord, Lord Mance, if he could look into it, is that there are those who say that they found the training not quite as relevant as it could be. It dwells on the role of Members of Parliament and the relationship that Members of Parliament have in the House of Commons with their staff and those they work with. It might be worth looking at the training to see if there is anything bespoke about the work of the House of Lords, so it is directly relevant to the relationships we have here, which are often different, because we do not have the same direct employment issues. Obviously, I would have thought that everybody should welcome that we make it a priority in this House that everybody we work with and alongside has the right to be treated with the utmost respect and courtesy at all times.

Lord Newby (LD): My Lords, the noble Lord, Lord Cormack, says it is a sad day when people need to be trained how to behave. It is—but, unfortunately, it is not the case that Members of your Lordships' House always behave in an acceptable manner. I undertook this training with a group of people from both the Commons and the Lords, staff and Members, including one of the most senior members of the noble Lord's party from your Lordships' House, who is one of the most courteous people in Parliament. During the course of the training, a number of real-life examples of the kind of harassment that has happened in Parliament was explained by the facilitator. The noble Lord's colleague said, "I can't believe that's going on", and he could not, because he does not behave like that any more than the noble Lord would. But the truth is that it is going on, and it goes on in all parties.

I have to say that some of my colleagues, when they get very tired towards the end of a session, behave towards other people, not just colleagues, in manners that are, frankly, unacceptable. We have somehow, in this day and age, got to bring ourselves up to a system of behaviour that is expected of everybody in whatever workplace or situation they find themselves in.

I do not think the noble Lord should think this is a terrible imposition. I get pretty irritated when I wash my hands and see on the wall a laminated sheet telling me how to wash my hands. I sort of think, "I do not need to be told how to wash my hands, because I have been doing it for quite a long time." This is just another variant of that, because clearly some people do not know how to wash their hands, or else we would not have the spread of coronavirus that we have. I urge the noble Lord to be sympathetic towards it and recognise that, in reality, Members of your Lordships' House have behaved, and do behave, in some cases, towards staff and others in manners that, in this day and age, are, frankly, unacceptable. The only way in which we are going to be able to begin to get them to realise that it is unacceptable is to have them think about it—and the way in which you have them think about it is to put them before this sort of training.

Lord Stirrup (CB): I was not going to speak on this particular issue, but I have listened with interest to what the noble Lords, Lord Cormack and Lord Newby, have had to say, and I have some sympathy with what the noble Lord, Lord Cormack, said, but I think the noble Lord, Lord Newby, answered it appropriately.

The question I raise to the House at large is: if it is necessary for Members of your Lordships' House and the other place to undergo such training for their behaviour to be acceptable in the modern world, does this not say something about our wider society, and is not this an issue that, at another time, we should look at more seriously and deeply? Clearly, we have a society and educational system from that is turning out people who do not know how to behave. Perhaps this is not such a narrow issue as we believe it is, and one to which we should turn our attention in due course.

Lord Hunt of Kings Heath (Lab): I must say I took part in one of the pilots for this programme. It seems an awful long time ago—I think it was the summer before last. But I have also recently undergone some training programmes. I am a trustee of the Royal College of Ophthalmologists, and we have covered whole areas to do with working with staff and with racism and bias. The fact is that I have learned a lot from them, and there are lots of things you can learn.

I wanted to come back to the point raised by my noble friend about whether it is tailored enough towards your Lordships' House. I think there has been real benefit in us sitting around with other Members of Parliament, because there is lots to be learned from the interaction. I would say to the noble and leaned Lord that the programme needs some reflection of the specific circumstances in which the Lords works. The examples they use just need development to embrace some characteristics of working in your Lordships' House. But I would encourage us to continue having these programmes across both Houses.

Lord Balfe (Con): I think the noble Lord, Lord Cormack, is absolutely right in that I regret the compulsion attached to this training. I have done the training. It was largely irrelevant; most of it was about the House of Commons, or appeared to be. I wonder whether the noble and learned Lord, Lord Mance, would like, on the basis of these comments, to take his report back, edit it, change it a bit, then present it to us again.

Lord Mance (CB) [V]: I am grateful for the points made by noble Lords, and I will, of course, take those back to the Conduct Committee, as the House would wish me to do. I shall take the points in turn. I am grateful for the support from my noble friend Lord McConnell, in particular, but others, too.

The restriction of services, which lies within the commissioner's jurisdiction as a result of an amendment to the code and guide that the House accepted at our suggestion earlier this year, is, of course, according to the circumstances. The commissioner has to tailor any restriction to meet needs. In one case that she considered,

which we considered on appeal, our report indicated that while we would have had sympathy with the idea of a restriction on services, it did not meet the particular case, it was not obvious which services should be restricted, and they were not apparently being used anyway. However, this is undoubtedly a valuable tool, as much during investigations as after a conclusion that a Member of the House has not behaved appropriately. During investigations, staff are naturally particularly anxious, and we intend to look at the question of sanctions generally and to issue some further guidance on them.

The suspension of staff passes probably does not lie directly within our jurisdiction, but it is certainly a point that should be attended to. I take on board the forceful comments that have been made. It may already be covered by restriction of facilities, but it is of a slightly different nature and will be given consideration.

On the second point made by the noble Lord, and by the noble Baroness, Lady Smith of Basildon, about relations between Peers and other relations that might merit mediation, obviously, as far as possible, amicable resolution of minor problems is, one hopes, something that occurs discreetly. I know that the Clerk of the Parliaments is very concerned to speak, where appropriate, to Peers. I know also that the leaders of parties and the Convenor of the Cross Benches would act, in appropriate circumstances, where a matter was not going to be made the subject of a formal complaint. Looking at the picture slightly more broadly, the steering group for change is a holistic task force, with Peers, clerks and members of staff on it. It is tasked, in particular, with cultural change.

I move on to the points made by the noble Lord, Lord Cormack. First, I regret that I am not in the Chamber; I had understood that we were not exactly encouraged to attend. I take his point on board, but I ask the House to reject his broader argument that this is unnecessary. Only too sadly, I am sure that some if not all noble Lords have read some of the reports that have so far been issued. I shall not name names, but as others said, in particular the noble Lord, Lord Newby, very forcefully, it is not so simple. There is, unfortunately, a clear problem, even in this House. People sometimes behave in ways that one may not conceive of oneself, but that are recorded in great detail in the press and in the reports issued by the commissioner. Unconscious attitudes, and lack of consciousness of a problem, are real issues that the Valuing Everyone training is designed to address.

The noble Lord, Lord McConnell, mentioned concerns about the scope of training. This was again picked up by the noble Baroness, Lady Smith. The point has been taken on board. It is a point that was made from a reasonably early stage, and we have urged that the model should be House of Lords oriented, that it should not be employment oriented, at least primarily, and that it should cater for our particular position. I believe that it has been adapted appropriately and I hope that more recent attendees have found this.

1.45 pm

The noble Baroness, Lady Smith, mentioned third-party complaints. They have not so far been recommended, but it is a matter that we are intending to give further consideration to. I think that no report has so far said that this is a line that we should pursue. There would, of course, be considerable problems if a potential victim did not want to complain about someone else making a complaint: that could itself be not merely upsetting but even damaging to the victim. Those are the contrary considerations, but we are going to look at that again. Indeed, we have already looked at the problem of cluster reporting, which I hope we have dealt with in some measure by making suggestions for a relatively informal system, again operated primarily through the Clerk of the Parliaments.

I move on to the second area of our report. On the point about the devolved Parliaments, the scope of the code and the guide is, again, something we have under review. We extended the scope, with the House's agreement, earlier in the year, or last year, to include not merely parliamentary duties but parliamentary activities. Parliament as a whole is a unit, and the code and guide can be seen as embracing the whole parliamentary community, as our second recommendation indicates. However, to embrace within the scope of a parliamentary code of standards and behaviour outside misbehaviour that might be not just in a devolved Parliament, but in some professional body—architects, barristers or whatever—is a considerable step to suggest. As I say, we are going to consider the extent to which certain gross misconduct outside parliamentary duties or activities should be brought within the scope of the code. I do not say that it should be, but we are going to consider that and report on it.

The final point on that is that there is already automatic expulsion when a term of imprisonment of longer than a year is imposed for a criminal offence; if it is less than a year there is discretionary disciplining. I hope that that answers that question. I believe I have covered all the points that noble Lords have made and have not missed any, but I ask any noble Lord who has a point they would like me to elaborate on to please write to me. I beg to move.

Motion agreed.

Arrangement of Business

1.49 pm

The Deputy Speaker (Lord Brougham and Vaux) (Con): The following proceedings will follow the guidance issued by the Procedure and Privileges Committee. As there are no counterpropositions, only those Members on the list issued by the Government Whips Office may speak. Short questions of elucidation after the Minister's response are permitted but discouraged; a Member wishing to ask such a question, including Members in the Chamber, must email the clerk. When putting the Question, I will collect voices in the Chamber only. The Minister's Motion may not be opposed.

Prisoners (Disclosure of Information About Victims) Bill

Commons Reason

1.50 pm

Motion A

Moved by ***Baroness Scott of Bybrook***

That this House do not insist on its Amendment 1 to which the Commons have disagreed for their Reason 1A.

[Baroness Scott of Bybrook]

1A: Because it would duplicate existing arrangements to keep victims and family members informed of developments with an offender's sentence.

Baroness Scott of Bybrook (Con): As noble Lords are aware, the Bill amends the release provisions that apply to offenders who do not disclose information relating to cases of murder, manslaughter or taking or making indecent images of children. Throughout the Bill's passage, there have been important discussions about the victims' right to receive information as part of the parole process. I appreciate the importance and the sensitivity of these issues for many victims, and I emphasis the Government's commitment to supporting victims throughout this process.

I particularly thank the noble Baroness, Lady Kennedy, and the signatories to her amendment for their contribution to the Bill. I and my noble and learned friend Lord Keen have had extensive discussions with the noble Baroness and other interested Peers. I hope that these discussions have reassured them of how seriously the Government take these issues and our ongoing commitment to work together to improve the existing system further.

In particular, we have discussed improvements made to the victim contact scheme, which provides victims with information about when the hearing will take place and enables them to attend to read a victim personal statement to tell the Parole Board how the crime continues to affect them. At the conclusion of the hearing, victims are informed of the outcome and of their right to request a summary of the Parole Board's decision. The information and support offered through the scheme is provided by specially trained victim liaison officers.

The Government want to ensure that all eligible victims are able to benefit from the support and information provided through the victim contact scheme. As part of the review of the Code of Practice for Victims of Crime—known as the victims' code—the National Probation Service, in partnership with the National Police Chiefs' Council, is currently testing an opt-out system in a number of police force areas with the intention of rolling the scheme out nationally by mid-2021. To date, test areas have reported positive results, with increased referral rates and higher numbers of victims enrolling in the victim contact scheme, and we will keep the process under review.

The new process will be reflected in the revised victims' code, due to be published shortly. It will require the joint police and CPS witness care units to automatically refer all eligible victims directly to the National Probation Service to be offered the victim contact scheme, rather than, as now, asking whether victims wish to be referred. That way the benefits of the scheme can be better explained by trained victim liaison staff.

The Minister in the other place stated that the honourable Member for South East Cambridgeshire, as the Minister of State responsible for probation services, will work with the Victims' Commissioner on the rollout of improvements to the victim contact scheme. I therefore hope that the House will agree with the conclusions reached in the other place so that this important Bill can proceed to Royal Assent and commencement.

Baroness Kennedy of Cradley (Non-Afl): My Lords, I thank those noble Lords who supported Amendment 1 in my name on 1 July—the noble Baronesses, Lady Barker and Lady Newlove, and the noble Lord, Lord German. This Bill is about alleviating the hurt that non-disclosure of information causes to families, and it places a duty on the Parole Board to act. In agreeing Amendment 1, this House recognised that victims can experience hurt and anguish because of inefficient and ineffective communications about parole hearings. It cannot be stressed enough how important it is for families to be fully informed and involved in parole hearings about release and, when mistakes are made in the flow of information, how much distress this causes victims and their families.

As the Victims' Commissioner noted, a sizeable number of victims who qualify for the victim contact scheme decline to opt in. Further down the line, they are shocked to learn that the offender has been released, and they were neither aware nor invited to request licence conditions. That is why this House agreed that the opt-in approach was inadequate and did not work well and that it should be replaced with an opt-out system.

Today I want to put on record my response to the various undertakings given today by the noble Baroness, Lady Scott of Bybrook, and the Government. I note their concerns about duplication and I am very grateful, as I am sure many noble Lords across this House are, for the Minister's assurances. This move forward, with a nationwide rollout of an opt-out scheme for victims, to assess the victim contact scheme as part of a new victims' code, which will mean that victims and their families will be contacted and receive information unless they actively decline contact, is very welcome news.

While I welcome the Government's response, I have two questions. First, the noble Baroness, Lady Scott of Bybrook, mentioned the trials that the Government have carried out in testing the new referral process. Do the Government intend to publish the results of these trials? Secondly, as the new opt-out system is rolled out, will there be a programme for tracing those victims who have declined to opt in so that they too can receive information about an offender's potential release and support?

In conclusion, I thank the noble Baroness, Lady Scott of Bybrook, for her response today. The opt-out system will ensure that victims and their families are informed first about any release of offenders. This update to the victim contact scheme is long overdue and is a huge win for the campaigners—Marie McCourt and the families of the victims of Vanessa George, and the two Members of Parliament who championed the Bill, the honourable Member for Plymouth, Sutton and Devonport and the honourable Member for St Helens North. As the Bill moves forward to become law, I hope that the families will find some comfort from knowing that there is strength in legislation and better communication as a result of their campaign.

Baroness Barker (LD): My Lords, I, too, want to thank the noble Baroness the Minister for her introduction of this matter this afternoon. It has been a privilege to take part in the passage of this legislation. This is not

an area that I normally have involvement with, but it has been a great privilege to work with people having to work in the certain knowledge that what we do cannot be perfect. We cannot, in this legislation, force people who have committed heinous crimes to give information to the victims. But what I think we have managed to do, particularly during the passage of this Bill through your Lordships' House, is to move the processes on a stage further in favour of the victims to improve the processes and procedures. I say that knowing that, since the last time we discussed these matters, Marie McCourt has had her request for a judicial review turned down and Russell Causley has been released without revealing to his family the whereabouts of his former wife, Carol Packman.

We will never be able to right those wrongs, but all that we can do—and I think we have done in this Bill—is to make sure that the system treats victims in a more humane way than it did before. I am very pleased that the national opt-out scheme will be rolled out. I echo the questions asked by the noble Baroness, Lady Kennedy of Cradley, and I wonder whether the Minister will be able to tell us how the whole system will be kept under review in terms of its impact on the probation service and on the perpetrators of crime, and the extent to which it will play back into assessments of them during sentencing.

The Bill is an enormous testimony to Marie McCourt, who has for many years conducted, with great dignity, a campaign not simply to deal with her own hurt but to alleviate the suffering of the small but significant number of people for whom this is the most horrible issue with which they have to live. In that vein, I welcome what the Government have said today.

2 pm

Lord Ponsonby of Shulbrede (Lab) [V]: My Lords, I too thank the Minister for what she has said today and for the way the Government have encouraged cross-party support for the various elements of the Bill. The Minister spoke further about the testing opt-out system which will be trialled.

I also pay tribute to the campaigning of Marie McCourt and the other families who have been victims of serious offences. The campaigns, which will be partially successful today, will make a significant difference to the lives of victims' families for generations to come; these campaigns, like Marie McCourt's, did so in the knowledge that their own situation would not be materially affected or improved by this Bill. They did it to save others from the torment they have endured. I am very grateful to them.

The first part of this Bill forces the Parole Board to consider the non-disclosure of information during release decisions for people convicted of murder or manslaughter and the failure to give the names of victims of sexual assault or the distribution of indecent images. This Bill puts into law what has been the current operating practice of the Parole Board. We are very clear that the withholding of this information is an ongoing form of control and abuse by the perpetrators, of which the family and friends are victims.

To paraphrase the Minister, this Bill is one step, but a significant one, on the road to properly addressing the systemic challenges faced by victims in our criminal justice system. We in the Opposition look forward to a more comprehensive approach to ensuring victims are at the heart of the processes which convict and punish the guilty and release offenders when they have served their time.

I thank my noble friend Lady Kennedy. She won her amendments in this House at an earlier stage of the Bill, which were then reversed in the Commons. The intent of her amendments was to put victims on a more even footing with offenders. In that sense, she was successful. We heard that the Minister thinks that some of the intentions can be met in other ways; we accept that, although we look forward to a wider context in which victims' rights will be addressed.

My noble friend Lady Kennedy told me on several occasions that she was very inexperienced in the ways in which the House of Lords worked, but I was never deceived by her. I knew she was a very experienced political operator, and she has played a blinder in this Bill. She has worked across parties and across the Houses, and has been an advocate for the victims' families. I thank her for the work she has done on this Bill.

Today's legislation, plus the undertakings we have heard from the Minister, show that sometimes it is best to co-operate with the Government. All those who participated on this Bill, particularly the noble Baroness, Lady Barker, have done so in a spirit of co-operation from which we have all benefited. I am glad this Bill is soon to receive Royal Assent. It is one step along the road, but a significant one. It has shown Parliament working at its best.

Baroness Scott of Bybrook (Con): My Lords, I reiterate my thanks to the noble Baronesses, Lady Kennedy and Lady Barker, and others who brought this amendment for supporting what the Government are doing. I know that they will continue to make sure it works in future.

The noble Baroness, Lady Kennedy, brought up the trials that some police forces are doing. I do not think their results will be released, but we know that really positive reports are coming out of them, with, as I said before, increased numbers of referrals but also higher numbers of victims enrolling in the scheme, which is good news. If there are any results, I will make sure that the noble Baroness receives a copy of them. She also asked about the tracing of the opt-ins. I have not heard about any tracing; I will go back to the department and ask, but it is not something we have traced. It is quite difficult when somebody says "No" to keep asking, "Why not?" or "Do you want to?". However, I will make sure she gets that information as well.

I thank the noble Baroness, Lady Barker, very much for bringing up Marie McCourt and the families, as other noble Lords have done. She has worked tirelessly for this Bill, and we thank her. I also put on record my thanks to one or two other noble Lords who raised really important issues under the Bill, including the noble Baroness, Lady Bull, and the noble and learned Lord, Lord Hope, for their positive engagements on mental capacity. Once again, I also thank the noble Baroness, Lady Kennedy, and the signatories to her amendment for raising these important

[Baroness Scott of Bybrook]
concerns about the victim contact. Finally, the House should recognise—and I recognise—Marie McCourt, Helen McCourt's mother, for her tireless campaign.

Motion A agreed to.

Non-Domestic Rating (Rates Retention, Levy and Safety Net and Levy Account: Basis of Distribution) (Amendment) Regulations 2020

Motion to Approve

2.07 pm

Moved by ***Lord Greenhalgh***

That the draft Regulations laid before the House on 7 October be approved.

The Minister of State, Home Office and Ministry of Housing, Communities and Local Government (Lord Greenhalgh) (Con): My Lords, the business rates retention scheme, introduced in 2013-14, allows local government to keep 50% of the business rates it raises locally and, more importantly, 50% of the growth in those business rates, over and above the sums with which it is provided through the local government finance settlement. In 2019-20, this was estimated by authorities to be worth an additional £2.5 billion of funding.

The day-to-day operation of the business rates retention scheme is technically complex. I look forward to contributions from noble Lords on this matter. It is governed by a number of pieces of secondary legislation, setting out the technical rules that govern the flow of money between central government, billing authorities and major precepting authorities.

The regulations before the House today make a number of important technical amendments to those regulations to update the existing framework. This is vital to the continued smooth running of the business rates retention scheme and will ensure that everyone gets the funding they are supposed to get. These regulations make three sets of changes: they ensure the correct calculation of the income to be retained by authorities which have, or have had in the past, a higher level of retained business rates income; they make the necessary changes to the rates retention system following the most recent local government restructuring; and they adjust the calculation of retained rates income, against which we determine levy and safety net payments, to ensure that local authorities are not doubly compensated for giving business rates relief for telecommunications infrastructure.

I will now say a little more about each of these changes and the reasons for them. On the calculation of pilot authorities' income/errors, as I said, the rates retention scheme is run according to a series of regulations, key to which are the Non-Domestic Rating (Rates Retention) Regulations 2013 and the Non-Domestic Rating (Levy and Safety Net) Regulations 2013. These set out the basis on which the system is run, including authorities' shares of locally retained business rates income, safety net thresholds and levy rates.

Since 2017, some local authorities have been allowed to keep a higher proportion of business rates income. Authorities in five devolution deal areas retain 100% of their business rates income, and authorities chosen to be part of the business rates pilots in 2018-19 and 2019-20 retained 100% or 75% of their business rates income for the relevant year.

Regulations were put in place to effect those changes. However, a few minor omissions or errors were made in the framework for the 2019-20 pilots in the Non-Domestic Rating (Rates Retention and Levy and Safety Net) (Amendment) and (Levy Account: Basis of Distribution) Regulations 2019. These include the 75% pilots' levy rates, apportionment of the collection fund surplus or deficit for one authority and uprating of the top-up and tariff payments for London, and 100% business rates retention authorities in 2019-20. These regulations put those right. For this reason, these regulations will be made available free of charge to any party who purchased the 2019 regulations. Further minor amendments are made by the regulations to provide the basis for uprating 100% business rates retention authorities' top-up and tariff payments in 2020-21.

Turning now to the restructuring of local authorities, following the restructuring of Buckinghamshire County Council and its constituent district councils, Aylesbury Vale, Chiltern, South Bucks and Wycombe, into one unitary Buckinghamshire Council from 2020-21, amendments are required for the running of the rates retention system. Two minor changes are required to establish the requirements of the new authority under the rates retention system. These are, first, an adjustment to a figure which determines the cost of operating in the area and therefore the cost of collection of business rates for the authority, and, secondly, a new value for Buckinghamshire used to calculate the amount of compensation it will receive for small business rates relief.

In 2019, the Government set out in statute the basis of distribution on which any surplus on the levy account would be made; this occurs where levy payments exceed safety net payments in a year. The basis of distribution is based on local authorities' relative need as defined by their settlement funding assessment, which is composed of baseline funding level and revenue support grant. A small amendment is made by these regulations to the basis of distribution to reflect a revised agreement on revenue support grant between two councils which restructured back in 2019-20. This revised split adjusts the allocation that the Bournemouth, Christchurch and Poole Council, and Dorset Council, would receive should the Government determine an amount of any surplus on the business rates levy account to be distributed in the future.

Turning now to adjustments to take into account telecoms relief, an amendment is made to the regulations concerning the calculation of retained rates income, against which levy and safety net payments for authorities are determined. In determining the amount of safety net payment an authority may require, or the amount of levy on growth it is required to pay in a year, the levy and safety net calculations take into account a Section 31 grant compensation for business rates reliefs received by an authority as the result of changes made by the Government. If we did not do this, local authorities could end up effectively being compensated

twice for implementing these reliefs. These regulations make the required changes to ensure that any telecoms relief that an authority has awarded is taken into account in these calculations.

In conclusion, these regulations perform a range of minor, highly technical amendments to achieve the correct basis on which the rates retention system is run for 2019-20 and 2020-21. These regulations do not enact new policies, but rather ensure the fulfilment of the original policy intention as approved in prior years via the settlement or by the statutory instrument. I beg to move.

2.14 pm

Lord Liddle (Lab): My Lords, I think the paper before us and the speech we have just heard must convince all Members that the non-domestic rates system is something of an enigma wrapped in a mystery, as Winston Churchill said about something else. There is no better person to talk about it than a Minister who actually understands local government, and that is a shared commitment I have. In my political life I have been on three different authorities: Oxford City, Lambeth and now Cumbria, which I declare as an interest.

I would like to use this opportunity to probe the Government's intentions on their general policy on non-domestic rating. First of all, this is a muddle. Do the Government have plans for a long-term reform of non-domestic rates, and within what timescale? Economists argue seriously for switching to a system of land value taxation—is this something the Government might contemplate?

Secondly, there is the immediate question of business rates, which is the situation we are currently in with the Covid epidemic. We welcome, obviously, the relief given for the current financial year, but what will happen next year? Will we go back to what I think is a discredited system of complex formulae, a rate base we do not really understand and valuations which are often out of date? What will happen next year?

Thirdly, do the Government recognise—I do not think the public recognise this—that non-domestic rates are actually a very big tax? They are a very big tax indeed on business; I think it comes out at something like 1.7% of GDP. It is a very important part of the national tax base. When you look at other countries, our friends over the channel, France levies only 0.7% on business rates and Germany only 0.3%. When you look at the thriving small towns on the continent by contrast with the dead town centres that we have in so many of our cities, it is not surprising that the fact that we impose such high taxes on business through the rating system plays a part. This is a very big problem with the emergence of online competition, and this makes it a far bigger problem in the UK than it is in countries on the continent where business rates are less of a factor in costs.

Then there is the question of the Government's general policy on local government finance. Is it the Government's intention still to make local authorities more dependent on the income they raise, and gradually to phase out government grants to councils—which is what the Government said they were doing in the George Osborne era? Business rates retention was introduced as part of that philosophy of making authorities more dependent on their own tax base and less dependent on central government grants. The argument for that is that it incentivises growth policies, because you have an incentive for growth. The argument against is that if areas are poor, they will not get much richer through a policy that favours authorities with high economic growth rates. Is this approach of making authorities dependent on the money they raise locally consistent with this Government's levelling-up agenda? That is a very big question. I favour a reform of government grants, a new equalisation formula and—I know the Government do not like this phrase—a form of fiscal federalism in England. The present system needs radical change.

2.20 pm

Baroness Scott of Needham Market (LD) [V]: My Lords, we would all agree with the Minister when he described the SI as highly technical. It certainly is. It demonstrates just how convoluted local government finance in this country has become. It deeply troubles me from the point of view of transparency, because I would defy anyone to try to explain what is happening here. The context is that local government is facing a funding crisis of around £1.6 billion. The local government finance system was not fit for purpose before the pandemic and most certainly is not now. I agree with the remarks of the noble Lord, Lord Liddle, about the need for a root and branch reform of local government finance.

I have one substantive point and two questions for the Minister. A rule of law accessibility issue arises in relation to this SI. The Government's Explanatory Memorandum and the Minister mentioned that the procedure for free issue is in effect a replacement; this instrument corrects errors from earlier one. As a long-standing member of the Joint Committee on Statutory Instruments, I applaud the Government's use of the free issue procedure here. It is exactly what the JCSI said the Government should do.

The principle that free correction should be given was set out in the committee's special report in 2017-19. However, that report also made the point that the Government need to consider whether the free issue procedure is necessary and serves quite the same purpose, now that so few people buy written copies. Most people go online. Here I declare an interest as a non-executive board member of the National Archives, which fulfils the role of Queen's Printer and runs legislation.gov.uk.

In the report, the committee invited the Government to consider allowing readers of hard copies to register for email or text alerts when a statutory instrument is replaced or corrected down the line. Perhaps the Minister could go back and ask the people in government responsible for that whether they have given any more thought to this matter. The free issue procedure is one part of a whole edifice for managing SIs within a legislative and procedural framework that has been based largely on paper and not what would happen if it were starting again today.

My two questions are these. First, the Explanatory Memorandum talks about a local government working group that focuses on business rate retention and reform. Can the Minister say more about that group,

[Baroness Scott of Needham Market]
who is on it and how it operates, because I have not heard of it? Secondly, are we coming close to a date for Second Reading on the Non-Domestic Rating (Lists) (No.2) Bill, which received its first reading in March but seems to have disappeared?

It is almost 30 years since I was first elected a councillor. In 1991, as I was trudging the streets of Needham Market, one Ian Botham was on his final tour of Australia and New Zealand. Many paths lead to this House. I look forward to hearing him and wish him well.

2.24 pm

Lord Botham (CB) (Maiden Speech) [V]: My Lords, it is an honour to be here making my maiden speech. I was introduced early last month and since then have received an outstanding welcome and support from noble Lords across all Benches, the behind-the-scenes staff and, importantly for me, the digital team, without whom I would not be online speaking to you now.

My whole life has revolved around sport, football, golf and fishing, to name a few, and, as most will know, a bit of cricket. Sport has been more than a game to me. It has been my life and has given it structure and focus, and it has kept me both physically and mentally fit. My career has been well documented, so it is no secret that I am a passionate, strong-willed man who will fight for the causes close to my heart, be they sport, charity, the countryside, the world we are now living in with Covid and how we continue to live with this pandemic surrounding us.

Today, with time short, I will touch briefly on a couple of topics—sport and the community. As chairman of Durham County Cricket Club, I have followed the way in which this pandemic is affecting our sports grounds, which in turn is affecting countless people—those who work at the grounds, those who represent the grounds and those who support the grounds. The capacity of Durham County Cricket Club's ground is 14,000. There are 3,000 paying members, with an average age of 60—an age that is now classed as vulnerable. The annual turnover is down by 35%, which has sadly led to job losses. We need to get these grounds open to spectators again in a controlled and safe manner. Durham's members have donated their annual membership fees to the club. We need to start supporting them more and allowing them in.

On the subject of today's debate, I urge the Government to provide 100% rate relief to community sports clubs. I am honoured to be the founding president of Blood Cancer UK, and I have been involved with the charity since I saw children with the disease in a hospital in Taunton back in the 1980s. Together with my supporters, we have raised many millions, which have contributed to life-saving research, meaning that many more children and young people now recover.

The House will know that we can defeat cancer and other diseases only through investing in research, and the UK has a very proud record in this regard. However, Covid has hit charities hard and, in the next financial year, Blood Cancer UK alone estimates that it will be able to fund 40% less research than it had hoped. Not only will the impact of this be felt now, but it threatens to slow the progress achieved in research. I hope very much to use my time in the House to continue supporting charities and the invaluable work that they do.

I am very much looking forward to contributing more in the House on the topics I have mentioned and on other matters close to my heart.

2.27 pm

Lord Moynihan (Con): I am privileged to follow the noble Lord, Lord Botham, and congratulate him on a powerful and impressive start to what I am sure will be a long career in this House. My task in acknowledging his service to sport and country will require the heavy roller, for he showed relentless courage, skill and determination at the wicket and has put those skills to good effect well beyond the boundary ropes. As one of the greatest cricketing all-rounders of all time, he showed loyalty to fellow players, not least when he left Somerset. It is to his credit as one of the all-time greats that the Richards-Botham trophy, named in honour of himself and Viv Richards, replaced the Wisden trophy for winners of the West Indies-England test series.

The noble Lord, Lord Botham, understands the spotlight that sport can shine on life as a means of campaigning to fundraise for research into leukaemia. His 12 long-distance charity walks, the first being a 900-mile trek from John O'Groats to Land's End, have given hope to countless children, their families and friends. When not working for others he turned his hand to commentating, where he has earned consistent respect for being impartial and objective—giving praise where praise is due and criticism where it is justified. That can come only from a deep knowledge and understanding of cricket and the lives behind the people who play it.

The noble Lord's commitment as chairman of Durham County Cricket Club, his unabashed love of the countryside and his passion for trout and salmon fishing have all followed. He even found time to campaign for Brexit. Not surprisingly, he was chest high in the middle of a salmon river when I called to ask him to be an ambassador for the British Olympic team for London 2012. By example, he has shown us that sport knows no boundaries, shuns injustice and intolerance, and must be blind to colour, race or creed. Sport is a route to fulfilling dreams.

Today, he joins an exclusive team of four captains of England cricket and one West Indian cricketer whose skills led them to honour these red benches as Life Peers. It is clear from today's speech that his time at the crease will in this House neither be wasted nor spent warming up. It is appropriate that the first of the famous four cricketers whom the noble Lord, Lord Botham, follows was Learie Constantine, a cricketing legend and the first black man to sit in the House of Lords. He made his maiden speech at the height of the Government's negotiations with Europe for the UK to enter the European Economic Community, and in that speech he powerfully made the case for racial equality.

Today, the noble Lord, Lord Botham, has spoken with the same passion as that noble Lord did in this Chamber 50 years ago. He follows three further life Peers in Colin Cowdrey, David Sheppard and the redoubtable Rachael Heyhoe Flint, all of whom were

close colleagues of mine, campaigning in the cause of sport. I anticipate that the determination of the noble Lord, Lord Botham, to use this place for change will exceed even theirs.

Turning to the regulations before the House—on a day when, for the first time in history, a Lords Select Committee to examine a national plan for sport has had a sitting— they touch one critical part of the package needed to save sport: rates. However, the financial damage caused to clubs by lack of gate receipts is unsustainable. Sport needs urgent support. We are talking about not just the clubs but the positive impact they make on the communities they serve and their supply chains, which means that when they suffer businesses in their local communities suffer. One of the most expensive outgoings for clubs that occupy facilities is business rates. The Government can step in right now, as the noble Lord, Lord Botham, said, to provide a full rates holiday rather than the current 80% plus 20% discretionary formula. Clubs are in desperate straits; government must intervene before they start to go under and the many community schemes, which are part of the infrastructure of this country, wither under Covid.

Due to Covid, we face a young population who are more obese, more unfit and more challenged by mental health problems than any in many generations. We have even made the error of prohibiting two-ball golf matches and singles lawn tennis for all ages. Now is the time to show our concern about the mental and physical well-being of the population. Sport, recreation and an active lifestyle are essential to build up resistance to the worst effects of Covid. Now is the time for government to listen and to act.

The Deputy Speaker (Baroness Morris of Bolton) (Con): My Lords, the noble Lord, Lord Bhatia, is experiencing technical problems, so I now call the noble Lord, Lord Bourne of Aberystwyth.

2.32 pm

Lord Bourne of Aberystwyth (Con) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Moynihan, and it was a great privilege and pleasure to hear the maiden speech of the noble Lord, Lord Botham, centring as it did on issues of sport, community and charitable giving. I really look forward to hearing far more from him in future contributions to your Lordships' House.

I thank my noble friend the Minister for presenting so clearly what are very much technical regulations, which I strongly support. I have no specific questions about them but some general questions regarding the context, which I hope my noble friend will be able to deal with. First, what is the proposed timescale for full business rate retention across the country? I assume that it is still 100% but it may be 75%. I am not absolutely certain but would be grateful if my noble friend is able to shed some light on it.

Secondly, where are we on the fair funding review? It is obviously important and sits alongside business rates retention. When is that likely to happen? We all understand about having some slippage because of the Covid crisis, but it would be good to have some general outline as to when we can expect it.

My third question relates to the devolved combined authorities, and Cornwall as well, which currently have 100% business rate retention. I fully understand that but it does not extend to all the combined authorities. Can my noble friend the Minister give an update as to whether Teesside, Cambridgeshire & Peterborough and South Yorkshire are likely to join in the 100% business rate retention scheme? Where are they at the moment and what is the prospect for other devolved authorities such as West Yorkshire, which may be in the pipeline? What is the position on them?

My last question for my noble friend relates to unitisation, which is referred to in the regulations. There obviously has to be some adjustment in relation to Buckinghamshire, which is in the pipeline. Dorset is similarly in the pipeline, as is Bournemouth, Christchurch and Poole. Can he say something about future unitisations and how those interact as well? Cumbria may be in the queue, but I am not sure whether other authorities are. With those questions, I am much in support of the regulations.

2.35 pm

Lord Mann (Non-Afl): My Lords, I join in the warm welcome to the noble Lord, Lord Botham, and congratulate him on his maiden speech. I echo his call to the Minister about community amateur sports clubs. The crisis in finance for grass-roots sports and, in part, for professional gamers is emphasised by the decision of Hull Kingston Rovers rugby league club not to complete its fixtures this year, because of finance. This is before we even go into lockdown, never mind the potential to continue it. This demonstrates that they will not all survive. A government intervention could give them the breathing space that allows them to survive not necessarily the fixtures of a season, but as entities going forward. It would be a wise Minister who would spend time and effort considering that now, because this will be a long winter for all of us, not least for those sports clubs.

I congratulate the Minister. One might say his style was more Viv Richards than Geoff Boycott in making an opening stand in this debate with eloquence and detail. I have one question of substance. He is the expert on all things, but even this may defeat him, so I would be happy to have something in writing to put in the Library, if he would be so kind. How do the regulations impact power stations that close down? It is a rather bespoke issue for non-domestic rates, affecting around half a dozen district authorities across the country. The government decision to close down coal-powered stations—in my view rational but painful—means, in the complex way in which business rates are attributed to local authorities, some district councils may lose out, but cannot be certain by how much, because of the complexity of the rate spread and the formula. Could the Minister or his officials give this change a little attention to see whether it will have a negative or disproportionate impact any of those district councils?

2.37 pm

Lord Shipley (LD) [V]: My Lords, I remind the House that I am a vice-president of the Local Government Association. I say at the outset, on behalf of these

[Lord Shipley]
Benches, that I am happy to support this statutory instrument. The Minister made a very clear case for these regulations. I also congratulate the noble Lord, Lord Botham, on his maiden speech. We very much look forward to hearing his future contributions in this Chamber, particularly on matters related to sport and the work of the voluntary and charitable sectors.

The very title of this statutory instrument suggests complexity. I understand why it is needed, given changes to the structure of local government in several council areas across the south of England. But that complexity is hard for the public to understand, as was explained by the noble Baroness, Lady Scott of Needham Market. We can see from reading the SI that it is dependent on algebraic formulae and calculations that run to four decimal places. It has been suggested that only a handful of people understand the system of distribution. In one sense, it may not matter too much if the public have confidence in the outcomes, however they are calculated, but it becomes more difficult if the outcomes start to be challenged. Given the pressures on local authority budgets being caused by coronavirus, we may see that happen more frequently. The heart of the issue is the fair distribution of money, which is harder to guarantee in view of the coronavirus pandemic.

The noble Lord, Lord Liddle, talked about land value taxation; I agree with what he said. He also said that business rates are a very big tax, and they are. One problem, of course, is that if less money is raised through business rates, the pressure on council tax potentially rises, yet the pressure on people paying council tax cannot be allowed to worsen. I agree on the need for a new equalisation formula. I am very taken with the idea of fiscal federalism that the noble Lord, Lord Liddle, proposed for England. There is an argument for it; I hope that, when discussions take place on the long-term future of the business rates system, we will look at that more closely. As the noble Baroness, Lady Scott of Needham Market, said, the system is not fit for purpose.

Can the Minister tell us whether this statutory instrument has local support? Have all the local authorities affected by the SI agreed to this, and were there any representations from them? Behind everything is the pending review of business rates, as has been raised by several speakers this afternoon. This is urgently needed given that the consultation closed, as we know, at the very end of October. As we have heard, there is no solution for 2021-22—and lockdown this month puts further pressure on the system in this financial year, never mind the next.

My view is that the Government should extend the system of business rates deferral—or holiday—through much of 2021. I think this is now unavoidable. Will the Minister confirm the Government's thinking on this? The rising cost of local government will otherwise not be met; they certainly cannot be met by loading the extra cost on to council tax alone. The Minister said in his opening remarks that it is a technically complex system. He is right. He also said that he looked forward to our contributions—I think with respect to providing solutions. It is a very complicated area. My view is that it will be solved only through all-party discussion and agreement. I hope the Minister and the Government will think about that in the context of the publication next spring of proposals on the long-term future of the business rates system. With all of that said, we are very happy to support the proposals in this statutory instrument.

2.43 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, I first draw the attention of the House to my relevant registered interest as a vice-president of the Local Government Association. Like others, I congratulate the noble Lord, Lord Botham, on his maiden speech. During the noble Lord's cricketing career as an all-rounder, he looked to bowl many maiden overs. We get the chance to do that only once in this House, but there is of course the possibly of hitting a six and knocking it out of the ground many times. I have been a lifelong Surrey County Cricket Club supporter and spent many happy afternoons at the Oval. The noble Lord had a fabulous cricketing career and brought pleasure to millions through his huge success in the game. I wish him well for his time in this House.

The noble Lord mentioned how much sport achieves. I know how much Surrey County Cricket Club does locally, supporting cricket at Kennington Park and at the little Oval in Southwark Park. I very much support the noble Lord's work. My other two sporting loves are Millwall Football Club and Dulwich Hamlet Football Club. Again, they provide much support for their local communities, and they need support as well for the work they do through their community trusts. We need to recognise that we must support our sports clubs to help them support our communities.

The regulations before the House are not controversial in any sense, and many wider issues have been raised. Even before the pandemic, this form of funding for local government had had its day. It is not going to work. We must find a way of funding local government and dealing with business rates. I hope that the Government will think about that. We also need the political parties to come together to think about how to fund local government in future. Of course, local government has a financial crisis on the back of the pandemic, as do other parts of our economy. Those are two important points.

There have been many questions raised around the House. I am sure the Minister will respond to them today or, if not, in a letter to us after the debate.

2.45 pm

Lord Greenhalgh (Con): My Lords, we have had a good innings on the regulations before us today. I thank noble Lords on all sides of the House for their contributions. I shall take this opportunity to provide some further detail on some of the points which have been raised.

The noble Lord, Lord Kennedy of Southwark, mentioned Millwall Football Club. As a Chelsea supporter, it pains me to say that they are some way down the league, but I pay tribute to Millwall and what they do. I saw that as deputy mayor for policing and crime, and I also saw what Charlton did in south-east London to deal with the scourge of knife crime. We must remember

Millwall's chant: "No one likes us, we don't care." That is not the case with the noble Lord, Lord Kennedy; we all love him.

I will take back the points made by the noble Baroness, Lady Scott, about responsibility for these issues. She asked a number of technical questions, on which I will write to her. The non-domestic revaluation Bill has gone through the Commons and we are waiting for Second Reading in this House, when time allows. The noble Baroness also asked about the working group which comprises the LGA, CIPFA and a range of local authorities. It has been in existence since 2013 and looks at the technical operation of the rates retention scheme. On behalf of the Government, I thank the working group for the work it is has done so that we can understand better how the rates retention scheme plays out locally.

The noble Lord, Lord Liddle, asked about the future of local government finance reforms. In May, we announced our intention to delay proposals to deliver the review of relative needs and resources—formerly the Fair Funding Review—in 2021-22. The decision was taken to allow the Government and councils to focus on meeting the immediate public health challenges posed by the pandemic. The approach to business rates retention in 2021-22 is under consideration and will be clarified at the spending review and provisional local government finance settlement.

Looking to the future and in determining the next steps, we will need to consider the impact the pandemic has had on demand for public services across local government and its access to resources. As the local government finance system moves into a more stable position, we will set out the timetable for our proposed way forward.

The noble Lords, Lord Liddle and Lord Shipley, raised the need for a fundamental review of business rates. At Budget 2020, the Government committed to a fundamental review of those rates. The Treasury is currently carrying out that review, which will look at all aspects of business rates as a tax. The Government have said that they will consider carefully the link between the fundamental review of business rates and the future of business rate retention. We will engage with the sector—local councils—very carefully as part of that review. Of course, we have launched an unprecedented support package for businesses, and business rates income has changed drastically in response to Covid-19. We will provide an update on the fundamental review as and when we can.

The noble Baroness, Lady Scott, asked for an explanation of what I believe the noble Lord, Lord Shipley, described as one of the most complicated systems, involving algebraic formulae and decimals to four decimal places. I certainly do not understand the mathematics, but it is quite straightforward conceptually. Fifty per cent of the business rates collected are retained by councils. Where there are two tiers, the upper tier retains 20%—in London, that would be the GLA—and 30% is retained by the boroughs. Then, there is an element of redistribution, but also a safety net so that a council bears only the first 7.5% of losses and 82.5%—the rest of the losses—are protected by the central pot.

Does that make it infernally complex? There needs to be a debate about local government reform. Do we go down the path of setting areas free so that local leaders can drive and grow their tax bases? Then we would not see the resource equalisation that we have today. Do we go for a halfway house? That is a debate that will have its time. I have my views, and I hope noble Lords will have the opportunity to express their opinions. It is a legitimate debate about the future conceptually of local government finance.

I have put on my Middlesex tie. I got one cap for Middlesex as a schoolboy. It was not for cricket; it was for rugby. I know that the son of the noble Lord, Lord Botham, was an exceptionally good rugby player, and the noble Lord himself played centre forward for Scunthorpe as well as being a brilliant cricketer for England. We must remember that his moment of greatness happened at Headingly in 1981. I remember it so well. He took, I believe, six wickets in the first innings when we looked like we were going to lose. By the second innings the nation thought we had lost the Ashes to the Australians who, I am sure noble Lords will agree, deserve a good beating from time to time. The noble Lord stepped in and that moment of greatness was when he started smashing the ball across the park. I believe one shot went into the confectionary stall and out again. I had the commentary of Richie Benaud ringing in my ears. That moment of greatness changed the course of the match. I think the odds on an England victory were 500:1 at the time and some Australian players had even put a bet on. I think that is probably illegal today.

The true greatness was also the captain, a Middlesex man. I am sure noble Lords will agree that the captain, Mike Brearley, knew when to play the noble Lord, Lord Botham, and when to make the best of his talent as a swashbuckler. That swashbuckling talent is now heard about at Select Committees. Officials will say to you, "I will be Boycott so that you can be Botham". But they will also say, "You must keep your feet on the ground, Minister".

Chandru Dissanayeke is a senior official in one of my departments, MHCLG. He is Sri Lankan by birth. His uncle played for the Sri Lankan team. Now, this is apocryphal, so I will have to get the noble Lord, Lord Botham, to confirm or deny this. Apparently, the noble Lord said to Sunil Gavaskar, "To get a letter to me in my county of Somerset you just have to put 'Botham, Somerset'". Sunil Gavaskar turned to him and said: "To get a letter to me you just have to put 'Gavaskar, India' and it will reach me'". That gives you an idea that fame is sometimes fleeting.

I was hoping that the noble Lord, Lord Botham, would be here today. It is a pity that he has not been able to be here today in person. I hope that when events allow we can have a drink together in the Pugin Room. It would be a lifelong dream for me, and I am sure noble Lords will see his contributions for many years.

My noble friend Lord Bourne asked so many questions. I have them all written down here. I will put a letter in writing in the Library. There are a lot of technical points and I think it is better to get a full response in writing. It has been an incredible debate,

[Lord Greenhalgh]
with the combination of the brilliance of the noble Lord, Lord Botham, and the eloquence of so many noble Lords.

Motion agreed.

2.53 pm

Sitting suspended.

Defence and Security Public Contracts (Amendment) (EU Exit) Regulations 2020

Motion to Approve

3.01 pm

Moved by ***Baroness Goldie***

That the draft Regulations laid before the House on 7 October be approved.

Relevant document: 31st Report from the Secondary Legislation Scrutiny Committee

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, as we look towards 2021, planning for the smooth delivery of defence and security procurement beyond the transition period is absolutely essential. This instrument will ensure that defence suppliers and buyers have the legal certainty they need beyond 31 December. It is a small instrument, but a necessary one.

In the interests of accuracy, I draw attention to a minor error in the heading to Regulation 2 of the instrument, which currently reads "Pre-exit amendments of the Defence and Security Public Contracts Regulations 2011". Regulation headings are not an operative part of the instrument and Regulation 1(2) explicitly states that Regulation 2 comes into force the day after the day on which these regulations are made. It has been confirmed by the laying offices and the legal counsel to the JCSI that the deletion of "Pre-exit" can and shall be made editorially, prior to signature. In the interests of transparency, it is appropriate to bring that to the attention of your Lordships.

Before we consider the detail of this statutory instrument—which I shall refer to as the 2020 regulations—I highlight that this is the second EU exit amendment to the Defence and Security Public Contracts Regulations 2011. The first amendment was debated in both Houses and signed by the Secretary of State for Defence last year. The 2019 regulations, as amended by the 2020 regulations, will now enter into force on implementation period completion day, which is the end of the transition period.

This instrument ensures that the procurement provisions of the withdrawal agreement and the European Economic Area European Free Trade Association separation agreement are correctly applied to the procurement of those public contracts and framework agreements which have been launched but not finalised under the Defence and Security Public Contracts Regulations before the end of the transition period.

These transitional procurements will be regulated under that version of the Defence and Security Public Contracts Regulations which meets our current European obligations. Businesses, and indeed the MoD and our much-valued security agencies, will continue to have legal certainty beyond transition period completion day. Defence and security procurements will therefore be underpinned by solid legal bedrock.

Reflecting that, Regulations 3 and 4 of the 2019 regulations will now come into effect at the end of the transition period. The 2020 regulations replace references to "exit day" in the 2019 regulations with "implementation period completion day" where necessary. The opportunity has also been taken to update certain references to financial thresholds in the 2019 regulations, which were revised during the transition period. These are small corrections, but they are necessary.

As well as amending the 2019 regulations, the new legislation updates and corrects the original 2011 regulations. Noble Lords will note that these changes are not related to EU exit. In Regulation 12, which covers technical specifications, an outdated reference to "European technical approval" is replaced with "European technical assessment".

I reassure your Lordships that, when drafting this instrument, care has been taken to ensure that it is as consistent as possible with other government public procurement legislation. This change to Regulation 12 brings defence and security procurement legislation into alignment with the Public Contracts Regulations 2015. It is a straightforward amendment, as the system of European technical approvals is no longer in practice and has been replaced by European technical assessments. The opportunity has also been taken to update the reference to the common military list of 2018 with the common military list of 2020.

Together, the 2019 regulations and this instrument reflect the UK's new status outside the EU. The 2019 regulations, agreed by this House over 18 months ago, restrict automatic legal access to the UK's defence procurements to suppliers from the UK and Gibraltar only. However, the framework and principles underlying the procurement regime remain unchanged. As your Lordships are aware, this is in accordance with the powers given to amend retained EU law in the European Union (Withdrawal Act) 2018. That Act does not allow major policy changes or the introduction of new legal frameworks. Amendments to the Defence and Security Public Contracts Regulations made under the powers given by the 2018 Act are limited to dealing with the effect and consequences of EU exit.

More broadly, freedom to consider the reform of our defence and security procurement regulations is one of the consequences of our exit from the EU. So, as we look beyond the transition period, this freedom is being used positively to develop defence and security procurement regulations tailored to better meet the UK's needs. A comprehensive review of the Defence and Security Public Contracts Regulations is under way with a view to improving the pace and agility of acquisition. This is a significant piece of work which will take some time to complete and will require the introduction of new primary and secondary legislation. In the meantime, the amendments that these regulations

make will ensure that public procurement business conducted under the umbrella of the defence and security procurement legislation will continue to flow smoothly and confidently.

I look forward to contributions from your Lordships, not least that from the noble Lord, Lord Dodds, who is making his maiden speech this afternoon. I commend the 2020 regulations to the House and beg to move.

3.08 pm

Lord Thomas of Gresford (LD) [V]: I am conscious of the fact that we are dealing with a major sector, if not the major sector, of British industry. These draft regulations amend regulations made last year which amended the 2011 regulations, which brought into domestic law the requirements of a European directive. There must be someone whose bread and butter is procurement in the Ministry of Defence and who might follow it all.

However, my first question to the Minister is: why has the Ministry of Defence retained these confusingly amended DSPC regulations 2011? "We need legal certainty—a solid legal bedrock", the noble Baroness said. This is a complicated maze with which bidders for contracts must grapple. Why has the ministry not brought before us a clean and transparent set of new regulations to govern procurement for our defence needs in the brave new world about to dawn on 1 January? Why are we carrying into the future a body of law which looks to the European directive and the European Court of Justice for its interpretation? "The principles remain unchanged", said the noble Baroness, Lady Goldie, to us a moment ago.

My second question is this: according to the Explanatory Memorandum, one purpose of these regulations is to validate "ongoing public procurement procedures" that have been launched but not concluded before the end of the implementation period. To get some idea of the scale of what we are dealing with, how many contracts or framework agreements or applications are we engaged with? Is it five, 10, 100 or 1,000? How many application procedures are expected to be launched between now and the end of the implementation period? Is there a scurrying to get these procedures launched in the next 58 days or will the MoD be waiting for the new year?

Thirdly, what does the future hold? In the debate of March last year, to which my noble friend Lady Smith contributed, the noble Earl, Lord Howe, promised that we would not fall off a cliff but, to my mind, we are heading pell-mell for Beachy Head. I understand that businesses in the EU 27 will have their hitherto-guaranteed right of access to UK public procurements and will be tendering for government contracts on the same basis as other countries worldwide, but what about other bidders? Are Russia, China, Korea or the US envisaged? There are a limited number of arms-exporting nations. What about reciprocity? Please can the Minister confirm that we have reciprocally lost guaranteed access to EU defence procurements?

Finally, does Her Majesty's Government, freed from the shackles of Europe, envisage that they will be able to prop up the British arms industry with state aid? Of course, this would put it in a far more competitive position and is no doubt a main reason why state aid seems to be the stumbling block in the current stuttering negotiations with Monsieur Barnier. Where does state aid come in the Government's calculations for future defence procurement? How much has our pending breach of international law, compounded by Boris Johnson's failure to respond by today to the EU Commission's letter before action, damaged the trust worldwide that bidders can place in this Government's commitment to meet our contractual obligations?

3.12 pm

Lord Lancaster of Kimbolton (Con): My Lords, I rise to add my support to this amendment to the regulations. I am conscious that I am simply a poor warm-up act before the noble Lord, Lord Dodds of Duncairn, gives his maiden speech, so fear not: I shall be brief.

Turning to the regulations, it is important that we ensure that our legislation continues to operate effectively beyond the transition period and procuring our defence needs in a way that is legally sound is vital. The instrument we are debating today is necessary as it will ensure just that. I recognise that the challenges being debated today are just the first step towards developing a procurement regime that better meets the UK's requirements. I am heartened to hear that the Ministry of Defence is grasping the opportunities offered by our departure from the EU and that work has already begun to simplify and modernise the legislation and, crucially, improve the pace and agility of procurement activity. Reducing unnecessary regulatory burdens on government buyers and suppliers alike is one of the opportunities that EU exit has opened up for us and one it is important to exploit.

Looking further ahead, I take this opportunity to draw noble Lords' attention to the excellent Dunne report, written by my former ministerial colleague Philip Dunne, which seeks to plot a pathway for defence to make a growing contribution to UK prosperity. As we leave the EU, we now have the opportunity to buy British and support UK industry. For example, under EU regulations, while warships could be procured solely from UK yards, non-combatant vessels, even those of the Royal Fleet Auxiliary, had to be put out to international tender. Equally, defence has been restricted from supporting local communities by offering food contracts exclusively to local suppliers. Can my noble friend assure me that, as the Dunne report recommends, due weighting is attached to the prosperity impact in the UK for future government tenders?

Secondly, I highlight the need for agility and pace in our procurement process, perhaps by adopting a culture focused more on finding the right procurement solutions and less on defining and avoiding obstacles at the outset. This requires the MoD to develop its skills base as a client, while better understanding how defence and market interactions shape each other. Building the quantity and quality of skills across defence is an important part of this work.

Finally, in reminding the House of my interest as chairman of the 2030 Reserve Forces review, I make a plug for the greater use of sponsored reserves. Supplied as part of a commercial contract with the MoD, they

[Lord Lancaster of Kimbolton]
offer an assured supply of uniformed skills to defence. Despite being identified as a vital asset to defence over 10 years ago, their numbers have stagnated at just over 2,000 and they remain, in my opinion at least, an underutilised resource.

3.15 pm

Lord Dodds of Duncairn (DUP) (Maiden Speech): My Lords, it is a great honour indeed to make my first contribution in your Lordships' House and to follow my noble friend Lord Lancaster of Kimbolton in this important debate. I thank all noble Lords for the warm welcome I have received in recent days. In particular, I thank Black Rod, the Clerk of the Parliaments and the doorkeepers, who have been so helpful, kind and patient, as well as all the administrative staff and the ever-cheerful catering and cleaning staff who look after us so well, especially in the present circumstances.

I am also grateful to the two supporters at my introduction. I have known the noble Lord, Lord Morrow, of Clogher Valley, since I first got involved in politics, growing up in the beautiful county of Fermanagh. With the noble Lord, Lord Browne of Belmont, I was elected to Belfast City Council in 1985—the first elected office for either of us. Like him, I have had the singular honour to serve as lord mayor of that great city and, although a Londonderry man by birth, Belfast has been my political home for many decades. The territorial designation in the title I have taken, Duncairn, references the historic electoral area in the heart of the North Belfast constituency, which I have had the honour to represent for some 35 years altogether—first, in the council, then in the Northern Ireland Assembly and, for over 18 years, in the other place.

As I return to Westminster, much has changed given the current pandemic, but Brexit negotiations still loom large. I reiterate my sincere message, which I have expounded since the referendum, that the Government have a solemn duty to deliver Brexit—they have now done that—but in a way that safeguards the union. That is their overriding responsibility, above everything else. In our deliberations, it is important to remember that the protection of the peace and political process in Northern Ireland is about recognising and defending unionist, as well as nationalist, concerns and interests. That is something that, at times, is missing from some of the debates, particularly on Brexit.

I hope to continue, in accordance with the traditions and conventions of your Lordships' House, to champion the union, to work to strengthen this United Kingdom of Great Britain and Northern Ireland and, as we approach the centenary of Northern Ireland next year, to find ways to build on the progress we have made in Northern Ireland in recent years. While there are many challenges, it is important to acknowledge the vital everyday work of government in Northern Ireland, which helps to deliver a better future for all our people. Devolved government in Northern Ireland is not always easy, as we have seen recently, but it is vital, and it is vital that we continue to move Northern Ireland forward.

In doing so, it is important that no one is left behind. The many innocent victims of terrorism still deserve to see justice, proper compensation and an end to those who glorify terrorism which, sadly, still happens all too often in Northern Ireland. Continued attempts to make terrorists the equivalent of our gallant security forces must always be resisted.

Time is too short today to outline the many domestic policy areas that I passionately believe need more attention, but I will mention two in particular. My own family experience drives my determination that everything possible is done to increase awareness and understanding of people with disabilities. My experience representing north Belfast and the wonderful people of that area has shown me how our vulnerable children and their families need support and intervention from an early age, with education at the heart of growing communities.

I strongly believe that our defence and security institutions must be properly resourced and supported to defend us in this increasingly dangerous and unpredictable world. As a member for almost 10 years of the NATO Parliamentary Assembly, along with the noble Lord, Lord Campbell, who is with us today in this Chamber, I believe more than ever in the crucial importance of a strong United Kingdom at the heart of a strong transatlantic alliance. The regulations before your Lordships this afternoon will ensure the smooth regulation of defence and security public contracts at the end of the transition period. They are another piece of the complex jigsaw of legislation preparing the way for life after Brexit and as such I am happy to give them my full support.

3.20 pm

Lord Browne of Belmont (DUP): My Lords, it is a privilege to follow my noble friend Lord Dodds of Duncairn. I congratulate him on his excellent speech. However, he has been somewhat modest about his career and achievements. He studied law at St John's College, Cambridge and was called to the Bar. As a barrister, he served as adviser to the secretariat of the European Parliament. His experience there gave him a deep knowledge of European law, which should prove useful in the current circumstances.

My noble friend has served in three elected chambers and has attained important positions. As he mentioned, both he and I were elected in 1985 to Belfast City Council. I served for one year as lord mayor, but he had the privilege to serve on two occasions in that role, and he was the youngest lord mayor the first time. Next, he was a Minister in the Northern Ireland Assembly, serving in three different departments. As we have heard, he represented north Belfast in the other place from 2001 to 2019. In 2010, he became leader of the Democratic Unionist Party here in Westminster and was appointed to the Privy Council.

Throughout his career, my noble friend Lord Dodds has demonstrated a steadfast commitment to the union as the bedrock of his political outlook. Before the referendum on Scottish independence, he stressed that all the countries of the UK were stronger together than they could ever be apart. More recently, he referred to Brexit as a battle for the union itself, and negotiated tirelessly to protect Northern Ireland's position in the United Kingdom. In Belfast City Hall, in the Northern Ireland Assembly and in the other place, my noble friend always sought to represent all his constituents,

whatever their political persuasion. When it is remembered that, on at least three occasions, attempts were made to take his life by political opponents who regarded violence as an acceptable weapon, his adherence to this principle is all the more laudable. I am very confident that better decisions, based on coherent argument and rational debate, will be arrived at in your Lordships' House in the coming years because of the presence of my noble friend.

Turning to the statutory instrument before us, these regulations are important to prevent what could potentially be a very bad outcome if the 2019 regulations are not amended. We simply cannot afford for there to be any unnecessary uncertainty over the law on regulating defence and security public contracts. Given that there is now a transition period that runs out at the end of the year, the 2019 regulations, which amended the 2011 regulations, are quite simply unfit for purpose in certain key aspects and must themselves be updated. I presume that, to the extent that it is relevant, the devolved Administrations have been duly consulted. These are technical but nevertheless significant provisions and we are seeing a lot of this type of legislation in the run-up to 31 December. I am very happy to support the Government in this and in their ongoing work to make the statute book ready for when the transition period finally ends.

The Deputy Speaker (Lord Brougham and Vaux) (Con): Is the noble Lord, Lord Mann, with us? No? I call the noble Baroness, Lady Wheatcroft?

3.25 pm

Baroness Wheatcroft (Non-Afl) [V]: My Lords, the nature of the world we live in means we have to have adequate defence and security provisions. Ensuring that the necessary procurement can continue effectively after our departure from the EU is clearly essential. These regulations are designed to ensure that, so I support them, but I wonder, as did the noble Lord, Lord Thomas of Gresford, why the opportunity has not been taken to draft some new and more easily comprehensible regulations than these. As the Minister tried to explain the changes that are being made and the tidying up that is being done, I sympathised with her plight: these are a real hotchpotch.

It had been my fervent hope that, after leaving the EU, the UK would seek the closest possible alignment with EU regulations, thus allowing, effectively, a continuing membership of the single market that has been such a boost to our industry. That is not the Government's policy. I believe the decision will undermine the UK's economy, but it is clearly important that, in the new, post-Brexit world, the UK nurtures its industrial base. The defence and security industry is a valuable contributor to that. The research and development that goes on in many of our defence businesses feeds into valuable innovation in companies in many other sectors. We need to help that in the future. Can the Minister tell us how much we are going to be able to place our own industry at the forefront when it comes to procurement? To what extent will we still have to offer contracts to the EU and beyond? Are we able to make it clear that our shipbuilding industry is the one we wish to nurture?

The noble Lord, Thomas of Gresford, referred to state aid. Can the Minister explain exactly what the position is on state aid? Many of us are confused at the moment as to why it is such a stumbling block in EU negotiations. Any elaboration she could give would be much appreciated.

3.27 pm

Viscount Trenchard (Con): My Lords, I thank the Minister for introducing this debate on these regulations. I congratulate the noble Lord, Lord Dodds of Duncairn, on his excellent and interesting maiden speech. I look forward to hearing often from him on this and many other matters.

My noble friend explained the technical effect of these measures, and I welcome the increased confidence they bring that there will be no cliff edge as far as military procurement is concerned after the implementation period ends at the end of the year. It is welcome that the proposals will make it possible for the nation to decide its priorities for procurement partnerships in defence, removing the distinction of treatment between EU suppliers and other potential partners outside the EU. This will allow new partnerships to be formed. It was good to see the recent agreement with Australia in respect of its future frigate programme, and it should enable other potential partners, such as Japan, to be considered for future defence projects.

The fiscal challenges resulting from the Covid pandemic make it all the more important that we build new partnerships to share the escalating cost burden that each new generation of military equipment requires. In forming new procurement partnerships, we will be able to invest in the capabilities that the country really needs while taking advantage of the strengths that new partners can bring.

These regulations permit the Government to abandon the requirement to offer all defence procurement projects, and indeed other procurement projects, equally throughout the EU, unless there are good reasons for exemption on national security grounds. It is right that this exemption will still apply going forward, and it is highly desirable that the UK should possess competitive, world-class shipbuilding and aircraft manufacturing industries.

However regrettable it may be, at present, UK employment costs and productivity do not compete with global norms. It is important that political objectives to maximise UK involvement should be balanced against the overriding need to procure the best equipment at the best price and on time.

On 7 October, I asked the Minister if she could confirm that in the new fleet solid support ships programme, the priority would be best value for the UK defence budget. She confirmed that she was assessing the interest of those parties that had responded to the information notice process, but I do not think she made it clear that best value is the most important factor on which the contract would be awarded.

There is growing alignment between the aspirations of Japan and the UK interests in defence equipment. We know Japan also wants to build two or three similar support ships in the same timescale. At the same time, there are indications that Japan is increasingly looking at the UK as a potential partner in its future

[Viscount Trenchard]
fighter programme. Does the Minister agree that the prospects for creating sustainable, competitive defence equipment industries in the long term would be enhanced by working together with partners such as Japan, not by applying too-prescriptive domestic content criteria or a requirement that there be a sole prime contractor, which must be a British company? Would not a partnership of British and foreign companies often provide the best way forward for such contracts, which become ever more expensive?

I look forward to other contributions and the Minister's reply.

3.32 pm

Lord Bhatia (Non-Afl) [V]: The main legal framework for government procurement is the Public Contracts Regulations 2015, implementing directives from 2014 to 2024 in the UK. The defence and security directive introduced a tailored regime for the procurement of defence and security requirements. Those requirements are important—it is important that all procurements are made with proper tendering processes. There is a need to ensure that we do not end up giving defence procurement contracts to organisations that could jeopardise our defences. I support this regulation, as the defence of our country is paramount.

The Deputy Speaker (Lord Brougham and Vaux) (Con): The noble Baroness, Lady Smith of Newnham, should unmute herself.

3.33 pm

Baroness Smith of Basildon (Lab): I apologise. I am so used to Oral Questions, where we are called by name, that I was slightly wrong-footed.

Delighted would not be the word to use about speaking in this short debate on the draft statutory instruments, but it is clearly an important debate. My noble friend Lord Thomas of Gresford flagged up a set of questions that have been picked up by various noble Lords.

I start with reference to the noble Lord, Lord Dodds of Duncairn, and his most welcome maiden speech. It may surprise your Lordships and, indeed, the noble Lord himself, to know I would agree with him on one part of his speech beyond welcoming him to the Chamber. It is a key point that defence and security must be properly resourced. That is clearly essential, but it is not the primary purpose of today's debate, which is to look at a technical set of regulations to ensure that provisions are in place after the transition period or implementation date ends.

As my noble friend Lord Thomas asked, can the Minister explain why we are still looking to amend regulations from 2011? Can the Minister explain when she envisages having some legislation, which she touched on, for the UK to have its own arrangements for defence procurement? If there is one area where the National Audit Office comes back with questions time and again, it is defence procurement.

The noble Viscount, Lord Trenchard, talked about the importance of best value for money. The best equipment at the best price and on time is clearly important. We have not seen that very often in defence procurement, which tends to be over budget and over time. Therefore, I ask, as my noble friend Lord Thomas did, what contracts are currently being discussed under the present arrangements and so will be part of the change in regulations that we are looking at today. It is quite likely that there are already contracts in place or being negotiated that will take us decades into the future. How far into the future do the Government see these regulations persisting? How do they see the transition to the UK's own regulations for defence procurement?

Further, how do the Government envisage state aid? As the noble Baroness, Lady Wheatcroft, said, it is somewhat peculiar that so much time is being devoted to discussions of state aid, particularly—and this is something that the noble Baroness, did not say—as we have a Conservative Government. Never have I heard a Conservative Government spend so much time talking about the importance of being allowed to have state aid. Is it for the defence industry? Is it to support our shipping industry? What plans does the MoD have and is the Minister able to share any of them with us?

It is important that we have legal certainty after the transition period is over, so it is appropriate to support these regulations. I hope that the Minister does not have to come forward every year with an update saying, "We are still trying to amend regulations from 2011. There is still a word or two that is not quite right." It is important to have a defence procurement process that works effectively and goes beyond amending regulations. We need a future set of arrangements to ensure that our defence procurement process is as strong and effective as our Armed Forces themselves.

3.39 pm

Lord Touhig (Lab) [V]: My Lords, I congratulate and welcome the noble Lord, Lord Dodds. He follows in a rich tradition of sons and daughters of Derry/Londonderry making very important contributions to the quality of public life in our country. I look forward to his contributions in the future.

Defence procurement drives the UK's important defence industry, and with that protects hundreds of thousands of skilled jobs. The industry needs certainty to flourish, including on how contracts will operate towards the end of the transition period. As we have heard, these regulations relate to public procurement procedures which are governed by the Defence and Security Public Contracts Regulations 2011. Under the UK's obligations in the withdrawal agreement and the EEA EFTA separation agreement, the same rules will continue to apply to procurements launched but not finalised prior to the end of the transition period. With the internal market Bill currently going through your Lordships' House, I am glad that the Government have not fully abandoned their obligations in the withdrawal agreement.

I have a number of questions for the Minister. Can she confirm how many contracts she expects to continue operating under these rules, and for how long? This SI updates two of the financial thresholds over which the full requirements of the 2011 regulations apply. Can she explain why the higher threshold has been increased

from £820,700 to £884,720, and how this was calculated? The regulations also say that procurements launched after the implementation period completion day will follow the Defence and Security Public Contracts Regulations 2011, as amended by the 2019 regulations. For those procurements, notices will be sent to the UK e-notification service, and rights and remedies under the 2011 regulations will be limited to the UK and Gibraltarian economic operators only. Will this be affected if procurement is included in an EU-UK FTA?

While clarity for procurement contracts that have begun but are not yet completed is welcome, there remains much uncertainty around the future of defence procurement, especially relating to the integrated review, the comprehensive spending review, and Covid-19. I am sure that I am not alone in worrying about delays to the review and the changing timeframes for the CSR, as well as the impact that this will have on procurement and the whole defence industry. It has been reported that the CSR will now be based on a one-year settlement rather than a three-year one, which could be very damaging to defence. Equipment procurement is a long-term business, and it is already facing a hole in the budget of £16 billion. Can the Minister confirm that the Ministry of Defence will now receive only a one-year settlement? What impact will this have on procurement projects, and on the UK's military programmes and capabilities?

I hope that the Government realise that, as Ministers argue over budgets, our adversaries are moving ahead with new threat capabilities. We cannot afford a delay or a spending downgrade. I would be most grateful if the Minister explained what steps the department is taking to mitigate the impact of rising cases of Covid-19 and the tightening of restrictions on procurement. How are the Government protecting small businesses along the defence supply chain?

All my professional experience prior to entering the House of Commons tells me one key thing: businesses need certainty. While these are challenging times, the Government must do their utmost to provide that certainty through the procurement procedures.

3.44 pm

Baroness Goldie (Con): My Lords, I thank your Lordships very much indeed for their contributions, which have all been helpful and informative. I will deal with them as specifically as I can.

The noble Lord, Lord Thomas of Gresford, and the noble Baronesses, Lady Wheatcroft and Lady Smith of Newnham, raised the issue of complexity, and why we have retained the regulations. There is no denying that they are complex but, at the same time, within industry they are understood, and to that extent they are predictable. That is why it was thought imperative that we maintain that clarity and continuity for the sake of businesses, so that they could understand the background against which they were operating and the solid basis on which they were being asked to proceed.

In common with these points was a further question: what about a more comprehensive review? As I indicated, that is in mind and under way, specifically to improve the pace and agility of acquisitions, but it is a very significant piece of work and cannot be done quickly. What matters is that it is being done; Parliament will receive further information about that in due course.

The noble Lord, Lord Thomas, and the noble Baronesses, Lady Wheatcroft and Lady Smith of Newnham, asked whether I had any idea of how many procedures had been launched but not concluded. I am afraid that I do not have a specific answer to that question. This is to some extent a changing and continuing scene but I shall make inquiries and, if I find something out, I shall certainly bring that to their attention.

The noble Lord, Lord Thomas of Gresford, also raised the issue of companies having access to defence procurement in the EU after the transition period. As a matter of EU law, EU member states will no longer be legally obliged to open their defence and security procurements to UK suppliers as the appropriate directive will no longer apply. However, our UK suppliers are world class; they enjoy interest and demand for their products across the globe and offer incredible experience and expertise in defence. It may well be that EU member states will choose to give UK suppliers access to their competitions to maximise the effectiveness of their procurements, just as the UK might choose to do.

I think it was also the noble Lord, and the noble Baronesses, Lady Wheatcroft and Lady Smith of Newnham, who raised the question of state aid. I imagine that their question was predicated on whether an assessment of state aid influences a potential supplier's bid. There is no change in the ability of contracting authorities to request that tenderers explain their price or costs where tenders appear to be abnormally low. There will, of course, no longer be an obligation to report to the European Commission where state aid is the reason that a tender was rejected.

It is a great pleasure for me to be able to extend to my noble friend Lord Lancaster a warm and personal welcome to these Benches. He raised the interesting issue of the Dunne report. He is quite right that it has been pivotal, because a stronger, more competitive and sustainable defence industry brings both better value to defence for the customer and greater economic benefit to the UK. That, of course, was recognised in the defence prosperity programme launched in Parliament in March 2019. The programme was informed by Philip Dunne's excellent report on the subject as well as by the refresh defence industrial policy.

My noble friend also raised the interesting question of sponsored reserves; they are indeed another enabler of military capability. The assurance of contracted services, which was indeed one of their characteristics provided for under the Reserve Forces Act 1996, enables them to continue to use their skills in an operational environment to support the MoD and to deliver the service that their employers have been contracted to provide.

I congratulate the noble Lord, Lord Dodds, on his thoughtful and constructive maiden speech, which had the resonance of authority from his personal experiences. I identified three principal chords in what he had to say: he seeks delivery of Brexit, he wishes the union protected, and he sees the value of upholding

[Baroness Goldie]
defence. I cannot disagree with him on any of those things. I hope that the evidence is before us that the Government are determined to deliver on all those important fronts.

The noble Lord, Lord Browne of Belmont, pointed out, I think helpfully, just how important these regulations are, because they do provide consistency and continuity. Of course, that is at the heart of why we are dealing with this business today, and it is very much in the interests of our defence industry partners that we do that.

The noble Baroness, Lady Wheatcroft, raised the issue of our relationship with the EU. I wish to reassure her that, certainly in relation to defence, that relationship is important. We remain committed to European security, which is synonymous with United Kingdom security, and we will continue to co-operate with our friends and allies on shared threats and challenges. I reassure her that we already enjoy a strong bilateral relationship in relation to defence with a number of European countries, and that these are cordial and constructive. Of course, NATO will be at the heart of our approach to defence. The UK has consistently been and will continue to be a strong proponent of closer NATO-EU co-operation, stressing the need for coherence between the two on a range of challenges where the strengths of both organisations need to be combined.

My noble friend Lord Trenchard raised the issue in general of procurement, and specifically he mentioned the fleet solid support ships. As he will understand, I cannot comment too specifically on that process, other than to say that there was a healthy response to the market intelligence-gathering exercise. I wish to reassure him that we are clear that these ships will be made by British-led teams building on the success of Type 31, and we intend to allow international partners to work with UK firms to bid for this British-led shipbuilding project.

The noble Lord, Lord Bhatia, quite rightly raised the issue of proper tendering processes, and also being very careful to be sure of who we are doing business with. I think that would be met with an echo of agreement throughout the Chamber. Part of this process today is to ensure that there is a clarity and a robustness to the procedures, and the wider review, which I have already referred to, will have very much at heart what the United Kingdom wants to have at the forefront as the singular issues of importance when it is looking at these important procedures.

The noble Baroness, Lady Smith of Newnham, raised issues about equipment and her concerns about the reports from the National Audit Office and the Public Accounts Committee. I acknowledge the existing financial difficulties with the 10-year equipment plan, but I wish to point out to her that we have stayed within budget last year, as we have in the previous two, and we are striving to reduce the future gap. I think all your Lordships will understand that managing these ambitious, complex programmes is challenging, but we have already achieved £7.5 billion of equipment efficiency savings for the next 10 years, and, of course, last year we secured an extra £2.2 billion funding for defence.

The noble Lord, Lord Touhig, raised a number of issues. I think he was concerned that legislative matters in future might cause problems with our approach to these issues today. I say to him that whatever may be negotiated in the future, we always endeavour to ensure consistency and that we align legislation appropriately. He also mentioned the spending review, and I reassure him that the Ministry of Defence is in discussion with the Treasury. He rightly identified important issues, and I would agree with him about these important issues. These discussions are obviously of significance, but I cannot comment further on that just now. He also raised the issue of Covid and the effect of Covid both on the MoD and on our industrial partners. I want to reassure the noble Lord that the MoD has very robust procedures to deal with the incidence of Covid within our Armed Forces, and we also have been engaging closely with our industrial partners to ensure we are doing everything we can to support them.

I am very grateful for the contributions offered this afternoon. I hope I have answered noble Lords' questions and clarified the implications of the amended legislation, and I trust that your Lordships will feel able to support the statutory instrument which I have already moved.

Motion agreed.

3.55 pm

Sitting suspended.

Covid-19 Update

Statement

4 pm

The following Statement was made in the House of Commons on Monday 2 November.

"With permission, Mr Speaker, I will make a Statement on the measures we must now take to contain the autumn surge of coronavirus, protect our NHS and save lives. On Saturday evening, the Chief Medical Officer and the Chief Scientific Adviser described the remorseless advance of this second wave. The extraordinary efforts being made by millions of people across the country—especially those in very high alert areas—have made a real difference, suppressing the R rate below where it would otherwise have been. But the R is still above one in every part of England—as it is across much of Europe—and the virus is spreading even faster than the reasonable worst-case scenario. There are already more Covid patients in some hospitals now than at the height of the first wave: 2,000 more this Sunday than last Sunday.

While the prevalence of the virus is worse in parts of the north, the doubling time in the south-east and the Midlands is now faster than in the north-west. Even in the south-west, where incidence remains low, current projections mean that it will start to run out of hospital capacity in a matter of weeks. The modelling presented by our scientists suggests that, without action, we could see up to twice as many deaths over the winter as we saw in the first wave.

Faced with these latest figures, there is no alternative but to take further action at a national level. I believe it was right to try every possible option to get the virus under control at a local level, with strong local action and strong local leadership. I reject any suggestion that we are somehow slower in taking measures than our European friends and partners. In fact, we are moving to national measures when the rate both of deaths and infections is lower than they were in, for example, France.

We are engaged as a country in a constant struggle to protect lives and livelihoods, and we must balance the restrictions we introduce against the long-term scars they leave, whether for business and jobs, or our physical and mental health. No one wants to impose measures unless absolutely essential, so it made sense to focus initially on the areas where the disease was surging and not to shut businesses, pubs and restaurants in parts of the country where incidence was low.

I want to thank the millions who have put up with local restrictions, sometimes for months on end. I thank them and the local leaders who have understood the gravity of the position. We will continue so far as possible to adopt a pragmatic and local approach in the months ahead. But we are fighting a disease, and when the data changes course, we must change course too. To those in this House who believe we should resist further national measures, let me spell out the medical and moral disaster we face.

If we allow our health system to be overwhelmed—exactly as the data now suggests—that would not only be a disaster for thousands of Covid patients, because their survival rates would fall, but we would also reach a point where the NHS was no longer there for everyone. The sick would be turned away because there was no room in our hospitals. That sacred principle of care for anyone who needs it, whoever they are and whenever they need it, could be broken for the first time in our lives. Doctors and nurses could be forced to choose which patients to treat, who would live and who would die.

That existential threat to our NHS comes not from focusing too much on coronavirus, but from not focusing enough. If we fail to get coronavirus under control, the sheer weight of demand from Covid patients would deprive others of the care they need. Cancer treatment, heart surgery, other life-saving procedures: all this could be put at risk if we do not get the virus under control. Even though we are so much better prepared than before, with stockpiles of PPE and ventilators, the Nightingales on standby, and 13,000 more nurses than last year, I am afraid that the virus is doubling faster than we could ever conceivably add capacity. Even if we doubled capacity, the gain would be consumed in a single doubling of the virus.

And so on Wednesday the House will vote on regulations which, if passed, will mean that, from Thursday until 2 December in England, people will be permitted to leave home only for specific reasons, including: for education; for work, if you cannot work from home; for exercise and recreation outdoors, with your household or on your own, or with one person from another household or support bubble; for medical reasons, appointments and to escape injury or harm; to shop for food and essentials; and to provide care for vulnerable people, or as a volunteer.

Essential shops will remain open and click-and-collect services will continue, so people do not need to stock up, but I am afraid that non-essential shops, leisure and entertainment venues and the personal care sector will all be closed. Hospitality must close except for takeaway and delivery services. Places of worship can open for individual prayer, funerals and formal childcare, but sadly not for services. However, Remembrance Sunday events can go ahead, provided they are held outside and observe social distancing. Workplaces should stay open where people cannot work from home, for example in construction or manufacturing. Elite sport will also be able to continue.

Single adult households can still form exclusive support bubbles with one other household, and children will still be able to move between homes if their parents are separated. The clinically vulnerable and those over 60 should minimise their contact with others. While we will not ask people to shield again in the same way, the clinically extremely vulnerable should only work from home.

I am truly sorry for the anguish these measures will impose, particularly for businesses that had just got back on their feet—businesses across the country that have gone to such trouble to make themselves Covid-secure, to install Perspex screens and to do the right thing. Each of these actions has helped to bring R down, and their hard work will stand them in good stead, but it is now clear that we must do more together.

The Government will continue to do everything possible to support jobs and livelihoods in the next four weeks, as we have throughout. We protected almost 10 million jobs with furlough, and we are now extending the scheme throughout November. We have already paid out £13.7 billion to help the self-employed, and I can announce today that for November we will double our support from 40% to 80% of trading profits. My right honourable friend the Chancellor will also extend the deadline for applications to the Covid loan schemes, from the end of this month to the end of next, to ensure that small businesses can have access to additional loans if required.

We are not going back to the full-scale lockdown of March and April, and there are ways in which these measures are less prohibitive. We have, for instance, a moral duty to keep schools open now that it is safe to do so, because we must not let this virus damage our children's futures. Schools, colleges, universities, childcare and early years settings will remain open, and I am pleased that that will command support across the House.

It is also vital that we continue provision for non-Covid healthcare, so people should turn up to use the NHS and to get their scans. They should turn up for appointments and collect treatments.

Let me stress that these restrictions are time-limited. After four weeks, on Wednesday 2 December, they will expire, and we intend to return to a tiered system on a local and regional basis, according to the latest data and trends. The House will have a vote to agree the way forward. We have updated the devolved Administrations on the action we are taking in England, and we will continue to work with them on plans for Christmas and beyond.

[Baroness Goldie]

While scientists are bleak in their predictions over the short term, they are unanimously optimistic about the medium and long term. If the House asked me, "What is the exit strategy? What is the way out?", let me be as clear as I can that the way out is to get R down now, to beat this autumn surge and to use this moment to exploit the medical and technical advances we are making to keep it low.

We now have not only much better medication and the prospect of a vaccine, but we have the immediate prospect of many millions of cheap, reliable and rapid-turnaround tests with results in minutes. Trials have already shown that we can help to suppress the disease in hospitals, schools and universities by testing large numbers of NHS workers, children, teachers and students.

These tests, crucially, identify people who are infectious but who do not have symptoms, allowing them immediately to self-isolate and stop the spread of the disease and allowing those who are not infectious to continue as normal. This means that, unlike in the spring, it is possible to keep these institutions open and still stop the spread of the disease.

Over the next few days and weeks we plan a steady but massive expansion in the deployment of these quick-turnaround tests, which we will be manufacturing in this country and applying in an ever-growing number of situations, from helping women to have their partners with them when they are giving birth on labour wards to testing whole towns and even cities. The Army has been brought in to work on the logistics, and the programme will begin in a matter of days. We have dexamethasone, the first validated life-saving treatment for the disease, pioneered in this country. We have the real prospect of a vaccine, as I say, in the first quarter of next year; and we will have ever more sophisticated means of providing virtually instant tests.

I believe that those technical developments, taken together, will enable us to defeat the virus by the spring, as humanity has defeated every other infectious disease, and I am not alone in this optimism. But I cannot pretend that the way ahead is easy or without painful choices for us all, so for the next four weeks I must again ask the people of this country to come together, to protect the NHS and to save many thousands of lives. I commend this Statement to the House."

4 pm

Baroness Smith of Basildon (Lab): My Lords, our procedure at the moment is to assume that Members watched the Prime Minister yesterday when he made his Statement or have read its content. One thing I would say at the outset is that the scale and depth of the crisis mean that mistakes and misjudgments have huge consequences. That weighs heavily on those making decisions, but there is a common national interest in doing all we can to get the right judgments, decisions and policies. When making such difficult decisions, there must be an evidence base behind them, and we must take account of the immediate situation and the longer-term impact on our nation's collective health and future prosperity. More than that, we must learn from this time and offer hope about the kind of society that we will have post Covid. We are therefore supporting the Government's proposal, with some questions, but that does not mean that we think the Government have handled it well.

I am not clear what changed between 21 September when SAGE recommended this kind of national lockdown, 13 October when Keir Starmer called on the Government to follow the SAGE advice, and last weekend. On the day when SAGE called for national restrictions, there were 11 deaths and 4,000 confirmed cases. When the Prime Minister made his statement to the nation, there were 326 deaths and more than five times the number of daily infections. That was not unexpected, nor was it inevitable.

The basis for this decision was there in September, when the Government's own scientists recommended a short circuit-break. That was ignored. It was there again two weeks later as new cases of Covid started to become rife across parts of the north-west and elsewhere, but it was again ignored. It was also there when my right honourable friend the leader of the Opposition, Keir Starmer, suggested nearly three weeks ago that the Government extend the then upcoming school half-term to tackle the spread of the virus head on. At that point, it was not just ignored but ridiculed and attacked. The weekend leak and the rushed press conference, with charts that you could not even read on the TV, must have been precipitated by something else, given that those projections had been available for weeks. Can the noble Baroness tell us what precipitated that announcement?

Given all that, I am surprised that the Prime Minister showed such little humility in his Statement. So many government announcements, such as the world-beating track and trace system and briefings of a vaccine within weeks, have proved to be enthusiastic and exuberant overconfidence. We do not need that; we need realism, honesty and an ongoing evidence-based strategy.

These proposals for a month of national restrictions are not where anybody wants to be. Let us be clear: we all know how difficult and disruptive these restrictions can be, both socially and economically. The Government have taken some action but, as Ministers have acknowledged, there is more to be done for families, individuals and businesses to help them cope now and prepare the nation for the future.

However, there are some things worse than these restrictions. One, as advocated by some, would be to do nothing; the other would be the failure to use this time to test, trace and isolate, and to prepare for a safe route back to a more normal way of living and working. Despite the huge amounts of money involved, fixing test, trace and isolate did not happen over the summer.

We will not be able to eradicate the virus via a mass vaccination programme that will be ready in four weeks, but we must have test, trace and isolate sorted. If we do not do enough tests and get the results back very quickly, we cannot trace. If we do not trace—at present, we are tracing only six out of 10 contacts—we cannot effectively isolate; and if isolation is to be effective, it has to be meaningful, with meaningful support for those in isolation.

I have a few questions for the noble Baroness about the support that is needed. First, I welcome the fact that the Government have pulled their plans to cut

support for the self-employed; it is a limited extension to April, but it is to be welcomed. We also welcome the extension of furlough, but this really shows the mismanagement of the issues surrounding governing by leak. The announcement came on the day when furlough was due to end; the Job Support Scheme was meant to start on 1 November. To be eligible, employees must be on an employer's payroll for a minute before midnight on 30 October. However, people had already been made redundant in the expectation that furlough was going to end. Employers will still be expected to cover pension and national insurance contributions, reflecting the changes made in August, not the scheme in March. Can the noble Baroness confirm that she understands that the Government need to stop these last-minute cliff edges, because they just add to the stress and difficulties for businesses and individuals?

On another related issue, given the plight of the newly unemployed, are the Government now giving any consideration to reinstating their previous bans on rental evictions and home repossessions? Also needed is a winter strategy to help food banks ensure that nobody in our country, including the so-called newly hungry—former middle-class earners—go without the basic provisions they need.

When other areas facing restrictions, including those initiated or imposed by the Government, asked for additional support, they were told in no uncertain terms that it was not available. The Mayor of Liverpool City Region, Steve Rotheram, said that the Government had been "unequivocal" in refusing to provide more than two-thirds of the pay of hospitality workers across the north whose businesses were forced to close under tier 3 measures. The First Minister of Wales, Mark Drakeford, said the Chancellor had rejected his request to pay subsidies for wages when Wales went back into lockdown. He said:

"I got an answer quickly to say that was not possible for a number of technical reasons and so, no."

Clearly that was not the case with the announcements that have been made now.

Rather than just apportioning blame, this tells us that what is needed is a longer-term strategy to deal with the current situation, and a longer-term exit strategy that tapers support in a way that allows businesses to plan ahead with at least some degree of confidence. We all know that nothing can be said with certainty, but can the noble Baroness confirm whether there is long-term strategic planning for different scenarios at the heart of government decision-making so that the Government and businesses can prepare?

I also want to raise something very specific about the hospitality and retail sectors in the weeks and months ahead. As we know, the festive season over the run-up to Christmas and the break itself in normal times gives a real boost to their income. They need that this year more than ever. However, with Michael Gove indicating that this will go on much longer than four weeks, what advice do the Government have for how those businesses should plan for December? Should they spend money on marketing materials, menus, staging, food orders and extra staffing, because the Government have said this will end on 2 December? If they do all this and we need an extension to the current lockdown, how might the Government support them in dealing with financial losses? I do not expect an answer from the noble Baroness on the details today, but I would like to hear that the Government have factored that in and are planning for that scenario, should it arise—we hope it does not.

We need businesses to survive and people to remain employed in order to prepare for the future. None of us has a crystal ball to predict what will come next, but there are three things that we need to do: trust the public, give them honesty and realistic predictions about what is likely to happen, and give them the support that they and the country deserve.

Lord Newby (LD): My Lords, in responding to the Prime Minister's Statement, there is a great temptation simply to dwell on the Government's sloth and incompetence in now introducing more draconian measures than they would have been required to do if they had followed SAGE's advice in late September and introduced a short circuit-breaker lockdown then. If they had done so, many lives would have been saved, many jobs would have been preserved and many businesses, which will now go bust, would have survived.

However, in accepting the lockdown now, the important thing is to look to the future rather than the past. I have three general suggestions. The first is to be more balanced about the evidence. It is extremely difficult for the non-specialist to know exactly what the current trends really foreshadow. For example, at the weekend the Government produced a range of options, including one which spoke of 4,000 deaths a day, yet the projection on which that was based was already a month out of date last Friday and predicted 1,000 deaths a day by the weekend against the 200 that actually happened. Meanwhile, the measures on the ground in Liverpool appear to be working, with the R number now well under one. The Government need to stick to the data on the ground, which justifies the lockdown, as the Liverpool experience shows, but does not justify hyperbolic claims about future levels of deaths.

Secondly, the Government need to be clearer about what happens next. The Prime Minister said yesterday that the lockdown would end

"without a shred of doubt"—[*Official Report*, Commons, 2/11/20; col. 43.]

on 2 December and that the tiered system would then be reintroduced. However, they are completely unclear about the basis on which decisions on that will be taken. They should set out now the parameters regarding the prevalence of the disease that they intend to follow in making decisions on future restrictions, so that individuals and businesses alike can begin to plan ahead on an informed basis or, at the very least, will know the basis on which the Government intend to take decisions.

Thirdly, the Prime Minister needs to start acting like the Prime Minister of the United Kingdom, not just of England. Frankly, it is ludicrous that the nations of the United Kingdom are so out of step in the timing and content of the restrictions that they have introduced. My colleague Ed Davey suggested recently that the Prime Minister should discuss with the devolved

[Lord Newby]
Administrations how to reach a common approach to Christmas. So he should, but he should also, as a matter of course, discuss regularly with them a co-ordinated approach to fighting the disease more generally. Failure to do so will not only cause further confusion but further undermine support for the union itself.

I have a number of specific questions for the Government. First, even where people are contacted by the track and trace system, the proportion who self-isolate is disappointing, with some estimates of compliance as low as 10%. A principal reason for that is the loss of earnings that people suffer if they do. The Government have introduced a scheme for paying those on low incomes in these circumstances but it simply is not working properly. Can the Government ensure that at the point when an individual is told to self-isolate, they are provided with details about how to claim the compensation, with the Government then paying up quickly?

Secondly, will the Government commit now to paying for free school meals during the Christmas period? It is simply unacceptable at this point for them to cut off a lifeline for the poorest children in the country. It is equally unfair for Manchester United fans to expect Marcus Rashford to act as the conscience of the nation as well as perform his day job.

Thirdly, will the Government give some financial certainty now to those sectors that will be unable to operate profitably for some months ahead? In particular, those offering tourist accommodation cannot expect to operate profitably, even if the lockdown is lifted, as hoped, during the winter months. Without further bridging support, many otherwise perfectly profitable businesses will simply not survive. Will the Government now provide a bespoke lifeline for them?

Finally, will they upgrade the carer's allowance? Yesterday, in response to a question in another place from my colleague Ed Davey, the Prime Minister said that he would "look at" the proposal that the carer's allowance be upgraded by £20 a week in line with the increase in universal credit. I urge the noble Baroness to give the Prime Minister a nudge to ensure that that happens without delay.

We will discuss the details of the new regulations at some length tomorrow. There are many inconsistencies in them that should be corrected, as the earlier discussion in the House on the opening of churches demonstrated only too clearly.

The Government's chaotic approach to combating the virus has left people feeling confused, depressed and fearful for the future. The country knows that the Government have to perform an extremely difficult balancing act between combating the disease and permitting economic and social activity to continue. People are sympathetic with them as they face that dilemma. However, that sympathy is wearing pretty thin. People will grudgingly accept this lockdown but if even that grudging acceptance is to be maintained, the Government will need to be more transparent, fair and ahead of the curve than they have been until this point. They simply have to up their game.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): I thank the noble Baroness, Lady Smith, and the noble Lord, Lord Newby, for their comments and will attempt to answer their questions. They asked what had changed to mean that we are now looking to introduce these new restrictions. As SAGE said in September in relation to a circuit break, we had to balance the epidemiology against the real damage that lockdowns cause for the economy and people's mental health, which is something we all acknowledge. We had hoped that the strong local action we were looking to take would get the rates of infection down. It is important to say that the measures have made sure that the R rate is lower than it would have been but, unfortunately, we have seen the rates going up and have exhausted every other tool at our disposal in trying to suppress local outbreaks with local action.

We were presented with national data that we could not ignore. It suggested, for instance, that if we did not take further measures, we could exceed the first wave peak around 20 November, exceed currently available hospital beds around 23 November and exceed surge capacity—capacity freed up from postponing some local hospital services—around 4 December. Data like that meant that the Prime Minister felt that we needed to take further action.

The noble Lord, Lord Newby, mentioned scientific evidence and the data. I should stress that the case for the latest measures was not built around the analysis to which he referred about possible deaths. As I have said to noble Lords on many occasions—I know that everyone is aware of this—a whole series of metrics is involved in these decisions, including the medium-term projections on hospital admissions and daily deaths, as well as the evidence on the ground, which in too many areas, unfortunately, were going in the wrong direction.

The noble Baroness, Lady Smith, and the noble Lord, Lord Newby, talked about the economic support. I am grateful to the noble Baroness for acknowledging the extension of the furlough scheme and some of the other measures we have taken in relation to the self-employed. We have had one of the most comprehensive economic responses of any country, with more than £200 billion of support. She and the noble Lord mentioned sectors that are struggling and need support. I hope that noble Lords will accept that we have moved to try to address the circumstances and support our businesses. We will continue to do that. The noble Lord mentioned the charter and looking at the carers' allowance. We will of course keep all this under review as we start to see the impact of the latest lockdown as we move towards 2 December.

The new restrictions are being accompanied by additional support through the extension of the furlough scheme, whereby employees receive 80% of their current salary for hours not worked. There is an additional £1.1billion for local authorities to enable them to support businesses in their areas more broadly. We will continue to look at the economic package and there is strategic long-term planning to make sure that we can provide the support needed.

The noble Baroness asked about evictions. From the start of the pandemic, we have provided nearly £1 billion of support by raising the local housing allowance to

cover at least 30% of market rents. As she will know, we changed the law to double eviction notice periods from three to six months, allowing someone who is served notice today to stay in their home until May, save for the most serious cases. We will continue to protect renters facing hardship from eviction and set out further details of measures soon.

The noble Lord talked about our relationships with the devolved authorities. I think that there are more similarities than differences in our approaches. For instance, we have all brought in measures at a local and national level to control the virus, mandated closing times for hospitality and brought in social distancing restrictions. We work closely with the devolved Administrations; obviously, the CMOs of the devolved nations talk regularly. However, it is right that they make their own public health assessments and decide what measures they should put in place and are most appropriate.

I assure the noble Lord that we have had hundreds of committee meetings, calls and meetings at official and ministerial levels, and that will continue. We have provided Wales with £4.4 billion of extra funding this year, Scotland with an extra £7.2 billion and Northern Ireland with an extra £2.4 billion through the Barnett guarantee. We are working as a United Kingdom as we tackle this terrible pandemic.

Both the noble Lord and the noble Baroness rightly asked about the end of the current restrictions. As the Prime Minister has said, these measures will be time limited, ending on 2 December, which is when the SIs that we will debate tomorrow will expire. At that point, we will review the restrictions, which will be eased on a regional basis, according to the latest data. Of course, the aim of this action is to get the R number down now, beat this surge and use this opportunity to exploit the medical and technological advances we have made. For instance, I am sure noble Lords have seen the pilot in Liverpool of the mass city testing as well as the better drug treatments that we have and tackling some of the issues we have seen with test and trace.

The R rate is lower as we move into this new phase than it was in March, so we are confident, knowing that the great British public will stick to these rules, that we will have a good reduction in the R rate and that we will be able to come out of these restrictions. I cannot predict what will happen after 2 December, but I assure noble Lords that we will work to make sure that everyone has as much clarity and confidence as they can.

The Deputy Speaker (Baroness Morris of Bolton) (Con): My Lords, we now come to the 30 minutes allocated for Back-Bench questions. I ask that questions and answers be brief so that I can call the maximum number of speakers.

4.22 pm

Lord Lamont of Lerwick (Con) [V]: My Lords, the Government have a very difficult task indeed, and I ask my question simply in a spirit of inquiry. I am puzzled by the latest graphs, to which the noble Lord, Lord Newby, referred: the four winter scenarios shown to the country by Patrick Vallance on Saturday, showing deaths totalling 4,000 a day. Is this really a realistic possible figure, considering that the previous realistic worst possible case forecast was 800 a day? The daily death rate was 1,000 in the first wave, and this figure is well above the daily death rate of a country like Brazil. Why is the second wave forecast to be so much worse than the first? Was lockdown ineffective and just temporary or is it, as the Deputy Chief Medical Officer suggested yesterday, just in the nature of the virus that the second wave would be worse? If so, why was this not predicted in previous forecasts and why did anyone ever talk about defeating the virus?

Baroness Evans of Bowes Park (Con): I thank my noble friend. I hope that I mentioned, in my response to the noble Lord, Lord Newby—and I should stress this—that I believe the Chief Medical Officer and Chief Scientific Adviser are giving evidence to the Commons Select Committee at the moment to say that the case for the latest measures was not built on the analysis of deaths that the noble Lord mentions. This was not a prediction but just one of the possible worst-case scenarios. As I said, a whole series of other metrics informed the decision as well as the evidence on the ground, which, unfortunately, showed that things were going in the wrong direction. In particular, for instance, the over-60s rate was going up, which correlates with future hospitalisations, and that is still rising. As such, it was a range of measures, and those particular numbers that he mentions were not the reason on which this lockdown, or these proposed measures, have been put forward.

The Lord Bishop of Winchester [V]: My Lords, the situation facing the country is gravely concerning and we all have a collective responsibility to avoid overwhelming the NHS with the spread of the virus. Churches and faith communities continue to play a crucial role in supporting their local communities. The social and economic support of churches has been estimated at more than £12 billion a year. In my diocese, many churches have offered emergency food and essential supplies to those in desperate need as part of the love your neighbour initiative. It is pleasing, therefore, that the Government have recognised the significance of this contribution by permitting places of worship to continue to offer such essential services during lockdown. I also welcome the provision for private prayer, broadcast and the continuation of funerals.

However the most reverend Primates the Archbishops and the right reverend Prelate the Bishop of London said in their letter to clergy this weekend:

> "The sacramental life of the church cannot be seen as an optional extra."

Access to the sacraments and communal worship are essential to sustain us with much needed hope at this time and to strengthen our commitment to social action. Yet more is needed: people need to be married and not just buried. I am glad to say that we are not exactly in the place where we were in March. Many clergy have worked hard to ensure that places of worship are safe places to be. Today our Archbishops, the Cardinal, the Chief Rabbi and other faith leaders have written to the Prime Minister to say that the

[The Lord Bishop of Winchester]
continuation of public worship is essential. Will the Minister commit to review the blanket ban? If not, will she publish the evidence used to justify this decision?

Lastly, given the lack of consultation with faith communities before this announcement, can the Minister provide assurances that the Government will consult the churches and other faiths in advance of future decisions such as these?

Baroness Evans of Bowes Park (Con): Of course we recognise that religious practice is of fundamental importance to millions of people across the country. That is why we are enabling individual prayer in places of worship for those who practise that way. We absolutely understand that, for people of faith who take part in communal worship, it will be extremely disappointing news that it cannot continue for the next month, and, of course, it will be difficult for those whose festivals fall during this time. We entirely understand the issue, but we are committed to ensuring that we work collectively to bring the R rate down so that in December we can, we hope, start to get back to normality once we have suppressed the virus, which is what we are all intending to do.

Lord Ashton of Hyde (Con): My Lords, I remind noble Lords that this time is meant for questions not statements, which will allow all noble Lords who want to to get in.

Lord Kakkar (CB) [V]: My Lords, I draw attention to my registered interests. The lockdown for the coming month in England must achieve a substantial reduction in coronavirus circulation in the community so that hospitals are not overwhelmed by Covid-19 admissions and are able to continue to admit Covid-19 and non-Covid patients requiring urgent and elective care in future. How will Her Majesty's Government use this one-month period better to prepare our National Health Service and our public health systems to secure these objectives so that further lockdowns will not be necessary?

Baroness Evans of Bowes Park (Con): The noble Lord is absolutely right. Concerns about pressure on the NHS were one of the key drivers behind the decision made as well as the fact that, unfortunately, we are seeing in some areas of the country a small number of non-elective procedures having to be cancelled, and we absolutely do not want that to happen. That is why during this time opticians, pharmacies and GPs will stay open, and we will continue to urge people who need any type of medical opinion, attention or treatment to continue to attend appointments and see professionals. We are ramping up testing capacity. We are providing millions of items of PPE, £3 billion of funding to make sure the Nightingales can provide surge capacity and £300 million to make sure that departments have the funding they need to upgrade ahead of the winter and ensure that the NHS is not overwhelmed.

Baroness Morgan of Cotes (Con) [V]: My Lords, as part of Saturday night's slide presentation, the Chief Medical Officer and Chief Scientific Adviser made it clear that the Covid-19 hospital admissions rate is the key factor in deciding on a new national lockdown now. Has the bed and ventilator capacity offered by the Nightingale hospitals been taken into account when calculating admission rates compared to the last peak and surge capacity in our NHS?

Baroness Evans of Bowes Park (Con): Yes, they have.

Baroness Finlay of Llandaff (CB) [V]: My Lords, financial support is essential to compliance with lockdown. At the start of the Welsh lockdown, the Government declined the Welsh Government's request for early access to the job support scheme, despite Wales offering £11 million towards it, and declined a request to widen eligibility for the job retention scheme. Now that the job retention scheme has been extended and includes workers recently made redundant, will support be backdated to 23 October for Wales and be guaranteed for future lockdowns, if needed, in the devolved nations?

Baroness Evans of Bowes Park (Con): As we have made clear, the furlough scheme is a UK-wide scheme, and, as the Prime Minister said, we will always be there for all parts of the UK.

Baroness Armstrong of Hill Top (Lab) [V]: My Lords, can the Minister confirm that local authorities now get sufficient information and data to know where their centres of infection are? Will the Government commit today to working with them to ensure that they have the resources to bear down on those places, whatever they may be, so that they can confidently be prepared to come out of lockdown and to keep on top of that? That means that they will need to be on top of test, track and trace in that more dangerous time after lockdown in particular. Local authorities have shown that they can do track and trace effectively. Why do the Government not work with them in a more trustworthy way and give us all hope that we can get out of lockdown and begin to deal with this virus more effectively?

Baroness Evans of Bowes Park (Con): I entirely agree with the noble Baroness. We are working very closely with local authorities, and they do indeed have significant resources and powers to do local contact tracing. In fact, there are more than 128 local authority contact tracing teams in place around the country, with more to come. I am sure she will be aware of the Liverpool pilot scheme, which we are hoping will be successful and roll out. Everyone living and working in Liverpool will now be offered a Covid test, whether they have symptoms or not. Whole-city testing aims to protect those at highest risk and find asymptomatic cases in order to prevent and reduce transmission in the community, exactly as the noble Baroness said. If this approach works—and we are looking to roll it out—we are hopeful that it will play a significant role in doing exactly what the noble Baroness says in helping to make sure that local authorities and local areas can bear down quickly and effectively on outbreaks within their area.

Lord Bruce of Bennachie (LD) [V]: My Lords, yesterday the Prime Minister, in his characteristic style, said that the same terms would be available to Scotland if it

went into lockdown later than England, yet this seems to be have been qualified by Robert Jenrick today, who said that it was a matter for the Chancellor. Scotland is watching to see whether the current restriction levels will bring about a sustained fall in the infection rate or whether more stringent measures will be needed. I am happy to acknowledge the £7.2 billion of additional support provided by the Treasury to Scotland, but we do not want a lockdown just to qualify for furlough, so clarity is needed. Will the same support now being given to England be available to Scotland if it has to follow the same route on a later timescale beyond 2 December?

Baroness Evans of Bowes Park (Con): I am grateful to the noble Lord for acknowledging the £7.2 billion of funding for Scotland. This intervention has saved nearly 1 million jobs in Scotland, which I am sure is very welcome. As we have said, the furlough scheme is a UK-wide scheme, and it will always be there for all parts of the UK.

Viscount Eccles (Con): My Lords, I would like to make a small plea about the NHS. There was a very good statement today from Professor Stephen Powis on the actual position facing the NHS. Accurate information is essential to keeping the confidence of the public, as has been said already today. Sometimes it seems that what is happening in the NHS is slightly cloudy behind a lot of other information—scientific information in particular. Will my noble friend encourage the NHS to go on telling us exactly what is happening within its own front line and make sure that, when it does, it gets properly publicised?

Baroness Evans of Bowes Park (Con): Across the House, we pay tribute to all staff in the health service, from doctors and nurses to cleaners and security, who have done so much over the last few months. I cannot imagine the strain they must be feeling at the moment. Data from the NHS is critical. One of the key things we are trying to do in taking these measures is to ensure that the NHS is not overwhelmed and continues to provide fantastic service, support and care for all members of our society.

Baroness Bull (CB): My Lords, like other noble Lords, I welcome the reintroduction of schemes put in place during the first lockdown to protect livelihoods. However, thrown into sharp relief is the absence of a shielding programme this time. This puts people with disabilities and others vulnerable to Covid in a difficult position. It makes going to work a choice for them or their employer, with all the risks that entails. It increases financial peril and makes access to appropriate care a greater challenge. Can the noble Baroness explain why, when support programmes to protect livelihoods have been reintroduced, a formal shielding programme to protect lives has not?

Baroness Evans of Bowes Park (Con): We learned from the first lockdown that shielding, as I am sure the noble Baroness is aware, can have a considerable impact on mental health and well-being. That is why we decided, at this stage, not to ask people to shield in the same way again. However, we accept that the clinically extremely vulnerable, in particular, will need to minimise their contact with others and not go to work. We are providing over £32 million of extra funding to enable local authorities to provide support to that group, which needs it, including by helping people to access food and meeting other support needs to enable them to stay at home. We have balanced the experience from the first lockdown and its impacts on mental health and well-being with the decision not to suggest shielding, at this point.

Lord Brooke of Alverthorpe (Lab) [V]: My Lords, I share the view in the Statement that it was right to try every possible option to get the virus under control at the local level. As the Minister reported, there have been some successes there, but we did not make the progress we should have, overall. Unfortunately, political wrangling has not gone down well with the public, who are getting tired of seeing it. If the Government intend, as they state, to adopt a pragmatic and local approach again in the months ahead, is one of the lessons learned that this might be more successful if the Government seek to bring all the political parties, at all levels, into the process? Would the noble Baroness consider a joint plan of action along the lines suggested by her colleague and former Minister, the noble Lord, Lord Bridges of Headley?

Baroness Evans of Bowes Park (Con): The noble Lord is right that we need co-operation locally and nationally. The Liverpool pilot that I mentioned is starting specifically as a local partnership, with central government support. That was requested by the leaders of Liverpool. We hope that we can roll out this model across the country, with the effects that it will have from its ability to find and bear down on the virus locally. It is absolutely about local and national partnership.

Baroness Doocey (LD) [V]: My Lords, the tourism and hospitality industries have been thrown into confusion by the latest announcements. Tour operators, conference and events organisers, coach operators and language schools are important components of the travel industry. Will these firms be eligible to claim either the local restrictions support grants or any of the £1.1 billion given to local authorities to support businesses?

Baroness Evans of Bowes Park (Con): Both the pots of money the noble Baroness mentions are under the control of local authorities, and it is entirely up to them to decide which sectors or types of business to support in their area. It is within their gift to provide support, if they have businesses in those sectors, as the money is for them to provide to local businesses, which they know best.

Lord Lansley (Con) [V]: My Lords, does my noble friend agree that we must now plan for several months of constraining transmission of the virus before a vaccine is widely available? Such a plan must mean very limited social contact if we are to keep schools and businesses open and the economy moving, so does she also agree that it will not help to talk of a return to normal any time soon?

Baroness Evans of Bowes Park (Con): I think we are all aware that, as I said, we will review the restrictions on 2 December and look to ease them on a regional basis, according to the latest data. The Chief Scientific Officer has been clear that we will not be going back to normal in four weeks' time—if we can remember what normal is now. My noble friend is absolutely right: we want to use this time to make sure that we provide the drugs that have proved to be quite effective and, as I said, start new pilots such as the one in Liverpool, so that we are able to bear down in a more effective way. We must use this time to bring the R rate down and make sure that we have the tools available to keep it down, so that we do not have to go back to further national measures such as these if we can avoid them.

Viscount Waverley (CB) [V]: My Lords, I have a quick thought, having listened to the Mayor of Liverpool this morning, about not counting into the statistics those who have multiple tests and were shown to be Covid-free first time around. Thinking of the future with hope, will the Government press for an expansion of the no-tariffs WTO pharmaceutical agreement and an acceleration of the implementation of the WTO trade facilitation agreement? What are the Government planning in preparation for a fair and equitable distribution of any Covid vaccine worldwide that leaves a positive legacy on the global trading system, particularly in relation to no tariffs on medical supplies and to efficient, digitised customs and borders?

Baroness Evans of Bowes Park (Con): I hope the noble Viscount will be pleased to know that, last week, we confirmed that we will join the global COVAX initiative, with the aim of expediting the discovery, manufacture and fair distribution of a vaccine to 1 billion people.

Lord Desai (Lab) [V]: Will the Government, at some stage, explain to the country how come we have the same mortality rate per million as the United States, yet while the United States has achieved a 33% growth of GDP quarterly in the third quarter, we are still in a recession? We have protected neither lives nor livelihoods. Can the Government not do better?

Baroness Evans of Bowes Park (Con): I am not sure I heard everything the noble Lord said, so I will go back and check. I think he was talking about the economy, but if I have got that wrong, I apologise. We have put in place one of the most comprehensive economic responses of any country, with more than £200 billion of support. We have protected 12 million jobs through the furlough and self-employed schemes, and we will continue to provide all the support we can to businesses that are struggling at this time.

Lord Empey (UUP): To regain public confidence after the lockdown in England ends on 2 December, will my noble friend ensure that the Government establish a clear series of trigger points that will determine when an area is required to be placed under restrictions, including the financial support that will be available to devolved Administrations or councils, so that unseemly public arguments with local leaders can be avoided in future?

Baroness Evans of Bowes Park (Con): That is certainly what we will be aiming to do, and there will be a lot of work going on over the next months to make sure that we are in a position to do exactly as the noble Lord says.

Lord Mancroft (Con): My Lords, will my noble friend comment on the data released today by King's College, which shows new cases plateauing and a slight fall in cases in England, Wales and Scotland, with an R rate of 1.0?

Baroness Evans of Bowes Park (Con): Yes. Part of the reason behind that is that the number of younger people testing positive is falling, particularly among the university student population. Universities should certainly be congratulated on the work they have been doing, but I point out to my noble friend that the over-60s rate, which then correlates with future hospitalisations, is still rising.

Baroness Boycott (CB) [V]: I welcome the more generous level of support to self-employed people announced by the Chancellor, but the 3 million self-employed people who were disqualified from receiving support earlier this year remain so. Given that many of these people are now hungry, as we have seen in Feeding Britain, which I chair, and are having to use food banks for the first time in their lives, will the Minister urgently review the eligibility criteria?

Baroness Evans of Bowes Park (Con): As I have said, we have put in place a comprehensive economic package but the noble Baroness is right that some people have not benefited from certain schemes. The Treasury and the Chancellor and his team always keep this under review and we will continue to look so that we can provide as much support as we can to people at this difficult time.

Lord Liddle (Lab): My Lords, do the Government recognise that it is crucial what they do with the breathing space that this lockdown is providing? In that context, did they listen—as I hope they did—to what our former Prime Minister suggested on the "Today" programme yesterday? He said that we should roll out vaccines as soon as we know they are safe, before we know how effective they are; push out experimental therapeutics as long as they are safe; get a grip on the data confusion that exists; and appoint a Secretary of State for Testing to sort out track and trace, just as Churchill appointed Max Beaverbrook in the Second World War to handle aircraft production.

Baroness Evans of Bowes Park (Con): We have secured early access to 350 million vaccine doses through agreements with six separate vaccine developers, and are investing more than £140 million to make sure that we are ready to manufacture a successful vaccine. We are planning for rollout, making sure that we have adequate transport, PPE and logistical expertise. I assure the noble Lord that, at the forefront of what we are doing, we are working towards making sure that we can take advantage of vaccines when they reach the stage when they can be used.

As we have said, we want track and trace to improve and need faster testing turnaround times. They are improving but I accept that we need to do more. As I have said, the testing pilot in Liverpool is another way in which we hope we will be able to use the time over the next month. By testing a large proportion of a single town or city, more positive cases can be identified and people can be told to self-isolate immediately. The residents and workers of Liverpool will be tested using a combination of existing swab tests and the new lateral flow tests that can turn around results rapidly, within an hour, without needing to be processed in a lab. With all these things together, we will make use of this time to see how much we can roll out so we can really bear down on this in December.

Baroness Neville-Rolfe (Con): My Lords, I think the Cabinet may come to conclude that national lockdown is not the answer. However, let us look forward. When adopting Covid measures in future, can the Government please set out, in a straightforward way, the expected cost-benefit analysis in numerical terms, including not only the number of delayed Covid deaths and hospital admissions but estimates of the economic costs and the cost in other lives lost, as NHS treatment for other diseases is necessarily limited as a result?

Baroness Evans of Bowes Park (Con): My noble friend is right: we want to be transparent with data and information. Obviously, scientific data and information informing our actions are published on GOV.UK, as are specific relevant findings shared in presentations. I am sure that colleagues across government will take note of what she says.

The Earl of Clancarty (CB): My Lords, I welcome the Government's stated intention to mass test. What percentage of the population tested in Liverpool would be considered a success, and are the Government looking at the Slovakian example, where being tested is mandatory for all?

Baroness Evans of Bowes Park (Con): Everyone living and working in Liverpool will now be offered a Covid test, whether they have symptoms or not. Testing will begin this week and, as I mentioned in a previous answer, the pilot is being undertaken at the request of and in close collaboration with local leaders. The aim is to better control the spread of the virus and, as the noble Earl rightly says, gain more data about the number of cases across the city, so that even more targeted action can be taken and people find out the results of their test very quickly. Then they will know to self-isolate and will not perhaps unwittingly spread the virus.

Lord Dubs (Lab) [V]: My Lords, the Minister will be aware that many people have relatives, often aged parents, in care homes, and are unable to visit them because of the restrictions imposed. This is causing a great deal of pain. If we can test all the people of Liverpool, as I welcome, could we not have a rigorous testing programme where all people who have relatives in care homes can be tested so that they can visit their relatives, who often have dementia and are very lonely and isolated?

Baroness Evans of Bowes Park (Con): The noble Lord is absolutely right, and this is perhaps one of the most—of so many—heartbreaking situations within this pandemic. He will know that regular testing is now available for all care homes, which includes weekly testing of staff and monthly testing of residents. He is absolutely right—in this pilot in Liverpool the aim is to do this, but then to look at being able to roll out this sort of testing within the NHS and care homes so we can do exactly as he suggests.

House adjourned at 4.51 pm.

Grand Committee

Tuesday 3 November 2020

The Grand Committee met in a hybrid proceeding.

2.30 pm

The Deputy Chairman of Committees (Lord McNicol of West Kilbride) (Lab): My Lords, the hybrid Grand Committee will now begin. Some Members are here in person respecting social distancing, while others are participating remotely, but all Members will be treated equally. I must ask Members in the Room to wear a face covering except when seated at their desks, to speak sitting down and to wipe down their desks, chairs and other touch points before and after use. If there is a Division in the House, the Committee will adjourn for five minutes.

The microphone system for physical participants in the Room has changed. The microphones will no longer be turned on at all times, in order to reduce the noise for remote participants. When it is your turn to speak, please press the button on the microphone stand. Once you have done that, wait for the green flashing light to turn red before you begin speaking. The process for unmuting and muting for remote participants remains the same. The time limit for the debate is one hour.

Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020

Considered in Grand Committee

2.32 pm

Moved by ***Lord Goldsmith of Richmond Park***

That the Grand Committee do consider the Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020.

Relevant document: 32nd Report from the Secondary Legislation Scrutiny Committee

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con): My Lords, it is a pleasure to lead this debate today to discuss these regulations. The instrument makes operability changes to retained EU law and implements the Northern Ireland protocol in the context of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, CITES. This will be done by making changes to the UK's existing CITES regime, comprised primarily of retained EU law, in so far as it will operate in Great Britain, to ensure that the relevant EU regulations can continue to be properly implemented in Northern Ireland as required by the protocol.

Additionally, these regulations will consolidate previous instruments, making operability fixes to retained EU law so that the changes appear in one place. The regulations also make both further operability fixes in respect of more recent EU legislation that will become retained EU law and minor corrections to regulations that were not dealt with in earlier instruments.

CITES provides protection to more than 35,000 different species of endangered animals and plants. With its 183 parties, it is one of the conservation agreements with the largest global membership. The range of species covered by CITES is incredibly diverse, from zoo animals such as lions and giraffes, and household pets such as parrots and turtles, to corals, orchids and rosewood, commonly found in guitars. By regulating international trade in animals and plants and in their parts—such as fur, feathers and seeds—CITES aims to reduce the threat to these species in the wild.

CITES is implemented throughout the EU via the EU wildlife trade regulations, which are currently applicable in the UK. The EUWTR set out the controls for trade in specimens of endangered species of wild animals and plants to and from the EU, the UK and the rest of the world. Many UK businesses currently trade in CITES specimens. The relevant sectors are varied, including musical instrument makers and musicians, fashion, antiques, pharmaceuticals, floristry and businesses that trade in live animals for aquariums, zoos and pets. The UK is party to CITES in its own right and will continue to be bound by its obligations after the end of the transition period, regardless of the outcome of negotiations with the EU on the future relationship.

The UK is committed to supporting the work of CITES now and in future. At the CITES conference of parties in August 2019, the UK used its world-leading scientific and technical expertise to play a pivotal role in proceedings. As a result, 93 new species, including mako sharks, the spider-tailed horned viper, star and pancake tortoises, two species of swallowtail butterfly and several species of gecko and newt, will now benefit from enhanced protection under the convention. This is only one part of the Government's continued commitment to tackling the catastrophic loss of biodiversity that we are now facing.

The primary purposes of this instrument are to make operability fixes to retained EU law and to implement the Northern Ireland protocol with regard to CITES. In doing so, we are consolidating amendments made by previous CITES exit SIs, which have not yet come into force, into one instrument.

In implementing the protocol, CITES documents and relevant checks will be required for CITES specimens travelling between Northern Ireland and Great Britain in both directions. This will affect traders in Northern Ireland and traders in Great Britain who regularly move specimens in and out of Northern Ireland. This is to implement our convention obligations and the provisions of the Northern Ireland protocol.

In addition to consolidating operability fixes made in previous instruments, this instrument will make operability fixes in respect of more recent EU legislation that will become retained EU law and minor corrections not included in those previous instruments. For example the instrument deals with a new suspensions regulation, which came into force in October 2019. That regulation provides for bans on imports of certain species needing additional protection. By consolidating changes made in previous instruments that have not yet come into force, this instrument will also serve to make the legislation clearer and more easily accessible to end users.

[Lord Goldsmith of Richmond Park]

The instrument makes a number of amendments. The regulations make no changes to policy other than those necessitated by the Northern Ireland protocol. Part 2 of the instrument amends domestic regulations which provide for, among other things, enforcement powers with regards to CITES. Part 3 amends retained EU regulations on CITES to ensure that the regime is operable in Great Britain after the end of the transition period. The instrument was sent to the JCSI for pre-scrutiny and was returned with minor comments relating primarily to minor drafting issues.

This SI does not change policy other than as required by the implementation of the Northern Ireland protocol, so no consultation was undertaken. However, drafts of the instrument have been shared with the devolved Administrations during its development and drafting. In line with published guidance, there is no need to conduct an impact assessment for the instrument because there is no or no significant impact on the public, private or voluntary sectors.

The territorial extent of the instrument is the United Kingdom. The changes made by it, as a result of the UK's withdrawal from the European Union and the implementation of the Northern Ireland protocol, will affect Defra and the Animal and Plant Health Agency as documentation which was previously required at the EU border will now be required at the UK border—Great Britain or Northern Ireland, as the case may be. APHA has increased staff numbers in anticipation of this increased workload.

The regulations will also result in new documentary requirements at checks at the border for certain traders, which will affect Border Force. Defra has been in communication with Border Force throughout the transition period, and Border Force has trained new staff to address this additional requirement.

As a result of the protocol, as mentioned previously, documentation will be required for movement of CITES specimens between Great Britain and Northern Ireland. This will require additional enforcement by Border Force at ports of entry and exit between Great Britain and Northern Ireland. Border Force has increased staff numbers in order to address this increase and is well prepared for these additional checks from the end of the transition period. I beg to move.

The Deputy Chairman of Committees (Lord McNicol of West Kilbride) (Lab): Before I call the noble Lord, Lord Greaves, I want to highlight that a few noble Lords have withdrawn so that those online can be ready. The noble Lords, Lord Clark of Windermere, Lord Bowness and Lord Bhatia, have withdrawn and the noble Lord, Lord Mann, is not in the Room, so after the noble Lord, Lord Greaves, I will call the noble Lord, Lord Loomba.

2.39 pm

Lord Greaves (LD) [V]: My Lords, this is not a major matter of controversy today. It is, as the Minister has set out, a statutory instrument that mainly makes sure that existing rules and regulations, particularly in relation to air quality and the British implementation of CITES, continue after the end of the year until such time further changes have been made. In addition, there is the Northern Ireland business, which I have no doubt will affect all kinds of things in due course, but, for the moment, I do not want to say anything about that.

A lot of us do not have a lot of time for this Government and do not think that what they are going to do will be wonderful, but we are, to some extent, hopeful that the Minister in this House, who has introduced these regulations, will be a friend of the environment. At the moment, we are simply saying, "Yes, okay, this seems to be what is necessary in a technical way to go forward". The important question now is, after we have disentangled ourselves from the European Union—at least in legal terms—at the end of this year, will the Government's approach to the environment improve or will it not? Is the legislation that we are going to get—and we all look forward very much to the arrival of the Environment Bill in your Lordships' House—going to result in improved legislation and stronger controls over pollution, for example, or is it going to be an opportunity to deregulate and allow things to get worse? We do not really know the answer to that yet. We have had an Agriculture Bill that is full of promises of what might happen but with no clear guarantees of what will happen, and so we are just marking time at the moment. On that basis, this statutory instrument is to be supported.

2.42 pm

Lord Loomba (CB) [V]: My Lords, these regulations are part of key legislation that will govern our relationship with the EU after the transition period ends and uphold the agreement on the Northern Ireland protocol that ensures the peace process is maintained.

These regulations are permitted under the withdrawal Act 2018 to amend retained EU law on the trade of endangered species of wild flora and fauna across the border between the UK, in Northern Ireland, and the EU, in Ireland. However, for such important legislation that will govern part of our relationship with the EU, there has been no consultation before it was laid before Parliament for agreement. As a reserved matter, this also includes consultation with the devolved Administrations, including the Northern Ireland Assembly.

Alongside the fact that no consultation has taken place with interested parties, neither have the Government undertaken an impact assessment for these regulations in preparation for them coming into force. This is because the Government believe there is unlikely to be any, or any significant, impact on businesses, charities or voluntary bodies. In addition, there does not appear to be a secure mechanism in place to guarantee that the regulations are reviewed in a timely manner and updated, as required, to ensure they maintain their relevance and are fit for purpose.

In these circumstances, what assurances can the Minister give that, despite the lack of consultation and impact assessment, and there being no reviewing policy in place, these regulations are not going to have a detrimental effect on cross-border issues between the UK and the EU?

2.45 pm

Baroness Bennett of Manor Castle (GP) [V]: My Lords, it is a pleasure to follow the noble Lords, Lord Greaves and Lord Loomba, who have set out the technical aspects of the SI that we are debating today. They have probably covered that ground well enough.

This is a real opportunity to consider global biodiversity issues, perhaps the first that your Lordships' House has had since the final report on the Aichi biodiversity targets from the UN Convention on Biological Diversity. This brings to an end the UN decade on biodiversity—although perhaps it should be named the UN decade of biodiversity loss and collapse, because, of the 20 objectives set out for improving and saving biodiversity in 2010, none of the targets were met and only six were partially met.

Here, we are talking particularly about CITES and wildlife trade, and the implementation and application of those rules. In his introduction, the Minister referred to 93 new species being added to CITES, including a species of viper. I want to take this opportunity to draw the Minister's attention—if it has not already been drawn to this—to an excellent article in *Nature Communications* dated September 2020. It talks about the underregulated global trade in reptiles, which is of particular relevance given his introductory remarks. The figures in this article really are quite shocking: 35% of reptile species are traded online, three-quarters of the trade is not covered by international regulation, and 90% of the species and half the traded individuals are captured from the wild. This journal article covers the fact that CITES is currently focused on the most economically valuable species that are traded in large volumes.

I note, of course, that all of these issues have come under a renewed focus in the light of the Covid-19 pandemic. We are not yet sure of the path of the virus between bats and humans, but pangolins have certainly been suggested, and pangolins were added to CITES only in 2016. What this article suggests, and what I have seen in subsequent debate, is that CITES should consider turning around the burden of proof and method of regulation. It suggests that CITES should recognise certain species for which trade is allowed and then have a presumption that other species are not allowed to be traded unless they are known. I draw attention to the facts in this article: the researchers found that within about a year of a new species being discovered, there is first evidence of it being traded.

I understand that the Minister might not be able to reply immediately, but I ask him to ask his department to look at this article and to consider the incredibly parlous state of our global wildlife, and what the UK might do as a partner in CITES to make it more effective and really tackle the global biodiversity crisis.

2.48 pm

Lord Randall of Uxbridge (Con) [V]: My Lords, I first declare my entry in the register as a vice-president of Fauna and Flora International and other environmental organisations.

It is a pleasure to follow the noble Baroness, Lady Bennett of Manor Castle. She raises some important points about reptiles and other species. CITES is a very powerful tool, but it is not the only thing that should be implemented. I can say without hesitation to the noble Lord, Lord Greaves, that my noble friend the Minister is indeed a champion for the environment and we are very lucky to have him here.

It came as a surprise to me that, post Brexit, there will be separate CITES regimes in Northern Ireland, where EU law will continue to be implemented, and Great Britain, where retained EU law will apply. Perhaps I should have realised that. As we have heard, CITES regulates international trade through a system of documents, including export and import permits, which have to be presented at the border. While no such permits or checks are required for intra-EU trade, CITES permits and checks which were implemented at the EU border will now need to be implemented at the UK border after the end of the transition period. As a result of those separate CITES regimes that will operate in Great Britain and Northern Ireland, permits and checks will be required for moving relevant species between Great Britain and Northern Ireland in both directions.

Regulation 7(2)(a) and (k) remove references to the "committee" and the "scientific review group". Other parts of the regulations, including Regulations 7(5)(b)(ii)(aa) and 7(5)(c)(ii)(aa), remove requirements to consider the opinion of the scientific review group before the domestic scientific authority can advise on the import of wild species. While the UK will no longer collaborate with other member states in this way, the loss of this collaboration mechanism with other scientific bodies is potentially disappointing. In addition, in certain instances, references to the Scientific Review Group are replaced by references to a "scientific authority", but in other instances the role of the Scientific Review Group is not replaced.

Regulation 7(9)(a) removes the power for the Secretary of State to prohibit the holding of specimens, in particular live animals. I am a little unclear why this change is being made. Perhaps my noble friend can explain the implications.

Regulation 7(15)(b) removes the role of an enforcement group of representatives of each member state's authorities with a responsibility for ensuring the implementation of the provisions of Council Regulation 338/97. While the UK will no longer work with other member states to this end, the idea of an enforcement group is welcome and has not been replaced by any proposal for a domestic body, such as a body with a representative from each of the four devolved Administrations.

Regulation 7(17)(b) removes the requirement for sanctions for breach of Council Regulation 338/97 to include provisions relating to the seizure and, where appropriate, confiscation of specimens. I am unclear why this change is being made.

Overall, I would like some reassurance that the regulations will in no way be to the detriment of enforcing CITES in these islands.

2.52 pm

Baroness Jones of Moulsecoomb (GP) [V]: It is a pleasure to follow the noble Lord, Lord Randall. I want to echo his comments about the Minister, because I do understand that he cares deeply about these issues. Equally, legislation can always be improved, and I hope that he listens hard to noble Lords in this debate so that things can be improved. The noble Lord, Lord Randall, also covered some of the territory that I wanted to cover. However, I will carry on.

The noble Lord mentioned the loss of collaboration mechanisms with other scientific bodies. ClientEarth posed some questions to Defra, some of whose replies were a little glib. So I will ask two, three or four questions about that. I am curious about whether the scientific

[Baroness Jones of Moulsecoomb]
authorities—the Joint Nature Conservation Committee for fauna and the Royal Botanic Gardens, Kew—will have an expanded role or some extra funding. Clearly, if they are on their own or they have to set up new networks, they will need a little more money. I hope that the Government are thinking about that.

Secondly, on the enforcement group, Defra talks about the National Wildlife Crime Unit and Border Force—the Minister mentioned that Border Force had some extra officers. The position of the National Wildlife Crime Unit, which is essentially within the police, is a bit more nebulous in that, in 2016, it was given four-year funding, securing what Defra called its long-term future—I think that most of us would not think that four years was long term. That obviously runs out this year, so can the Minister tell me whether it has had extra funding and how much that funding was? When I was a member of the Metropolitan Police Authority in London, I was well aware that the Wildlife Crime Unit did the most incredible work. It was not valued, particularly by senior officers, despite the fact that it was often a very good news story for the Met police. It was constantly under threat of being removed or suffering a loss of security and funding. So can the Minister reassure me on all these questions but also that the National Wildlife Crime Unit has enough long-term funding to do the job properly?

The Deputy Chairman of Committees (Lord McNicol of West Kilbride) (Lab): After the next speaker, the noble Baroness, Lady McIntosh of Pickering, I shall call the noble Baroness, Lady Parminter.

2.55 pm

Baroness McIntosh of Pickering (Con): I welcome the regulations and place on record my support for CITES. I understand that all the retained EU law will be contained in one place once the regulations are adopted, which I welcome. I share my noble friend Lord Randall's concern that two separate regimes will operate, one for Great Britain and one for Northern Ireland. It begs the question of what happens in the event of species covered by the regulations moving between Northern Ireland and the Republic of Ireland after 1 January.

I understand that the criminal offences which flow from a breach of the regulations are fairly substantial: up to seven years in prison or an unlimited fine or both. Can my noble friend confirm that these criminal offences are kept under constant review and say what the mechanism is for that? Are they brought to Parliament for such a review? Also, what happens to the fines? Are they hypothecated and put to good future use for endangered species, or are they just put into a central pot?

My noble friend the Minister was rather dismissive of the report from the Secondary Legislation Scrutiny Committee, but I will refer in particular to paragraph 57, which states:

"We particularly note that, as highlighted by ClientEarth, a specific power for the Secretary of State to prohibit the holding of specimens, including live animals, is removed. While Defra regards a direct replacement of this power as unnecessary, we consider that holding or trading animals may pose a risk of spreading disease."

I agree. Would my noble friend like to take this opportunity to respond fully to that concern, which is a little broader than he considered?

As the noble Baroness, Lady Jones of Moulsecoomb, mentioned, Defra was a little dismissive in its response to the questions raised by ClientEarth in the context of the Secondary Legislation Scrutiny Committee report. I want to place on record my regret that, having left the EU, we will no longer participate in, or be bound by, EU structures, including the EU Scientific Review Group, under our CITES regulations applicable in Great Britain. Does my noble friend not recognise that the EU Scientific Review Group performs a notable amount of work, and is it not something that we would be like to be associated with, albeit loosely? Was he perhaps unaware that, at one stage, a Scottish scientist was the chief scientific adviser to the European Commission? I would like to commend her work in this regard.

2.58 pm

Baroness Parminter (LD) [V]: My Lords, I thank the Minister for his opening remarks and the noble Baroness, Lady Bennett of Manor Castle, for putting this statutory instrument in its rightful context of why we need CITES as an important tool in helping tackle the devastating biodiversity loss that we are facing on a global scale and, particularly in the context of CITES, the devastating loss of our global wildlife.

This is of course another operability statutory instrument required because the Government have agreed that there will be a border in the North Sea, given that Northern Ireland will remain in the European Union's single market and customs union after the end of this year, when we sadly leave the Union. However, as my noble friend Lord Greaves said, we support this statutory instrument but have a few questions and issues, some of which have been mentioned by other colleagues, so I shall not dwell on them at length—which I am sure will please other noble Lords. I also have some questions of my own.

The first issue I want to raise, which has not been raised by other noble Lords, is whether the paperwork or unloading centres for the trade in wildlife will be ready in time. At the moment, Northern Ireland inputs hardly any CITES species and there is limited trade from Northern Ireland into the rest of Great Britain, but, frankly, we do not know what will happen to trade patterns once we leave the EU. It may well be that the trade is diverted up through Ireland and across to the UK; we will therefore need adequate offloading centres and checks.

Will the ports at Larne, Belfast and Warrenpoint be ready by January to fulfil the obligations for checks on animals? Defra says that the Border Force has sufficient staff to meet all the requirements for CITES checks. I would be grateful if the Minister could tell us how many staff it has appointed to deal with the potential increase. Also, can he update us on DAERA's plans to build an extension at Belfast for the extra holding and inspection facilities, and the anticipated completion date?

The noble Lord, Lord Randall, and others mentioned issues that were rightly brought to our attention by the Secondary Legislation Scrutiny Committee and ClientEarth, including changing the regulations and removing the Secretary of State's powers to prohibit the holding of specimens. I agree with them that, given our current concerns over the impact of zoonotic diseases, the Minister needs to say a bit more about why we are not retaining the power in these regulations.

Further, I agree with the comments from the noble Baroness, Lady Jones of Moulsecoomb, the noble Lord, Lord Randall, and others questioning the loss of scientific expertise; ClientEarth expressed the same concerns very forcefully, and I look forward to the Minister's answer on that.

There is one final thing that I would ask the Minister to update us on. Of course, the regulations make it clear what will happen to wild animals that are pets coming to and from Northern Ireland. They will require new processes and new documentation. Can the Minister confirm what I have not heard confirmed: that taking domestic pets, such as our cats and dogs, to Northern Ireland will be the same as taking them to France after 1 January—that is, they will require pet passports? If so, when will we receive a statutory instrument to that effect? In the list of Defra SIs coming up before the end of the year, I have not yet seen anything on that issue.

3.03 pm

Baroness Jones of Whitchurch (Lab): My Lords, I thank the Minister for his explanation of the purpose of this SI.

The CITES international agreement is an absolutely vital protection for endangered wild animals and plants, as the Minister explained. We know that the trade across borders is worth billions of pounds. It covers exotic live animals as well as animal products and plants. Sadly, it attracts some of the most unscrupulous international gangs, which will readily flout the rules in pursuit of profit. So it is crucial that we have robust laws to ensure that the rules are properly enforced and that no loopholes can be exploited. So far, we on these Benches have supported the UK Government's leadership on international co-operation with CITES, although we believe that they could have moved faster to enforce and expand UK laws to protect endangered species.

It is important that the regulations before us today are absolutely watertight. This is particularly important as the application of the Northern Ireland protocol opens up a new dynamic in border control. We do not want any minor discrepancies between the different regimes in Great Britain and Northern Ireland—and, by extension, in the single market—to unintentionally open loopholes that could be exploited by criminal gangs.

These regulations will make clear the separation between CITES as it will operate in Great Britain after the end of the transition period and the EU regulations that will operate in Northern Ireland. As the Explanatory Memorandum makes clear in paragraph 7.5:

"A consequence of the arrangements made under the Protocol is that CITES permits and relevant checks will be required for movement of CITES specimens between Northern Ireland and Great Britain."

So I ask the Minister for more details about how he sees these checks taking place, following on from some of questions posed by the noble Baroness, Lady Parminter. Can he explain where the customs posts will be sited and how many border crossing points he envisages carrying out these checks?

This trade is specialised, and the smugglers are often very devious. The Minister has already explained that the customs staff carrying out this work have been appropriately trained, but can he reassure us that he is satisfied that enough staff will be in place for this responsibility? Also, are the staff newly trained or do they have experience of checking for endangered species elsewhere? Is that experience already there or are we talking about new people trying to tackle, as I say, very devious traders?

Can the Minister give an indication of how many cases Defra envisages will arise each year? Is it envisaged that the new customs checks will lead to delays? Given that we are talking about live plants and animals, has any thought been given to the welfare and preservation of these species? What protections will be provided?

Given that these regulations are due to come into effect on 1 January, which is only eight weeks away, what communication is envisaged to ensure that everybody who will be affected understands how the new protocol rules will be applied? Paragraph 11 of the Explanatory Memorandum states:

"Guidance will be provided … to clearly set out the actions businesses and individuals need to take to prepare for the end of the Transition Period".

Has this guidance been issued, and does it specifically cover the CITES issues that we are considering today?

I will ask a couple of questions about the details of the regulations, following on from some of the questions about enforcement posed by ClientEarth in its written submission to the Secondary Legislation Scrutiny Committee and asked by both the noble Lord, Lord Randall, and the noble Baroness, Lady Jones. On page 4 of the regulations, and in subsequent references, the phrase

"after considering any opinion by the Scientific Review Group",

is deleted, and it is stated that there will be a separate UK substitute. Can the Minister confirm that, whatever organisation the UK substitutes for the Scientific Review Group, it will have the same degree of involvement in decisions in the UK as the EU Scientific Review Group has?

On page 11 and elsewhere, the phrase

"a competent scientific authority of the Member State concerned"

is deleted, and the phrase

"the competent scientific authority of the United Kingdom"

is inserted. The change from "a competent" to "the competent" seems to imply that there is only one competent scientific authority in the UK. So can the Minister advise us which scientific body or bodies will provide this advice in future, and who will decide that on a case-by-case basis?

Finally, this is a consolidated SI, bringing together changes in several instruments that we have considered before, rather than amending each previous SI. The reason given is

"to make the legislation clearer and more accessible to all users."

So far, so good—we support this approach—but can the Minister say when Defra decided to change its approach? Will this policy now be adopted for the future updating of SIs? Why was this approach not adopted earlier in the process, to avoid the consideration of SIs that will now not even be enacted? I look forward to his response.

3.09 pm

Lord Goldsmith of Richmond Park (Con): I thank noble Lords who have contributed to this debate. In order to prepare for the end of the transition period, it is essential that we have the right legislation in place to continue to protect endangered species, in accordance with our international obligations, and ensure that trade does not threaten the survival of these species in the wild.

A wide range of questions and suggestions was put forward in this debate and I will do my best to address them all. I will start with the noble Lord, Lord Greaves, who acknowledged that this was not a major piece of legislation but raised concerns more generally about the future of government policy in relation to biodiversity and broader environmental issues. I would simply say to him that if you judge this Government on the basis of what has happened even in just the last year, it is very clear which direction we are heading in. The Prime Minister at last year's UNGA, about a year ago, committed to doubling our international climate finance but also made the commitment, just as importantly in my view, that a big chunk of the uplift would be spent on nature-based solutions—which would of course have huge ramifications for reversing biodiversity loss. If you invest in nature to tackle climate change—which in fact is a prerequisite of tackling climate change—you are dealing with many other problems at the same time, not least biodiversity loss: 80% of the world's terrestrial biodiversity, for example, lives in the world's forests, which are being cut down at a rate of 30 football pitches per minute.

Looking at the decisions that have flowed since that announcement, we see that we have committed to greatly increasing funding for the world-renowned Darwin Initiative, which was set up in 1992 and has already backed 1,220 projects in 159 countries, spanning the continents of Africa, Asia and central and South America. We have greatly increased the Illegal Wildlife Trade Challenge Fund. The Prime Minister announced a major uplift and already it has spent £26 million on 85 projects since 2014, covering a wide range of issues, with campaigns from ranger training in vulnerable countries to supporting demand-reduction campaigns in those countries and areas where the demand for the illegal wildlife trade is acute, in particular in the Far East.

The Prime Minister has also announced a new International Biodiversity Fund of £220 million. Partly from that—although it comes from other sources as well—we have created and are due to launch a new £100 million Biodiverse Landscapes Fund, which I think is a world first and is designed to create links between existing protected or threatened areas on a trans-boundary basis, providing safe travel for threatened species and also jobs for those people living in and around them. I recognise that we do not have that long, but there are many other examples of what we do. So the direction of travel is clear and, much as I appreciate his kind words about my involvement in government, I am absolutely not a lone voice on our appetite to do whatever we can, because much heavy lifting is necessary to try to reverse the catastrophic trends we have seen in relation to biodiversity loss.

The last two points I will make relate to comments by the noble Lord, Lord Randall. Just a few weeks ago the United Kingdom, through the Prime Minister, announced that 32 countries have signed up to the Global Ocean Alliance that we have set up. It is an alliance of countries committed to protecting 30% of the world's oceans by 2030. On the back of our record on biodiversity, we have now been invited to join the high-ambition coalition of countries, led by Costa Rica, which probably does more on these issues than any other country, and France, which also has a good track record on biodiversity. We are very happy to have joined. As part of the coalition we are pushing for the 30% target for the oceans to apply equally to land.

We also had probably the most important role to play in crafting the Leaders' Pledge for Nature, which has been signed by 75 countries and is undoubtedly the strongest such declaration that exists. That is a direct consequence of extremely hard work by my colleagues in both the FCDO and Defra. We really transformed that document from platitudes to something that is very much more concrete, radical and ambitious.

The noble Lord, Lord Loomba, asked about consultations and impact assessments. In fact, he answered his own question. The reason these were not undertaken was that the SI does not lead to any kind of substantive change. It really is a tidying-up exercise, tailoring a piece of legislation to accommodate the Northern Ireland protocol and also changes in the European Union, in relation, for example, to species which have since been suspended, that have happened since we introduced the last CITES SIs.

The position that the Government have taken is right and I would also say that it is not really a choice. We have to do this SI. Not proceeding with this would prevent proper implementation of the Northern Ireland protocol in so far as it relates to CITES and it would be confusing to both traders and regulators, because we would have a conflict in the legislation between EU provisions and UK provisions. It would also likely render the CITES regime inoperable in the UK, which could, and probably would, disrupt a number of industries, undermining the UK's record on biodiversity, which I have already covered, and potentially increasing the risk of the illegal wildlife trade. So it is necessary that we are doing what we are doing, and it is appropriate that there was no consultation or impact assessment in the manner in which the noble Lord suggested.

The last point that the noble Lord raised was to ask whether our approach would be reviewed in a timely manner. CITES is a continuously evolving process. As a full and very enthusiastic member of CITES—and not just enthusiastic but very active—our approach will necessarily evolve, along with decisions made by scientists. I have seen myself things that I would not have seen had I not been a Minister: behind the scenes, our officials, round the clock, over 24 hours in some cases, negotiating for important changes—and delivering them.

One example of that is the recent ruling against the trade in live elephants, away from countries where they naturally have a home to countries where elephants do not exist. This is something that I think is supported by most people in this country. We pushed for such a

ban, against huge resistance across the board. It was a long shot, but my colleagues in Defra decided that it was worth expending particular energy and effort in that regard—and they succeeded. As a consequence, a law was passed which I can absolutely guarantee would not have been passed had it not been for the intervention of the UK. So we are not a reluctant member of CITES; we are a very active and enthusiastic member and that will continue, regardless of who occupies my post.

The noble Baroness, Lady Bennett, raised the Aichi targets. This is a hugely important issue. The Aichi targets are pretty good. If every country did what countries were supposed to do, having signed up to the Aichi targets, we would probably be having a very different discussion today and the world would be in better shape than it is. But, as we have seen, the trends have continued, and in some cases accelerated, in the wrong direction. Every country failed to meet its Aichi targets, including the United Kingdom. On the whole they were ignored.

One reason for that is that there is no national pegging of those targets. There is no NDC equivalent for nature that countries can put together to show how they are going to meet the targets, and against which they can be measured and judged. That is one of the things that the UK is bringing to the table in the CBD. We are not hosting the CBD—it is being hosted by China in Kunming next year—but one of the things that we are absolutely committed to doing, and in which I sincerely hope we will succeed, although obviously it is not entirely up to us, is to do everything we can to ensure not only that we will we have agreed ambitious, meaningful targets but that there will be mechanisms within the agreement to allow countries to be held properly to account and make it harder for countries to ignore their obligations, in the same way that we have seen in relation to carbon. There is lots more to do on reducing carbon emissions, but there is no doubt that we are now on the right trajectory politically. We have seen in the last few weeks some really big interventions by China, Korea, Japan and so on. I very much take the noble Baroness's point on that.

The noble Baroness mentioned an article in *Nature Communications*. I have not read the article. It is about the lack of regulations in relation to reptiles. She mentioned that 35% of the reptiles are sold online and that three-quarters of the reptiles sold are not covered by regulations. She mentioned that a very large proportion of them—she gave a number, but I am afraid that I did not have time to write it down—are taken from the wild. What she conveyed to me was extremely worrying. I will read the article and make sure that my colleagues in Defra do as well. If we need to act on the back of it and change our position in any respect, or add our voice to a particular call, I will give the noble Baroness my commitment that that is what we will do—and I will be very happy to take that conversation offline as well if she thinks that that would be useful.

The noble Lord, Lord Randall, was very kind to describe me as a nature champion. He has long been a champion of the natural world, and I wish that there were more of his sort in politics today—he has shown massive commitment. He mentioned a number of different issues, including our willingness to be led by the science. He talked about the Scientific Review Group and the Enforcement Group. The answer is that, as we have left the EU, we will no longer participate directly and be bound by those EU structures, including the Scientific Review Group, under our CITES regulations. The scientific authorities that we have here at our disposal—the Joint Nature Conservation Committee, which the noble Baroness, Lady Jones, mentioned, for fauna, and the Royal Botanical Gardens at Kew for flora, will continue to provide advice on a wide range of CITES matters and we will continue to collaborate internationally, as you would expect us to, with other CITES scientific authorities, as appropriate. I do not believe that there will be a knowledge gap there. We do not live in a bubble—we have plenty of friends in the context of CITES; information is often shared on a regular basis, and that informs good policy and helps us to develop the positions that we eventually take.

Implied in the question was a concern that we might end up moving to a position of weakening our approach through CITES; that concern was also raised by the noble Baroness, Lady Jones. As a party to CITES in our own right, we will continue to meet our obligations and commitments under the convention. We are committed to ensuring that no species becomes extinct as the result of unsustainable trade; that is where we need to get to. As I hope I conveyed to the noble Lord, Lord Greaves, at the beginning of this debate, we are absolutely committed to playing the biggest possible role that we can internationally in trying to reverse the trends that we are unfortunately seeing. We are retaining EU protections in UK law, which in some instances go further than CITES requires. For example, birds of prey are given the highest level of protection despite the fact that they are not all listed in appendix 1, and in other areas, we will always be willing to go further than the CITES rules require of us. As I hope I have conveyed, the appetite is very much there.

I will move around a bit, but I want to comment on a point made by the noble Baroness, Lady Jones, who implied that we have an opportunity in this SI to go further than we are currently going. I agree with her completely that we need to go further in every regard regarding biodiversity, that we could be doing much more in relation to the illegal wildlife trade, that our ambitions in relation to the CBD need to be fulfilled and realised, and that we need to be able to make our voices heard in lots of different fora.

However, this is just a technical SI that amends the relevant CITES EU law to make sure that it operates properly at the end of the transition period. That is all it exists to do, and to make the regulations stricter would go beyond the scope of the powers in the Act. Having said that, just like the European Union, we will always be able to go further than the convention minimums based on the scientific advice that we receive; in many cases, we have done just that. I will return to some of the points raised by the noble Baroness but I want to try to make sure that I answer as many of these questions as possible.

My noble friend Lady McIntosh asked about the relationship between Northern Ireland and the Republic of Ireland in relation to the movement of goods.

[Lord Goldsmith of Richmond Park]
The answer is that there will be no checks between them. There will be checks between Northern Ireland and Great Britain and vice versa but not between Northern Ireland and the Republic of Ireland. She also raised a concern about having two separate regimes after the transition period. Criminal offences for the breach of regulations are fairly substantial; I can confirm that those offences are under review and will be kept under review permanently, as is appropriate.

In response to my noble friend's question about the Secondary Legislation Scrutiny Committee—I think she said that we were a bit dismissive—nothing is black and white; it is neither entirely good nor entirely bad that we are leaving the European Union. In my view, there is a significant net benefit, but that does not mean that there are not areas where co-operation would be beneficial. Having left the EU, we will no longer be part of the SRG; we will have to work particularly hard to ensure that we benefit from some of the work that is done in the European Union on CITES to ensure that we are as close as possible. There is no real difference except on certain areas in certain countries in Europe; there is a common commitment to tackling these issues.

The noble Baroness, Lady Parminter, mentioned pet passports. I am afraid that we do not have the answer to that yet. I will update her on the latest answer that we have but I do not think that it will satisfy her questions, so I will have to come back to her in due course with the best I can. She may have to be patient; I apologise for that. She also asked about the border in the North Sea after the transition period; I am grateful to her for saying that she supports the SI. Northern Ireland imports hardly any CITES specimens but we do not yet know what will happen with trade patterns; obviously, the future is hard to predict. However, our ports have received additional investment and we will have 29 ports of entry and exit for the movement of CITES goods designated by the end of this year. The full list of designations is listed on GOV.UK, and Belfast is to be designated—that question was asked by the noble Baronesses, Lady Parminter and Lady Jones.

I keep confusing my Baroness Joneses, but I turn now to the Green one—I cannot remember her geographical location. She is a wonderful, inspiring figure and a champion of nature. She made the point that the Government require an element of humility and should always be willing to improve and take advice. She is of course right. I enjoy being lobbied by those who lobby with good faith and who genuinely want better outcomes. Where I can improve our approach, that is what I exist to do in both Defra and the FCDO.

As I mentioned in response to a question from the other noble Baroness, Lady Jones, this is a narrow statutory instrument that has a particular job to do: ensure that the laws work post transition period. There is plenty more that we can do. As the noble Lord, Lord Randall, pointed out, CITES is just one of the tools that we have at our disposal; there are many others and our job is to try to make use of all the tools available to us.

The noble Baroness, Lady Jones, from the Green Party—I am so sorry for breaking all the protocols. Where is she from? Oh, Moulsecoomb. I apologise to her if she is listening; I am sure that she is. She asked about the National Wildlife Crime Unit. Defra and the Home Office play a part in this. Defra has committed to continuing to provide the funding needed—as has the Home Office, I believe, although I do not want to say this as a matter of fact in case I am wrong. I commit to the noble Baroness that if that is not the case and what I have just said is wrong, I will do all I can in my capacity as a Minister to ensure that the National Wildlife Crime Unit has the resources and funding that it needs. It is an extraordinarily important piece of the puzzle. If it is not properly resourced, it makes honouring our commitments under CITES, and others relating to the illegal wildlife trade, much harder. I will get back to her with, I hope, proper reassurance. If not, I assure her that I will do all that I can to ensure that the NWCU has the resources it needs.

My opposite number, the noble Baroness, Lady Jones, mentioned the Scientific Review Group. As I mentioned earlier, as we have left the EU, we will no longer participate in or be bound by those structures. However, our own authorities are world renowned and provide good advice on a regular basis. The Joint Nature Conservation Committee and the Royal Botanical Gardens at Kew, which I had the honour of representing for 10 years as its local MP, will continue to provide whatever advice and information we need.

I am confident that we will have the information, knowledge, tools and capacity not just to maintain our existing commitments and activities in this area but to improve them. That is the Government's ambition and my ambition as a Minister; I will certainly do all that I can to ensure that that is the case. I hope that I have answered all the key questions.

Motion agreed.

The Deputy Chairman of Committees (Lord McNicol of West Kilbride) (Lab): The Grand Committee stands adjourned until 3.45 pm. I remind Members to sanitise their desks and chairs before leaving the Room.

3.30 pm

Sitting suspended.

3.45 pm

The Deputy Chairman of Committees (Lord McNicol of West Kilbride) (Lab): My Lords, the hybrid Grand Committee will now resume. Some Members are here in person, respecting social distancing, while others are participating remotely, but all Members will be treated equally. I must ask Members in the Room to wear face coverings except when seated at their desk, to speak sitting down and to wipe down their desks and chairs. If there is a Division in the House, the Committee will adjourn for five minutes.

Pesticides (Amendment) (EU Exit) Regulations 2020

Considered in Grand Committee

3.46 pm

Moved by ***Lord Goldsmith of Richmond Park***

That the Grand Committee do consider the Pesticides (Amendment) (EU Exit) Regulations 2020

Relevant document: 31st Report from the Secondary Legislation Scrutiny Committee

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con): My Lords, I will be covering two instruments in this group, both relating to the effective regulation of chemicals, one that relates to pesticides and one that relates to persistent organic pollutants. The first of these, the Pesticides (Amendment) (EU Exit) Regulations 2020, makes further updates to retained EU legislation for plant protection products and maximum residue levels. Plant protection products, or pesticides, as most people refer to them, are regulated within the EU by two main EU regulations. They are Regulation EC 1107/2009 concerning the authorisation of active substances and the placing of pesticides on the market, and Regulation EC 396/2005 on maximum residue levels of pesticides permitted on food and feed. They are also regulated by means of EU directive 2009/128/EC which established a framework for Community action to achieve the sustainable use of pesticides.

In preparation for leaving the EU, we have already put in place a series of pesticides EU exit SIs to ensure that the regulatory regime can operate sensibly in future and provide continued protection for human health and the environment, primarily through the Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations 2019, which I will refer to throughout this debate as the PPP EU Exit SI, the Pesticides (Maximum Residue Levels) (Amendment etc.) (EU Exit) Regulations 2019, otherwise known as the MRL EU Exit SI, and finally the Pesticides and Fertilisers (Miscellaneous Amendments) (EU Exit) Regulations 2019, SI 2019/306, known as the SUD EU Exit SI.

These earlier EU exit statutory instruments were put in place in readiness for the original exit day in March 2019 and have dealt with the majority of changes required. The instrument we are considering today makes a number of additional but relatively minor amendments to deal with developments since the original EU exit SIs were produced. They have no, or no significant, impact on business. We have worked closely with the devolved Administrations to develop this further instrument and they have consented to it being made on a UK-wide basis.

Amendments are required for four main reasons. First, new EU legislation has come into force since the earlier EU exit SIs were finalised, either shortly prior to or during the transition period. This needs to be corrected in the same way as in the earlier EU exit SIs so that it works correctly in a national context, including where the new EU legislation interacts with corrections already made in the earlier SIs. Secondly, to make necessary changes as a consequence of the Northern Ireland protocol by amending the earlier UK-wide EU exit SIs so that redundant references related to Northern Ireland are removed and legislative cross-references work correctly. Thirdly, to make updates to some transitional provisions within the earlier EU exit SIs, so that they apply from the end of the transition period when the retained law comes into force, rather than from exit day, and so work as intended. Finally, to make minor technical corrections to secondary domestic legislation as regards the establishment of harmonised risk indicators in order to correct new deficiencies in the retained EU law. In short, without this instrument various highly technical provisions will not be retained in national law in a way that will work correctly.

The second of the two instruments is the Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2020. It makes technical amendments to the POPs regulation to maintain continuity in retained EU law in order to ensure that legislation which manages persistent organic pollutants, which I will hereafter refer to as POPs, is operable following the end of the transition period. In addition, it reflects the requirements of the Northern Ireland protocol. The EU POPs regulation was put in place to fulfil commitments under both the United Nations Stockholm Convention on Persistent Organic Pollutants and the Convention on Long-Range Transboundary Air Pollution. The UK is a party to both these conventions. This new instrument ensures that we preserve the current regime for managing POPs, which are substances that are recognised as being particularly dangerous to humans and the environment, and this instrument is needed for two reasons.

First, EU Regulation 850/2004 was recast in July 2019 as EU Regulation 2019/1021 of the European Parliament and of the Council on Persistent Organic Pollutants. An earlier EU exit instrument that was put in place in readiness for the original exit day in March 2019 now needs to be replaced to reflect the revision to the EU regulation. Many of the amendments to correct deficiencies in that earlier EU exit instrument are replicated in this new instrument. Secondly, this instrument will make the changes required as a consequence of the Northern Ireland protocol. References related to Northern Ireland are removed and legislative cross-references work correctly. This will ensure that the retained EU law on POPs has practical application only in Great Britain, where appropriate. We have worked with the devolved Administrations on this instrument, and where it relates to devolved matters, they have given consent.

The following provisions were included in the 2019 exit SI and are now included in the current SI. The first is the repatriation of all decision-making functions and powers from the EU to the Secretary of State, the Welsh Minister and the Scottish Minister to exercise in their respective areas. The Secretary of State may exercise these functions on behalf of a devolved Administration, with their consent. The Secretary of State will publish reports on the management of POPs, which are currently submitted to the European Commission for publication, and the following provisions relate to the new provisions in the EU recast of the original legislation.

The Environment Agency will assume the role given to the European Chemicals Agency to provide technical and scientific support. This role will be fulfilled with the consent of the devolved Administrations. Additionally, the EU regulation places a duty on the UK to take necessary measures to trace and control POPs once they enter the waste stream. Ordinarily, these measures would be implemented in the UK under Section 2(2) of the European Communities Act 1972. However, as

[Lord Goldsmith of Richmond Park]
work on delivering these measures will continue beyond the end of the transition period, this instrument creates a new power for GB to make regulations to implement that specific duty. The exercise of this new power will be subject to parliamentary approval and is time limited, with a requirement to make any regulations before 31 October 2023.

Finally, the requirement to amend this regulation has also provided an opportunity to include the Northern Ireland protocol provisions applicable to this regulation. Northern Ireland will continue to apply EU regulation 2019/1021 to manage POPs in the environment but, where regulations apply to the UK as a party to the conventions I mentioned earlier, they remain applicable to Northern Ireland. Neither the JCSI nor the SLHC had any comments on these instruments and I can confirm that they will be able to function with or without a deal with the European Union.

As I have previously said, the Government are committed to ensuring continued levels of protection for human health and the environment, as well as providing stability and continuity for business. I beg to move.

3.54 pm

Lord Greaves (LD) [V]: My Lords, I am grateful to the Minister for setting out these extremely detailed and complicated regulations. I confess that, despite making an attempt, I do not pretend to understand them all. Still, it is clear that they refer to plant protection products, pesticides and fertilisers, and maximum residue levels of pesticides. They deal with the new situation in Northern Ireland, as did the previous regulations, to take account of the fact that Northern Ireland will still be in line with the EU. What will be the difference, if any, between the regulations in Northern Ireland and those in the UK?

During the debate in your Lordships' House on the Agriculture Bill, an amendment was passed to strengthen the protection for residents and others in the vicinity of crop spraying using harmful, poisonous substances. The House passed it and the House of Commons sent it back, and it was a sadness to many that the House did not pursue it further in ping-pong. One reason why that was the case is the belief that it can come back in the Agriculture Bill and we can all have another go at it, but it would be very helpful if the Minister could say whether the Government, in a more relaxed way away from legislation, are looking at whether regulations can be introduced to provide greater distancing—social distancing, I suppose—between people spraying pesticides and residents and others.

Clearly this SI does not remedy that position, but there has been concern from the UK Pesticides Campaign at the removal of the ability to challenge a failure to comply with these regulations at a European level, which will clearly be the position after the end of the year. The question for the Minister is: what will be the way in which people in this country can go to the courts to force the Government or other authorities to comply with legislation?

The UK Pesticides Campaign has also raised a question about the collection of information and reporting of suspected poisonings. It says that, as far as it can see, the requirement for that in so far as it exists at the moment—the campaign has suggested that the requirement is not strong enough anyway—will be removed by the regulations. I have seen a response to that from Defra saying that the matter is covered by other regulations. I do not understand that at all, but I shall read out some names: the EU official controls regulation 2017, which came into force on 14 December last and was implemented in the UK by the Official Controls (Plant Protection Products) Regulations 2020. That is what I understand the reply to say. Perhaps the Minister can explain whether this is the case, exactly how it works and whether the collection and reporting of information has in practice not been changed in any way by their removal from the regulations. I do not know whether he can do that today; if not, perhaps he can write and tell us all about it.

There have also been concerns from ClientEarth, most of which again are very technical. I shall pick out two general concerns that it is putting forward that the Minister might like to devote a little attention to when he replies. The first is the suggestion that, because there is no longer a requirement that detailed criteria on the uniform application of conditions on by-products

"shall ensure a high level of protection of the environment and human health and facilitate the prudent and rational utilisation of natural resources",

that means there is a weakening of environmental protections. If the Minister believes that is not the case, perhaps he can explain how and why.

ClientEarth also suggests that there is a removal from these regulations, or at least a weakening, of the polluter pays principle. It would be helpful if the Minister explained the degree to which the Government believe in the polluter pays principle and the degree to which they intend to strengthen it rather than weaken it, if that is the case. I look forward to the Minister's reply and to the contributions by other people to this debate.

4 pm

Lord Berkeley of Knighton (CB) [V]: My Lords, I am very glad to see that we are embracing many of the EU standards, particularly about pollutants, on which I agree with the comments of the noble Lord, Lord Greaves, that we shared prior to departure and which improve environmental standards. I approach this subject as one who would dearly love to see zero use of chemicals; spraying is expensive and not pleasant. However, I must declare that I have a farm. It is one where we are gradually moving to fewer and fewer chemicals, but it is a struggle. I shall point out as examples some of the concerns that have been relayed to me in my many miles of tramping the fields and hills. I hope this view from the ground, as it were, might be helpful to the Minister.

I suppose that, as with everything with life, we have to try to find a degree of balance between conservation and feeding ourselves, and indeed those in the rest of the world who are less fortunate than us. The banning of neonicotinoids is an interesting example that has garnered a lot of press. From my research and that of the Rothamsted Research centre, I would say that the science is still incomplete, in that there are so many variations of chemical compounds needing further research.

One concern here is that farmers—by the way, I am not one who has oil-seed rape—have no other way for dealing with cabbage stem flea beetle, and that they might therefore now spray non-systemic chemicals that are even more injurious to insects and wildlife. The other alternative is, of course, not to grow oil-seed rape at all; indeed, as the Minister will know, there has been a widespread reduction by hundreds and thousands of acres, leading, ironically, to some beekeepers now lamenting the loss of pollen and pollination. It is enormously hard to get this right.

Ideally, we should be able to financially encourage farmers to transition gradually to organic farming, because for those with limited acres it is just not possible to compete with smaller yields; large farms are rather more able to spread their cropping. Stewardship schemes are a great help. I would like to see these grow still further in the light of these EU exit amendment regulations so that we need fewer and fewer chemicals, but can still continue to grow the food that we and the rest of the world need.

4.03 pm

Lord Randall of Uxbridge (Con) [V]: My Lords, I take the issue of pesticides and their potential harm to both wildlife and, importantly, human life very seriously. As the noble Lord, Lord Greaves, mentioned, in the recent Agriculture Bill debates in your Lordships' House we debated and voted on some important amendments that unfortunately were rejected in the other place. I know the noble Lord meant to say that we may return to those matters in the Environment Bill rather than the Agriculture Bill, and I certainly hope we will.

I will make a few comments about these two instruments. In the Pesticides (Amendment) (EU Exit) Regulations 2020 there are many references to the "competent authority" and/or the "agency". I think the former is the Secretary of State for Defra—although in reality the Secretary of State will of course base his decision on the advice and recommendations provided by the Government's regulatory body for pesticides, the Chemicals Regulation Division, which itself is part of the Health and Safety Executive—while the agency will most certainly be the CRD.

I will raise some concerns that I have been made aware of, and I would like some reassurance from my noble friend. Considering that sales of pesticides in the UK alone each year are around £627 million, and that reports have put the value of the world pesticides industry at a staggering $58.46 billion and seemingly increasing by the year, this is obviously a very big business with powerful vested and self-serving interests. Understandably, the primary concern of pesticide manufacturers is obviously to protect the sales of their products and related profits, and to keep such pesticides being used.

As I understand it, the CRD receives approximately 60% of its funding from the agrochemical industry, which is broken down into the fees charged to companies for applications and a charge on the UK turnover of pesticide companies. I have some nagging concerns about this. During the debates on the Agriculture Bill in your Lordships' House, the noble Lord, Lord Whitty, spoke of his own concerns over UK pesticides policy from his experience when he was a Minister at Defra, including the closeness between the government regulators for pesticides and the pesticide companies that they are supposed to regulate.

Having said that, I will return to one specific question regarding the Pesticides (Amendment) (EU Exit) Regulations 2020. I am grateful to the Green Alliance for bringing various matters to my attention; anyone who knows me well will recognise that fine legal scrutiny is not my forte. Regulation 2(2) provides that the requirement to submit supplementary dossiers for the renewal procedure of an active substance no later than 30 months before the expiry of the approval applies only to substances approved for use where the approval expires on or after 12 May 2026. It is not clear why that change has been made. Perhaps my noble friend can elucidate on that question.

4.06 pm

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I must begin by thanking the Minister for his generous response to my contribution in the previous debate. I look forward to future exchanges on the subject.

On the subject of this debate, it is a great pleasure to follow the noble Lord, Lord Randall of Uxbridge, who is a great champion of nature, and indeed the two previous noble Lords, who said many things with which I can agree. The noble Lords, Lord Randall and Lord Greaves, in particular reflected on the widespread disappointment that the amendments to the Agriculture Bill that would have protected people who live in close proximity to agricultural land ultimately did not make it through the system. As both noble Lords said, we can but try again in the Environment Bill.

I am going to pick up something that the Minister said in his introduction when he referred to continued high levels of protection. The practical reality, whether we are talking about pesticides or persistent organic pollutants, is that we have a poisoned country, a poisoned landscape and, indeed, a poisoned planet. To start any debate on this topic, it is important to acknowledge that we have utterly failed in the past and that, while today we are bringing forward regulations that are much better than those in the United States and other regimes, even the EU regulations that we are transferring across are not nearly strong enough.

I have a couple of specific detailed questions. Like others, I rely rather heavily on the work of ClientEarth. Regulation 3(8) removes the wording that would permit the appropriate authority to make regulations in respect of the official controls, first, relating to production, packaging, labelling, storage, transport, marketing, formulation, parallel trade and the use of plant protection products, and, secondly and particularly, regarding the collection of information on the reporting of suspected poisonings. This is a direct question for the Minister, either for now or in future: that apparent loss of collection reporting on suspected poisonings is obviously a deeply worrying one, and it would be interesting to hear why that has happened and how it might be fixed. I also refer to wording relating to health and the hazards and risk of pesticides in Article 24 of new EU regulation 625/2017 regarding protection from pesticides and the risk of poisoning.

[Baroness Bennett of Manor Castle]

I also want to refer to chronic poisoning. Often, we hope or expect that, where there is an acute case, there will be reporting; it is the kind of thing that we might expect our media to pick up on. But with chronic poisoning developing over a number of years, such as in operators, agricultural workers or people living close to pesticide application areas—the amendment to the Agriculture Bill tried to address this issue—we have seen reports going back to 1987 of inadequate monitoring in the UK, yet we have not seen any change in policy or any real move to deal with that chronic situation.

Finally, I want to move on to some broader points that build on what the noble Lord, Lord Randall, said. The sale of pesticides in the UK each year is worth £627 million and, around the world, it is nearly $60 billion. Obviously, this is a big, powerful vested interest. As the noble Lord said, that vested interest wants to protect its sales, but I very much agree with what the noble Lord, Lord Berkeley, said earlier: we want and need to move toward a world that uses no pesticides.

My response to the noble Lord's concerns about neonicotinoids and the impact of their withdrawal on growing rapeseed in the UK is that we must grow a diverse range of crops that are suited to our conditions. I have stood in a field in Lincolnshire with a star rapeseed grower and discussed the difficulties of growing rapeseed in the UK. It has always been clear that rapeseed is not particularly suited to UK conditions, so we need to move to a different approach. It is one that the Government have focused on, at least in terms of talking about it, including to some degree in the Agriculture Bill—agroecology. If we are going to move in the direction of working with nature to use the power, force and richness of healthy soils and the richness of the interactions of integrated pest management, that is the way we need to go. Indeed, I note that both the EU directives that we are transferring across here focus on the need to move to pest management systems that do not rely on pesticides. What are the Government doing to take further steps in that direction?

We have been through so many cycles, from DDT onwards, of a pesticide being discovered and promoted as the new wonder chemical—a perfectly safe, perfectly wonderful solution to all our problems. Usually, a couple of decades later, we ban it because it has been a disaster. That is a cycle that we desperately need to stop.

4.13 pm

Baroness McIntosh of Pickering (Con): My Lords, I thank my noble friend the Minister for introducing the regulations and welcome the Government's commitment to protecting the environment. I hope that my noble friend and the Government will be mindful of the impact that these regulations will have on industry. I want to bring to his attention two specific ways in which that might happen.

I want to make a general point at the outset. My noble friend considers that nature lovers are something of a new craze. I remind him of the contribution of perhaps one of the first eco-warriors. When I was a little girl, Professor David Bellamy, who I think was at Durham University at the time, tried to protect the blue gentians that grew in the northern Pennines—particularly in Teesdale, where I grew up—from flooding by a reservoir that was being built to take water to Middlesbrough. In the event, the reservoir was built and the blue gentians were flooded; they were one of the few alpine plants to grow in Teesdale, outside an alpine region. I regret that, at the time, David Bellamy's campaign was unsuccessful, but I recognise the contribution that he made.

The two specific issues that I want to raise come from work that we have been doing on the EU Environment Sub-Committee. First, on persistent organic pollutants—or POPs, as my noble friend calls them—paragraph 2.5 of the Explanatory Memorandum for the relevant regulations refers to the fact that the repatriation of powers, in particular the work currently undertaken by the European Chemicals Agency, will now be "exercised at national level". Is my noble friend aware of what will happen because of that? My noble friend Lord Randall of Uxbridge referred to the contribution that the chemicals industry makes to this country; after the food sector, it is one of the largest manufacturing sectors here.

To all intents and purposes, if chemicals manufacturers want to continue to export and import, they will now have to register twice. They will have to register on the United Kingdom register, which is currently being set up at some expense, and they will have to continue to re-register with the European Chemicals Agency. Has my noble friend considered what the cost will be? Have the Government done an impact assessment in this regard? It would be helpful to know that. There is one little reference to this issue, but it will have a huge impact and obviously will cause significant costs—as we learned in the evidence given to the sub-committee, which is on our website. I would welcome my noble friend's acknowledgement of the fact that there will a double registration requirement.

My second concern is identified in the paragraph of the Secondary Legislation Scrutiny Committee's report on where Defra responded to its queries, published at length on page 18 of that report and relating to the draft pesticides amendment regulation before us. I quote:

> "HSE will continue to undertake regulatory functions on behalf of all administrations and to operate on a four countries basis, assessing product applications through a single process, wherever possible."

The EU Environment Sub-Committee took evidence in this regard from the chemicals industry, HSE and Defra. Our concern was that the staff are not yet in place in HSE and do not have the requisite training to do the work that we expect them to do. Will my noble friend take this issue back to Defra and follow it up with the Secretary of State? Time is short and it is extremely important that we give HSE the tools, in terms of staff and training, to do the work that we require it to do.

With those two concerns, I welcome the opportunity to consider the draft regulations, but I hope that my noble friend will address the very real issues that I have brought to his attention.

4.18 pm

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I thank the Minister for his introduction to these statutory instruments, which will tidy up existing legislation and ensure that there are no gaps once we come to the end of the Brexit transition period in December.

The first SI moves rules on plant protection products and maximum residue levels from EU law into UK law, with the exception of Northern Ireland. The Northern Ireland protocol means that Northern Ireland remains part of the EU and therefore has no need to transfer legislation. I congratulate noble Lords on their contributions and concur with their comments.

Paragraph 6.3 of the Explanatory Memorandum states:

"Defra has complied with the requirements stated in paragraph 4.7.6 of Statutory Instrument Practice to consult with the SI registrar. Defra thinks it would be disproportionate to apply the free issue procedure to this SI."

Can the Minister give some clarification on what that means? Paragraph 6.4 states:

"A further instrument will be required in 2021 to incorporate further EU regulations and decisions that come into force between 1 May 2020 and 31 December 2020".

Since we know when these will come into force—and, presumably, know what they will cover—why were they not included in this SI with an implementation date of 31 December?

The EU has a multi-annual control programme, which is updated every year and outlines sampling strategies for a three-year period. This SI will ensure that the same standards of protection are maintained at the end of the implementation period. Can the Minister confirm that the same sampling strategies will also be maintained every three years?

Pymetrozine is an insecticide suitable for use, in integrated crop management, to control aphids and other plant-sucking insects. It is essential that it is applied carefully and with regard to other creatures, including humans, and to ensure that pollinators that are essential for biodiversity are not also destroyed alongside pests. I note that the UK Pymetrozine regulation status is approved but the EU regulatory status is not approved. I find this strange, since 24 of the 27 EU states have approved the substance for use. Can the Minister give some clarity on just what is likely to be approved under this SI and what is not?

Under these proposals, and those passed in the Internal Market Bill in the other place, can the Minister confirm that certain grains which have been grown with the use of fertilisers and pesticides in England, would not be able to be supplied in Scotland, if the devolved Administration has banned their use for grains in Scotland under the new powers they are getting and the exemptions of the market access principles in the Internal Market Bill? I am happy to have a written response on this.

I turn now to the Persistent Organic Pollutants. The first pollutant in the list of the SI was a pollutant by-product of Agent Orange. It has no known commercial applications but is used as a research chemical. It was tested, but never used commercially, as a flame-proofing agent and as a pesticide against insects and wood-destroying fungi. There are other toxins registered, including polychlorinated biphenyls, or PCBs, which are stable man-made organic compounds, used from the 1920s as cooling and insulating fluids as they did not burn easily. Although most were banned in 1986, they linger on in detectable levels in animals, fish and humans. When they are incinerated, they can produce dioxins, which are some of the most toxic substances known to science.

The biggest manufacturer of PCBs was Monsanto. They were used in an enormous number of products, from lubricants to pesticides and flame retardants. As a result of high levels of PCBs found in fish, due to man-made chemicals dumped as waste in Lake Michigan, concerns were raised, as PCBs had found their way into the breast milk of nursing mothers who had eaten fish living in the lake. Their children showed higher rates of development and learning disorders compared to those of local women who had not eaten the fish. While they are no longer manufactured, they still leak from old electrical devices and can be released from hazardous waste sites and illegal dumps. Can the Minister give reassurance that this situation is being monitored closely and that action is being taken to deal with the PCB residues?

Lastly, I draw noble Lords' attention to the pollution in the River Wye that was caused by the sheer volume of chicken farms close to, and along, the banks of the river, with chicken manure getting into the water. While chicken manure is not on the list of toxic substances on page 16 of the SI, it is undoubtedly true that in the Wye it is persistent, it is organic, and it is a pollutant. Can the Minister say what legislation is likely to cover this type of pollutant, if it is not covered in this SI?

4.23 pm

Baroness Young of Old Scone (Lab) [V]: My Lords, I will start with the draft pesticides amendment regulations. Section 2 of the Explanatory Memorandum outlines the reasons for these regulations being laid, as the Minister outlined. I find it interesting that in this case the department has chosen not to repeal earlier instruments and consolidate all the changes into a single instrument, as has just been done with the Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations that your Lordships have just debated. Could the Minister say why a consistent approach is not being adopted? Is there a risk that we will have two sorts of environmental regulation, where some are tidied up and accessible and others are a tangled bowl of spaghetti and unintelligible to normal human beings and only able to be understood by specialist lawyers? I think it will be a retrograde step if the general public—and, indeed, members of your Lordships' House—were unable to really fathom this tangle.

The Explanatory Memorandum, in paragraph 7.9, also outlines how the UK's national strategy on control programmes and sampling will run alongside the 2020 to 2022 time period that the EU uses. Can the Minister tell us at what point Her Majesty's Government will begin planning for beyond 2022? What sort of engagement will there be with stakeholders? For me, the most fascinating point about these regulations is whether, on this issue, HMG may choose to continue to align with our EU neighbours, even after the period to 2022 ends.

Turning to a provision that has already been passed that means that GB will be allowing substances to continue to be approved for three years longer than the EU, I would like some reassurance that this provision has been fully appraised. This is part of the whole transition process. Can the Minister tell us what risks there might be of substances continuing to be approved for three years longer than they normally would be? How have the Government assessed these risks?

[Baroness Young of Old Scone]

I would also like to remark on the general issue that many of your Lordships have already raised, about the use and application of pesticides. I look forward very much, from these Benches, to the opportunity to debate this issue again when the Environment Bill comes to your Lordships' House.

I turn now to the draft persistent organic pollutants—POPs—regulations. This instrument creates a new power to take measures to control and trace waste contaminated by POPs in relation to GB. This is a recent requirement under EU law, and the measures have not yet been developed either here or in Europe. Any legislative changes, we are reassured, will be subject to the affirmative procedure and will have to be made by 31 October 2023. When the department was asked about this deadline by the Secondary Legislation Scrutiny Committee, it explained its thinking about timescales that are not determined by the EU. Worryingly, it indicated that the powers to create this control and tracing system would be used "only if needed". Can the Minister indicate the circumstances in which a control and tracing system would not be needed?

Can I also raise with the Minister the issue that the noble Lord, Lord Greaves, and indeed ClientEarth have already pointed out? This instrument omits a current requirement, under EU law, that when it is decided whether a specific substance is a by-product rather than waste, detailed criteria on the application of conditions on by-products shall

"ensure a high level of protection of human health and the environment".

When asked about this omission, the department indicated to the Secondary Legislation Scrutiny Committee that further regulations would be needed next year, and that would be the appropriate place to set out any such conditions, and to consider whether to make the exercise of the power subject to the condition identified by ClientEarth. Again, I am worried about the word "whether", which seems to imply that a provision already existing in the EU safeguards might not continue. Can the Minister assure us that there will be no watering down of this provision in the regulations that come forward next year?

Turning to the issue of regulatory and advisory expertise, in a number of instances, references to the European Chemicals Agency are replaced with references to "relevant authorities". That means that the Environment Agency primarily will have responsibility for technical and scientific support to the POPs regime for the UK as a whole—supported, of course, by the relevant agencies in the devolved nations.

I should declare an interest as a former chief executive of the Environment Agency; I know that the agency has considerable expertise in the POPs field and has played a key role at both EU and Stockholm convention level. Cuts to EA resources over the last few years lead me to ask the Minister what additional resources will be provided to the EA to carry out this additional responsibility and ensure that it truly can replace the European Chemicals Agency.

I look forward to the Minister's responses on these issues.

4.30 pm

Lord Goldsmith of Richmond Park (Con): My Lords, I thank noble Lords who have contributed to this debate today. In order to prepare for the end of the transition period after leaving the EU, it is essential that we have the right legislation in place to continue to regulate both pesticides and persistent organic pollutants effectively so as to protect human health and the environment. A wide range of issues was raised by noble Lords; I will do my best to address them as fully as possible.

The noble Lord, Lord Greaves, asked about divergence between Great Britain and Northern Ireland. Under the terms of the withdrawal agreement and Northern Ireland protocol, the EU pesticides regime will continue to apply in Northern Ireland after the end of the transition period in the same way as during it. It is inevitable that divergence in pesticides decisions between the EU and GB regimes will eventually occur, but the Health and Safety Executive will endeavour to assess and determine pesticide authorisations in Great Britain and Northern Ireland through a single process wherever we possibly can.

The noble Lord asked about the application of pesticides near to people's homes—an issue which came up during debates on the Agriculture Bill. The use of pesticides is allowed only where a scientific assessment shows that it will have no harmful effect on people, including residents and bystanders. The assessment of risk is rigorous and authorisation is frequently refused. Pesticide users are required by law to take all reasonable precautions to protect human health and the environment and to apply the product only to the area that they intend to treat. This issue was raised by a number of noble Lords, and the question of how rigorous the protections are is a valid point to make. Clearly, the ambition has to be that we move as far as we can away from the use of pesticides at all. That is reflected in government policy, and I will come to that in slightly more detail as I answer questions asked by the noble Lord, Lord Randall.

The noble Lord, Lord Greaves, also asked how decisions can be tested or challenged in court. The answer is that enforcement is a matter for the designated enforcement bodies. Usually, in the case of pesticides and POPs, that is the Health and Safety Executive. He cited the work of the ClientEarth organisation and asked what assurance I can give that our standards of protection will not be weakened in any way. The answer is that the Government will continue to ensure that current standards of environmental and health protection will be maintained after the end of the transition period. We have made that commitment many times, and it has not been diluted in any way. We will be taking our own independent decisions in Great Britain under retained law, but the statutory requirements on standards of protection and the considerable body of EU technical guidance are carried across unchanged.

The noble Lord also asked about principle of the "polluter pays" and whether it is in any sense undermined either through this instrument or generally speaking in our approach to regulating chemicals. It was not exactly clear which he was referring to, but the answer is the same. This statutory instrument has no bearing

on the "polluter pays" principle, but that principle is at the heart of our approach in the upcoming Environment Bill, whether we are talking about pollution, waste or any other negative environmental impact, where the onus will be on the polluter or producer of waste.

The noble Lord, Lord Berkeley, made a powerful case for a shift away from pesticides towards cleaner systems, and he is right. That clearly has to be the ambition of any responsible Government. We want to minimise and eventually phase out the use of pesticides, and that means adopting different forms of food production over time. The only thing I would say to him, because this is not directly relevant to the effects of this SI, is that we are on the cusp of shifting our entire land use subsidy system away from the common agricultural policy—which, as he knows, incentivised landowners to convert whatever land they have, no matter how ecologically valuable, to make it farmable. No single piece of legislation anywhere in Europe has done more harm to our biodiversity and landscape than the common agricultural policy. That system is being changed wholesale and replaced with a system where payments will be conditional on good environmental stewardship. That can mean any number of different things, depending on where the land happens to be and how it is used, but it is inconceivable that the new environmental land management system will not catapult us in the direction in which we need to go of reversing biodiversity loss and promoting the kind of farming to which the noble Lord referred.

The noble Lord, Lord Randall, made the point that the chemicals industry is extraordinarily powerful and has enjoyed the position of being able to lobby very effectively, particularly across the European Union, where a single decision can have an impact on a vast area. That was certainly the case in the creation of the REACH programme. While many noble Lords look to REACH as the gold standard in chemicals regulation, the reality is that early proposals for REACH were much stronger than what eventually emerged. That was a consequence of probably the largest lobbying exercise by any sector at any time on the continent. I remember at the time writing and publishing articles about it in *The Ecologist* magazine, which I edited.

We saw an extraordinary weakening of rules on, for example, endocrine-disrupting chemicals—a point raised later in the debate by the noble Baroness, Lady Bakewell, who talked about the effect of polluted water on breast milk and the consequent development of children. I remember that, 15 years ago, a study was conducted into the issue of precocious puberty, or early onset puberty, in the United States. The figures were extraordinary, pointing to 1% of three year-old girls showing some signs of puberty, as compared with 1% of eight year-olds just 20 or 25 years before. There is no doubt that chemical contamination which finds its way into the food supply—into the food chain and through our water—has dramatic impacts on the health of children. It affects their development in all kinds of unpredictable and damaging ways, so I very much agree with her.

The noble Lord, Lord Randall, asked specifically why the SI delays introduction of changes to the format of the renewal dossiers until 2026, rather than 2023, as in the EU. This measure is to provide a smooth transition between EU and retained law. It has the effect that the relevant requirements which apply to active substances under retained law will be the same as for those same substances when they are considered under the EU regime. The change in date reflects that active substance approvals which expire in the first three years after the end of the transition period will be extended to allow the necessary time for evaluation under the national regime. This avoids the same substance having different requirements when it is addressed under the Great Britain regime than when it was considered under the EU regime. I hope that addresses his concern.

The noble Baroness, Lady Bennett, raised the same issue of pesticides being applied near homes, and I refer her to the answer I provided earlier. She also talked more broadly about the need to shift our food production away from the use of pesticides. Again, I strongly agree with her and refer her to my answer earlier to the noble Lord, Lord Berkeley. I remind her that the introduction of the ELM system will be the single biggest lever we have at our disposal to change the way land is managed.

The noble Baroness, Lady Bennett, talked more specifically about pesticide reduction policies. A lot of work is under way to research, develop and promote means to move away from chemical pesticides, including plant breeding for pesticide-resistant varieties, the use of natural predators, the development of biopesticides and the use of a variety of cultural methods to reduce pest pressures. The Government are funding much of that work through their support for the research councils.

The noble Baroness also asked a general question about whether our standards will be maintained. The Government have committed to continue to ensure that our existing standards are maintained after the transition period, and that will be true across all our chemical regulations policies.

My noble friend Lady McIntosh asked about staff and training—about capacity. I reassure her that we are working closely with the Health and Safety Executive to ensure the transition is as smooth as possible, and we have been carefully planning the expected programme of work. Without a doubt, some additional capacity will be required, and we will ramp it up as need be and over time. Clearly, we place great importance on protecting human health and the environment, so it will be necessary to resource the regime so that it can operate. We are well aware of that, and we will resolve those issues through the current spending review. However, the commitment is clearly there, as is the shared belief that this is a priority concern and we need to ensure that we have the capacity, the expertise and the resources that we need.

My noble friend Lady McIntosh also asked whether we will duplicate EU decisions. Great Britain authorities will take decisions that are in the best interests of the UK independently of EU decisions; there is no duplication of efforts. It has always been necessary to consider the evidence to inform the UK position on EU decisions, and our GB decision-making will be underpinned by that robust evidence base and impact assessment. The opportunity for UK stakeholders to input will not only remain but be enhanced.

[Lord Goldsmith of Richmond Park]

The noble Baroness, Lady Bakewell, asked a number of questions. She asked about the MRL monitoring programme obligations and whether they will be carried forward into the national regime. They will, and they look ahead three years. She asked if we could explain the paragraph in the Explanatory Memorandum about the free issue procedure. This procedure is used to issue SIs where we have to correct mistakes. On PCBs, new legislation was passed this year to remove PCBs from use in electrical equipment by 2025. Legacy land contamination is managed under the contaminated land regime in Part IIA of the Environmental Protection Act 1990.

The noble Baroness, Lady Young, mentioned a number of issues that I hope I have already addressed. She also talked about POPs waste. Measures concerning the traceability control of POPs waste are clearly complex and will take some time to fully implement. However, it would not be appropriate to have that power indefinitely, and it may not be needed if it is dealt with under the Environment Bill. The noble Baroness also asked about control programmes and sampling. We will develop our plans for national maximum residue level monitoring programmes, including stakeholder engagement, in due course, so I will get back to her with information about that.

I hope and believe that I have answered the questions raised—I am looking through my notes to see if there are any that I missed out. My apologies—the noble Baroness, Lady Young, also asked about capacity and resources to deliver the national regime. The competent authorities across the UK will continue to manage and enforce the POPs regime as they do now, and, as I said, the Environment Agency has been working closely with Defra and the HSE to get the right resources in place to deliver its role. It has already increased its resource and it has an additional recruitment plan for early 2021 to ensure that it has the right capability and capacity for anticipated peaks and workload over the coming years.

I hope that I have answered all the questions that have been raised. I thank all noble Lords for their contributions and look forward to such debates in the months to come.

Motion agreed.

Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2020

Considered in Grand Committee

4.44 pm

Moved by ***Lord Goldsmith of Richmond Park***

That the Grand Committee do consider the Persistent Organic Pollutants (Amendment) (EU Exit) Regulations.

Relevant document: 31st Report from the Secondary Legislation Scrutiny Committee

Motion agreed.

The Deputy Chairman of Committees (Baroness Pitkeathley) (Lab): The Grand Committee stands adjourned until 5 pm. I remind Members to sanitise their desks and chairs before leaving the Room.

4.45 pm

Sitting suspended.

Arrangement of Business

Announcement

5 pm

The Deputy Chairman of Committees (Baroness Pitkeathley) (Lab): My Lords, the hybrid Grand Committee will now resume. Some Members are here in person, respecting social distancing, others are participating remotely, but all Members will be treated equally. I must ask Members in the Room to wear a face covering except when seated at their desk, to speak sitting down and to wipe down their desk, chair and any other touch points before and after use. If the capacity of the Committee Room is exceeded or other safety requirements are breached, I will immediately adjourn the Committee. If there is a Division in the House, the Committee will adjourn for five minutes.

Flags (Northern Ireland) (Amendment) (No. 2) Regulations 2020

Considered in Grand Committee

5 pm

Moved by ***Viscount Younger of Leckie***

That the Grand Committee do consider the Flags (Northern Ireland) (Amendment) (No. 2) Regulations 2020.

Viscount Younger of Leckie (Con): My Lords, the draft regulations were laid before the House on 23 September.

The flying of a specific flag can represent an important symbol, with wider implications of what that act means by way of a sense of identity or cultural heritage. It is from this perspective that flag flying from government buildings and courthouses in Northern Ireland has been regulated by the Government, via Westminster regulations, since 2000. This followed earlier political disagreements in Northern Ireland regarding adherence to the relevant guidance on the matter.

The regulations made in 2000 therefore sought to prescribe the designated days that the union flag and, in certain circumstances, other flags must be flown on government buildings and courthouses in Northern Ireland. The regulations impose a legal requirement that must be followed for 16 days currently—soon to be 19 days—out of the year, as I shall explain.

The current 16 days to be observed by flying the union flag cover a range of royal birthdays and specific days that mark important milestones for the nations coming together as one union, such as Coronation Day, Commonwealth Day, and Remembrance Day—events that are recognised and celebrated right across the UK.

The Flags (Northern Ireland) Order 2000 sets out the clear process which must be followed in order to amend the flags regulations of 2000, respecting the devolution settlement and allowing the views of elected representatives on the ground in Northern Ireland to be considered. This includes referring any proposed

amendments to the Northern Ireland Assembly for it to consider and on which to report its views to the Secretary of State before any regulations are made in Westminster.

The instrument before the Committee today delivers on a commitment made by the Government with respect to flag flying in the *New Decade, New Approach* agreement that saw the restoration of devolved government in Northern Ireland earlier this year. That commitment was to update the flags regulations to bring the list of designated flag-flying days from Northern Ireland government buildings and courthouses into line with the Department for Digital, Culture, Media and Sport's designated days—meaning that, going forward, the same designated days will be observed in Northern Ireland as in the rest of the UK. This will involve the addition of three designated days: the birthdays of the Duchess of Cambridge, the Duke of Cambridge and the Duchess of Cornwall. This amendment will bring designated flag-flying days for Northern Ireland government buildings and courthouses into line with those observed elsewhere in the United Kingdom through guidance issued by the Department for Digital, Culture, Media and Sport each year.

The first new birthday to be observed—that of the Duchess of Cambridge—will be recognised on 9 January, hence our proceeding now while parliamentary time allows to deliver on this NDNA commitment.

The second amendment relates to the list of specified buildings in Northern Ireland. This list has not been amended since the 2000 regulations were made, when a decision was taken that the relevant buildings would be the headquarters of Northern Ireland departments. However, the list needs updating as it includes a building, Churchill House, that was demolished in 2004, and does not include two buildings that have since become the headquarters of Northern Ireland government departments in recent years. Therefore, this instrument removes Churchill House from the list of specified buildings and adds Clare House, the headquarters of the Department of Finance, and Causeway Exchange, the headquarters of the Department for Communities, to that list in the regulations.

As per the requirements set out in the 2000 order, the Secretary of State wrote to the Assembly Speaker, Alex Maskey, on 1 September asking that the Assembly consider and debate the draft regulations. A letter was sent back from the Speaker on 14 September reporting the views of the Assembly back to the Secretary of State. I am pleased to note that the Assembly took the opportunity to debate this matter robustly, as one might expect. Naturally, the contributions to the debate highlighted the different views that Members hold on the issue, but overall, no concerns were raised with the regulations being taken forward as per the NDNA commitment. I thank the Members and the Assembly for the time they have taken to carefully consider the instrument and report back views for us to move forward with delivery of these regulations.

Noble Lords will be very aware, as I am, of the range of key priorities being taken forward for Northern Ireland at present, from a range of debates we have recently had in this place. However, on this, I am pleased to say that it seems to be a more straightforward delivery of one of our NDNA commitments. For the record, we completely recognise the importance of flag flying and the related culture and identity matters in Northern Ireland. I note that this is but one commitment in the overall package of wider commitments we have made with respect to language, culture and identity issues for Northern Ireland under the NDNA and work is ongoing to deliver the other commitments in full at the earliest opportunity.

The 2000 flags order also requires regard to be shown to the Belfast agreement when making or amending flags regulations. In practice, this ensures that any changes appropriately balance the issues of recognition of all identities, diversity and tolerance, consistent with the principles and spirit of the Belfast agreement. I am satisfied that these regulations, like the 2000 regulations that they amend, comply with the Belfast agreement by reflecting Northern Ireland's constitutional position as part of the United Kingdom in a balanced and proportionate manner.

I note as a point of interest that the House of Commons debated this instrument on 21 October in very short order. I look forward to hearing the contributions from noble Lords today. I commend the draft order to the Committee and I beg to move.

5.07 pm

Baroness Harris of Richmond (LD) [V]: My Lords, I thank the Minister for setting out the order. It was in 2005 that a joint protocol was issued in relation to the display of flags in public areas, and later in 2011, the consultation document on the programme for cohesion, sharing and integration identified "developing shared space" which talked about cultural identity as a long-term theme for action, which included the flying of flags. The Northern Ireland Human Rights Commission also issued a paper which was intended to provide assistance to those making decisions on flags, symbols or emblems in Northern Ireland and cited the applicable international human rights standards as well as a whole plethora of international instruments which NIHRC cites, as well as standards proposed by the UN and regional HR bodies. I commend its document to noble Lords.

A lot of work has been carried out by Northern Ireland departments relating to flags, and it has been accepted as a symbol of sovereignty that, as we have heard, the union flag reflects the fact that the majority of people in Northern Ireland, in accordance with the provisions set out in the Belfast Good Friday agreement 1998 and the Northern Ireland Act 1998, voted for this. The Flags Regulations (Northern Ireland) 2000 govern the flying of flags in Northern Ireland, as we have also heard.

Today, we are simply talking about flags flown from government buildings and courthouses. As we have heard, the Secretary of State has the power to make regulations regarding the flying of flags on these buildings. Today, we are deciding on a permit to alter those regulations under the 2000 order, which the Northern Ireland Assembly discussed on 14 September at Stormont. The discussion was robust, not least because, when the devolved Government were restored—almost a year ago now—the British and Irish Governments agreed on *New Decade, New Approach*, which committed both Governments to making the list of designated

[Baroness Harris of Richmond]
flag-flying days in Northern Ireland the same as in the rest of the UK. Summing up the debate in the Assembly, UUP Member Robbie Butler made reference to the sensitivities around debates about flags, saying that they have been

"a cause of much angst and many sad debates".

Most Members felt that it was time to move on and that there were far more important issues for the Assembly to deal with, although inevitably there were differing views.

We debated this on 25 March last year, when we deleted the designated status of the Europe Day flag—with some disappointment on my part, I might add—but this order adds three more designated days when the union flag is to be flown and deletes a now-demolished building, which is sensible. It also adds two more Northern Ireland Government departments. Northern Ireland has many more important policy decisions to make. We should move more swiftly and agree this order. I wish the Assembly well in its future deliberations.

5.11 pm

Lord Hay of Ballyore (DUP) [V]: My Lords, I thank the Minister for introducing these new regulations. As he has said, under them, Northern Ireland will have three additional days. This brings Northern Ireland into line with the rest of the United Kingdom, which is important. I also believe that the new regulations recognise Northern Ireland's Britishness—that it is part of the United Kingdom—and our place firmly within the union. It is important to ensure that Northern Ireland maintains the same statutory days as the rest of the United Kingdom.

As the Minister said, these regulations arise out of the *New Decade, New Approach* document, which was published in January with agreement from all sides. It was welcomed in Northern Ireland and allowed the Assembly to get back up and running again. I think that that was welcomed by the whole of the population in Northern Ireland at the time. My understanding is that there was a robust debate in the Northern Ireland Assembly on these new regulations, as some Members have already said.

I recognise that flags can be a controversial issue in Northern Ireland for some people; they have caused many debates there. I believe that the flag of our country should be treated with respect and should not be flown in a provocative way or a manner that creates a problem for another community. This is an important day for Northern Ireland because, as I said, the regulations bring it more closely in line with the rest of the United Kingdom.

Some Members continually quote the Belfast agreement but, whatever else it can be faulted for, it involved—we were told—an acceptance of Northern Ireland as part of the United Kingdom. If that is correct, how can there be resistance to the flying of the flag of the United Kingdom on government buildings in Northern Ireland? If there is a recognition that we are part of the United Kingdom, I would have thought that one would follow the other. Can the Minister assure us that the flag of our country will fly on designated public buildings in Northern Ireland, especially when Northern Ireland celebrates its centenary next year?

The Deputy Chairman of Committees (Baroness Pitkeathley) (Lab): The next speaker is the noble Lord, Lord Rogan. Lord Rogan? We will move on and try to come back to the noble Lord in case he is having difficulties. I call the noble Baroness, Lady Ritchie of Downpatrick.

5.15 pm

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, I thank the Minister for his explanation of this statutory instrument. While this is very much a technical amendment, it is worth recognising that flags in Northern Ireland can sometimes be controversial and go to the very heart of our society and community. I acknowledge what the noble Lord, Lord Hay of Ballyore, said: that the union flag should be displayed in a respectful way.

I come from the democratic Irish nationalist tradition and see a need for two flags on government buildings to reflect the partisan nature of our society. Northern Ireland is divided. Sadly, flags are used on many occasions to mark out territory, define identity and cause internecine conflict between two traditions. That situation is more heightened at different times of the year. I do not agree that that should be the case because flags of whichever hue or tradition they represent should be treated with respect by those who wish to fly them and by others who may not necessarily be of that tradition.

In the early days of the Northern Ireland Assembly, of which the noble Lord, Lord Hay, was a Member, I served under him when he was Speaker. In 1998, an ad hoc committee on flags was established. We all recall that, at that stage, the various parties defined their position according to identity but there was no particular outcome. Out of the Stormont House agreement emerged the Commission on Flags, Identity, Culture and Tradition. It first met in June 2016 and forwarded its report in the middle of this year to the First Minister and Deputy First Minister—but, significantly, it has not been published. Perhaps the Minister could find out the reason for the hold-up and when its publication and a debate on it in the Assembly are likely to take place.

Quite honestly, with our population suffering from the ravages of Covid and our economy to be impacted by Brexit, we need to move on to reconciliation and the healing process. I think of the words of my late former party leader, John Hume, who, along with others, was instrumental in providing the framework based on relationships that led to the Good Friday/Belfast agreement. When it was signed, he said there was a necessity to move on to reconciliation and a healing process. Undoubtedly, flags must be part of that, as well as cultural identity, language and symbols. We must reach consensus around that and show that we are moving on.

Unfortunately, that healing process has not yet taken place, hence the conflict around flags, symbols and parades. There needs to be recognition and acceptance by us all, and all of society, of the value of each of the two traditions, including a respect by each tradition of the other and a level of mutual understanding. I hope that this debate can propel the necessary discussion that needs to take place on healing and reconciliation. Can the Minister provide us with an update on the implementation of *New Decade, New Approach*, particularly in relation to cultural identity and language commitments?

I was Minister in the Department for Social Development, which was the original department and forerunner to the Department for Communities. Along with the then First and Deputy First Ministers, we spearheaded, shall we say, the development that became the Victoria House regeneration project, which replaced Churchill House. That was 2007 to 2010, and Churchill House was long demolished at that stage. I find that an interesting piece of history none the less.

I also ask the Minister to indicate what he and his colleagues could do with the Irish Government, as joint guarantors of the agreement, the Northern Ireland Executive and political parties to bring about that necessary healing process, which requires respect for political difference, mutual understanding, the lessening of fear, and the building of confidence with our various traditions in Northern Ireland.

The Deputy Chairman of Committees (Baroness Pitkeathley) (Lab): We now return to the noble Lord, Lord Rogan.

5.21 pm

Lord Rogan (UUP) [V]: My Lords, I apologise to the noble Baroness, Lady Ritchie. In no way would I want to go before her. I also thank the Minister for introducing these regulations this evening. I welcome the regulations and, in particular, the three additional dates on which the union flag will now be flown on government buildings in Northern Ireland.

The regulations stem from the New Decade, New Approach agreement that was signed up to by the DUP and Sinn Féin/IRA in January as a precursor to the return of devolved government in Stormont. But despite assenting to this document, Sinn Féin/IRA has characteristically reverted to type and sought to undermine and ridicule those provisions of greatest importance to the pro-union members of the community. This includes the flag regulations we are discussing this evening.

Speaking in the Assembly debate on this subject in September, the Sinn Féin/IRA MLA Emma Sheerin described the flying of the union flag above Parliament buildings and other civic areas as "somewhat tired". She added that even holding the debate itself was

"at best bizarre and inappropriate and at worst insulting."

Speaking in the same debate, her party colleague John O'Dowd, a former Education Minister in the Northern Ireland Administration, said:

"This is a take-note debate, and, at the end of this, we will vote that we have taken note of it. That should be in no way interpreted by the Secretary of State or by anyone in or beyond the Chamber that we support the motion that we need to fly more flags, because we do not."

Republicans often claim that they want to build a "shared future" with their unionist neighbours based on mutual respect, but there is little evidence that their words are little more than hollow platitudes. Next year marks 100 years since the creation of Northern Ireland and the formation of the United Kingdom as we know it today. It is a wonderful opportunity to celebrate all that is good about the Province and its people and our union, with its diverse peoples and cultures. The centenary will also provide a unique vehicle to promote Northern Ireland's many attractions as a place to visit. This could not have happened at a better time, given the horrific damage Covid-19 has done and continues to do to the local tourism and hospitality sectors.

However, last week, all the Sinn Féin/IRA and, I am sorry to say, SDLP representatives on Derry City and Strabane District Council could do was vote that their local authority should not participate in any commemorative or celebratory events related to the centenary. The motion was carried. As your Lordships can imagine, this decision has caused great disappointment and anger to unionist people, not just in that council area but across Northern Ireland in general.

I am a unionist to my fingertips and always will be, but I am also a democrat. I have no objection to those holding a diametrically opposed view to mine, on condition that they seek to achieve their political objectives through peaceful means alone. However, the Belfast agreement was rooted in the principle of mutual respect for the two traditions—unionism and nationalism—that coexist on the island of Ireland. It does no one any favours when, on matters such as the flag regulations we are discussing today, local politicians whose parties signed up to New Decade, New Approach refuse to adhere to the spirit in which that document was agreed. I support the regulations.

5.25 pm

Baroness Suttie (LD): I start by paying tribute to the PSNI and the effective way in which it has dealt with the incidents in Derry/Londonderry and Belfast in the past 24 hours. They are a reminder of the fragility of the peace process, which none of us should ever take for granted. I also thank the Minister for his introduction to these regulations.

As other noble Lords have said, the regulations before us today implement a commitment set out in New Decade, New Approach. When the Northern Ireland Executive was restored in January this year it was agreed that designated flag flying days in Northern Ireland should be brought into line with the rest of the United Kingdom. From the Liberal Democrat Benches, we therefore support these regulations, which are carrying out that commitment.

As other noble Lords have said, flags as symbols are a sensitive issue and can provoke strong feelings, as we have heard in the debate this afternoon. Equally, they can provoke strong negative reactions. Ultimately, it is about respect, as the noble Baroness, Lady Ritchie, said so powerfully this afternoon, and respecting how people feel about a flag and its symbolism, even if you do not entirely share or understand those sentiments. Like other noble Lords, I have read the debate on these regulations in the Northern Ireland Assembly on 14 September, and there, too, the strength of feeling from Assembly Members was made extremely clear.

The New Decade, New Approach agreement was a long time coming. The three years when there was no Executive did not serve the people of Northern Ireland well. Agreement to move on was very much to be welcomed, but there is still so much to be done to make further progress. I therefore repeat the remark made by the noble Baroness, Lady Ritchie, that it would be useful to hear from the Minister today in his reply to this debate whether the Government have

[Baroness Suttie]
drawn up a timetable for the implementation of other sections of that agreement and whether a report on progress will be forthcoming, not least on legacy issues and future long-term funding.

January this year, when the New Decade, New Approach agreement was signed, now feels a very long time ago, a time when we could still live and travel freely, a time before we had even heard of Covid-19. Northern Ireland is now into its second week of its second lockdown, with all the consequences on society and economy that it brings, and people and businesses in Northern Ireland still face ongoing uncertainty provoked by Brexit and the Northern Ireland protocol and additional uncertainties stemming from the internal market Bill.

I conclude by agreeing with my Alliance Party colleague Kellie Armstrong, who said during the debate on these regulations in the Northern Ireland Assembly,

"all I ask is that we show each other respect."

She went on:

"it is time for us to move forward."

5.28 pm

Lord Murphy of Torfaen (Lab) [V]: My Lords, this has been a short but interesting debate which goes to the heart of the issue which has dominated Northern Ireland since the signing of the Good Friday agreement: that of parity of esteem and respect for everybody in Northern Ireland irrespective of the community or background from which one comes. On the surface, this seems a particularly innocuous statutory instrument, especially as we are debating it in such turbulent and difficult times. We are talking about three royal birthdays and two government buildings, and flags flying accordingly, but as your Lordships have said, it is not as simple as that. Certainly, the debate in the Assembly highlighted the strong feelings that still exist in Northern Ireland about the nature of flags.

Flags are not going to go away, but they can be respected. Each and every one of us should respect the flags which are respected by other people and communities. In press conferences in Scotland or Wales over the last number of months, we have seen the saltire or the Welsh dragon by the respective First Ministers. That is a sign of respect for those countries. In Northern Ireland, of course, it is much more complicated, but there should still be that respect. The noble Baroness, Lady Ritchie, outlined eloquently how important it is, whatever we are doing, to ensure there is such parity of esteem and respect.

It is not easy. Flags have been abused an awful lot during the past 40 or 50 years—waved and used in a way that they should not be—but they also reflect identity. At the heart of the issue of Northern Ireland when we come to try to get a reconciliation is the need to respect people's identities, and that includes respecting the symbols of their identities as well.

This statutory instrument reflects the New Decade, New Approach agreement, when it brought designated flag-flying days into line with the United Kingdom. That was agreed between the parties in Northern Ireland, so I obviously support this statutory instrument, as I am sure will everybody else today. However, it has to be done against the background of ensuring that people are respected irrespective of how they look at the issue of flags. As many have said, the debate in the Assembly showed varying views about the flags.

I join your Lordships in asking the Minister about the other issues in New Decade, New Approach, particularly the meetings of the joint board, and whether we are seeing some progress despite the fact that, inevitably, the whole of Northern Ireland politics and government, as it is in the rest of the United Kingdom and the Republic of Ireland, is dominated by Covid-19. We should go on addressing those issues which can bring about reconciliation and which can ensure that, once all this terrible business is over, Northern Ireland continues with an Assembly and an Executive and the path to reconciliation so well established in the Good Friday agreement 22 years ago.

5.32 pm

Viscount Younger of Leckie (Con): My Lords, I thank all Peers who have spoken for their overall support for these regulations. It was cheering to note that many speeches repeated some parts of mine, which shows that there is a consensus around this Committee. I recognise that flag flying in Northern Ireland can sometimes be a divisive issue, as the noble Baroness, Lady Ritchie, said, and that there will be differing views about this statutory instrument and the underlying principles of the regulations.

I thought I might start by going back to note the judgment last year of the Northern Ireland Court of Appeal, which ruled that the 2000 regulations

"should be regarded as a pragmatic reflection of the current reality of the constitutional position and actively consented to in accordance with the spirit of the Agreement that Irish people, North and South, signed up to."

It went on to state that the measure

"prefers neither one community over another, nor does it hold one individual in higher esteem than another. It is not discriminatory. It simply reflects the constitutional position of Northern Ireland as part of the United Kingdom."

With some opening remarks, that sums up the debate rather well.

It is good to see that Members agree with me that the changes proposed in this particular instrument are balanced and proportionate. In line with the commitment made by the Government in New Decade, New Approach, the number of designated flag-flying days listed in the regulations will not exceed those observed in the rest of the UK, while the addition of two specified buildings ensures consistency with the intent of the 2000 regulations.

I recognise that this is just one commitment made under the NDNA. While we have made good progress on delivering its range of important commitments, we still have more to do.

That brings me nicely to the questions raised by the noble Baronesses, Lady Harris of Richmond and Lady Ritchie, and the noble Lord, Lord Murphy. The noble Baroness, Lady Harris, spoke movingly about the importance of flags, identity and culture, and this allows me to expand a bit on her remarks. There is more work to do on the other language and cultural commitments that the Government are delivering under the NDNA. The Government are committed to

recognising Ulster Scots as a national minority. We are also committed to delivering additional funding for Northern Ireland Screen to broaden the remit of the existing Ulster Scots and Irish language broadcasting funds. I reassure the Committee that this work is ongoing and we hope to deliver on these important commitments before the end of the year.

I will say a little more about the importance of Irish language legislation. It is essential that the Executive also move forward with their commitments under the NDNA agreement, including the important commitments on language, culture, identity and associated legislation. I again reassure the Committee that we continue to engage with the Executive in this regard. As I said earlier, there are many other key priorities that are very much alive and ongoing in Northern Ireland.

I move on to an important interesting question raised by the noble Lord, Lord Hay of Ballyore, about flying flags on centenary day. It is interesting to note that, as far as I am aware—I will check on this—no actual day officially marks the centenary. This could be debated, but I reassure the Committee that we want to use the centenary to promote Northern Ireland as an attractive place to visit and do business, to celebrate the contribution that the people of Northern Ireland make to all aspects of life in the UK and further afield, and to develop a better understand of our shared history. In August, the Prime Minister visited Northern Ireland, where he announced the establishment of a centenary forum and historical advisory panel, ensuring that we listen to their diverse perspectives as we create a bold and ambitious centenary programme. Both those groups have now met and their composition was recently confirmed, publicly. Although I cannot give a precise answer to the question raised by the noble Lord, Lord Hay, he has raised an important point about the centenary date. It is as yet uncertain and not mentioned in these regulations. We will keep in touch with him as matters progress.

I focus now on the remarks of the noble Baroness, Lady Ritchie. I was delighted that we are debating again so soon after the water boundaries regulations last week, when the noble Baroness made a moving speech, focusing on her role in the constituency of Carlingford Lough. I was interested to hear her strike the right chord in this debate, which was picked up by the noble Lord, Lord Murphy, and other noble Lords, in the importance that she gave to reconciliation. I was pleased and rather moved when she brought up the name of the late John Hume, bearing in mind the huge amount of work that he did in Northern Ireland to help bring about peace. I also note, as raised by the noble Lord, Lord Murphy, that the words "respect" and "mutual recognition" formed an important part of this debate. They resonate around this Committee.

I also bring up some points raised by the noble Lord, Lord Rogan, who made a strong speech about the importance of the Belfast agreement. In agreeing with him, I say this. We must continue to have proper regard for the Belfast Good Friday agreement. I am clear as to our legal duties in this regard. These changes do not amend the principles that underpin the 2000 regulations, as I said earlier. The changes are minimal, yet important, to bring Northern Ireland in line with the practice taken at UK Government level. I am of the view that the changes appropriately balance issues of recognition of all identities, diversity and tolerance, consistent with the principles and spirit of the Belfast agreement. I hope that nails down the point raised by the noble Lord.

I hope that I have covered the majority of the questions. I will certainly read *Hansard* to check that I have answered all the questions raised. In the meantime, I am pleased to be delivering this commitment on flag flying today—one of the measures that, as I said earlier, forms part of our wider commitments relating to language, culture and identity. I commend this draft order to the Committee, and I beg to move.

Motion agreed.

The Deputy Chairman of Committees (Baroness Watkins of Tavistock) (CB): The Grand Committee stands adjourned until 6.15 pm. I remind Members to sanitise their desks and chairs before leaving the Room.

5.40 pm

Sitting suspended.

6.15 pm

The Deputy Chairman of Committees (Baroness Watkins of Tavistock) (CB): My Lords, the hybrid Grand Committee will now resume. Some Members are here in person, respecting social distancing, others are participating remotely, but all Members will be treated equally. I must ask Members in the room to wear a face covering, except when seated at their desk, to speak sitting down and to wipe down their desk, chair and any other touch points before and after use. If the capacity of the Committee Room is exceeded or other safety requirements are breached, I will immediately adjourn the Committee. If there is a Division in the House the Committee will adjourn for five minutes.

The time limit is one hour. Before I call the Minister, I inform the Grand Committee that the noble Lord, Lord Berkeley, has withdrawn, so after the Minister I will call the noble Lord, Lord Stephen.

Electricity (Risk-Preparedness) (Amendment etc.) (EU Exit) Regulations 2020

Considered in Grand Committee

6.16 pm

Moved by ***Baroness Bloomfield of Hinton Waldrist***

That the Grand Committee do consider the Electricity (Risk-Preparedness) (Amendment etc.) (EU Exit) Regulations 2020.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, on 31 December 2020, when the transition period ends, direct EU legislation such as this, which forms part of the legal framework governing our energy markets, will be incorporated into domestic law by the European Union (Withdrawal) Act 2018. This statutory instrument will ensure that Great Britain's energy legislation continues to work effectively after the end

[Baroness Bloomfield of Hinton Waldrist]
of the transition period. It forms part of the department's wider package of work to ensure the continued smooth functioning of the UK's energy system after the transition period.

Great Britain has a reliable energy system, and maintaining a safe and secure energy supply is a key priority for this Government. The UK's exit from the EU will not affect this. This statutory instrument applies to Great Britain and makes amendments and revocations to Regulation (EU) 2019/941 on risk preparedness in the electricity sector, amending existing rules to ensure they operate effectively in domestic law, while revoking provisions no longer relevant after the transition period. The risk-preparedness regulation came into force in June 2019 and creates an EU framework for preventing, preparing for and managing electricity crises. The regulation requires, among other things, that member states identify all possible electricity crisis scenarios at national and regional levels and then prepare risk-preparedness plans based on those scenarios.

The changes made by this statutory instrument reflect our intention to continue to develop measures for robust risk-preparedness management in the electricity sector, especially as we work to further decarbonise Britain's energy system. Specifically, this statutory instrument amends provisions relating to the development of electricity crisis scenarios and a risk-preparedness plan to ensure they operate properly after the transition period. By retaining these functions, we will ensure that our understanding of the risks continues to improve and that we have robust mitigations in place to maintain our secure and reliable electricity system.

BEIS is the lead government department for electricity emergencies and works closely with industry partners, including National Grid and Ofgem, to consider risks to supply and ways to manage these risks effectively. This SI will build on and supplement existing arrangements and plans, ensuring there is a clear framework for the identification of risks to the electricity system and setting out measures to mitigate these risks within a risk-preparedness plan. This plan will complement existing documents that require industry consultation and development, including the regularly updated national emergency plan for downstream gas and electricity.

The Secretary of State for Business, Energy and Industrial Strategy will work with these GB bodies and market participants—for example, the transmission system operators—to fulfil the obligations to develop crisis scenarios and risk-preparedness plans by specified dates. This provides clarity on roles and functions after the transition period for electricity crisis planning and management in Great Britain. This includes consultation with the transmission system operator, the regulatory authority, Ofgem, distribution network operators and other relevant parties to identify the most relevant electricity crisis scenarios that may impact the electricity system.

After the transition period, the UK will make independent decisions on our energy policies. This statutory instrument therefore revokes certain obligations within the regulation, such as the obligation to submit risk-preparedness plans to EU bodies and institutions. It also corrects deficient references to EU bodies and institutions—for example, by removing references to the European Network of Transmission System Operators for Electricity, and the European Commission. It also replaces the term "member state" with references to "the Secretary of State" where necessary to ensure continued operability.

The revocations made by this SI are proportionate and necessary to ensure the continued functioning of the regulation in domestic law after the end of the transition period. Overall, this statutory instrument will ensure the operability and integrity of GB energy legislation, providing certainty for market participants and safeguarding the resilience of the electricity system by ensuring the continued functioning of risk-preparedness planning provisions.

These regulations are an appropriate use of the powers of the withdrawal Act and will maximise continuity in our energy regulation, provide certainty to market participants and support a well-functioning, competitive and resilient energy system for consumers. I beg to move.

6.21 pm

Lord Stephen (LD) [V]: I begin by declaring my renewable energy interests as set out in the register.

This is an increasingly important issue. Electricity demand will rise over the coming decades and we will be increasingly dependent on electricity for powering our vehicles and heating our homes, as well as for existing uses such as televisions, lighting, computers and much more. I welcome the preparation of a risk-preparedness report by Ministers. I believe this should be given considerable urgency, and I hope the report is ambitious and helps to drive the energy transformation we need, rather than being purely protective and defensive to avoid disasters, breakdowns and blackouts.

By this, I mean that the greatest prize in electricity security is not simply avoiding power cuts. Of course, we have all seen the dire headlines, and there has been an increasing number of mega power cuts over the last decade, which have caused huge problems in Pakistan, Canada, America, Turkey and the Philippines, for example. Sadly, the UK has not been immune, as we saw on 7 August last year. But it is about more than stopping the system falling over. It is about how you drive the future and seize opportunities as quickly and early as possible. In short, do you wait for a crisis to hit you, as they did in Australia—you might remember Tesla riding to the rescue with its 100-megawatt battery, delivered in 100 days—or do you realise there is an imperative of central importance here: tackling climate change and delivering on the target of net zero by 2050?

The scale of the challenge is simply huge. Our UK target for new offshore renewables by 2030 was 30 gigawatts, and the Government have now raised that to 40 gigawatts. To achieve net zero, the Committee on Climate Change estimates that we will need to go much further: 70 gigawatts of new installed capacity by 2050. The target, I believe, could go higher still.

To give this some sense of scale, back in the old days, when we relied on coal, nuclear and gas plants, with a few hydropower stations too, the total installed capacity for the whole of the UK was around 60 gigawatts. Across Europe, the numbers are going to be even more

staggering, with perhaps as much as 900 gigawatts or even a terawatt of new renewable capacity required over the coming decades.

This all amounts to an enormous challenge. We do not have anything like the strength and flexibility of grid onshore or offshore, or the interconnectors, ocean cables and HVDC infrastructure needed to cope with this exponential increase. We do not have anything like the scale of investment required in batteries and other forms of electricity storage, nor yet do we have the legislative and regulatory structure to be certain that we can make it happen. However, I firmly believe that that can change; it must, and we have to do it as fast as humanly possible.

As an aside, if we happen to have—as media reports suggest—£10 billion or £20 billion of taxpayers' money available then this is where the priority should be for investment, not supporting a new generation of nuclear power stations that might take 15 or 20 years to come online and which will cost far more, megawatt for megawatt and pound for pound, than the power that is already coming from renewable sources. Let us commit right here, right now to this investment in upgrading the grid and creating long-term electricity storage; it is urgent and vital. That is why entrepreneurs such as Eddie O'Connor are now investing in projects such as SuperNode. Eddie is a renewable energy visionary and, having founded both SSE Airtricity and Mainstream, is one of the most respected individuals in the sector. His latest venture is all about the grid, kick-starting progress towards the vision of a hugely interconnected Europe powered by renewable energy.

Let us be clear: if the UK is determined then we can be the engine, the driving force, right at the centre of the renewables revolution. The UK could lead the way with a strong, stable grid, exporting our wind, tidal and wave power and delivering the future. If all we do is prepare for crisis, and if we do not invest, then our grid will stagnate and big opportunities will be lost. Sadly, if that happens then we will have more days like 9 August last year when our lights went out and more than 1 million people across Britain were left without electricity. We must not let that happen ever again. We do not want to be like Australia, sending for the cavalry and calling on Elon Musk to patch up the damage.

We want to seize the future. We want to be at the heart of a booming renewables sector with a strong modern grid, far more battery storage and way more interconnectivity, working with our European partners and neighbours to deliver the very best and cleanest supergrid in the world. It is complex and difficult but, perhaps today of all days as America goes to the polls, it is worth remembering the words of a great US President who said that we do these things

"not because they are easy, but because they are hard."

Yes, it is hard and it sometimes feels like shooting for the stars, but I am convinced that we can do it and that the future is bright if we get out there and make it happen.

6.28 pm

Lord Campbell-Savours (Lab) [V]: Before dealing specifically with this SI, I want to refer to a point repeatedly being raised by colleagues across the House on the delayed handling of SIs. Members have naturally argued for earlier consideration, but at the end of the day there are now huge numbers of measures going through the process and I would not like to see a process introduced that further delayed the introduction of those SIs that are urgently required.

I turn to the SI before us. I will concentrate my remarks on what has been described in Commons debates as smooth working in the supply of energy, as well as the need to avoid a crisis in supply and the development of risk preparedness planning. Providing certainty for market participation and resilience in supply systems is clearly critical if we are to plough our own furrow in the new Europe we are embarked on.

That brings me to the whole issue of interconnectors. In the Commons, Minister Kwasi Kwarteng, when pressed on interconnectors, responded that

"we intend to build many more."—[*Official Report*, Commons Delegated Legislation Committee, 7/10/20; col. 3.]

I want to press the Minister on that response as it begs the question: what further interconnector arrangements are under consideration? I have in mind proposals for an interconnector with Iceland, originally made some years ago. But before referring to that particular project, I need to state that my wife is Icelandic and she has relatives who are engaged in the energy debate in Iceland.

The Icelandic proposal is to build an interconnector between Iceland and the UK. It would extend over 700 miles and would carry between 800 and 1,400 megawatts of power. I understand that it would be the largest subsea interconnector in the world. The project partners are National Grid, the Icelandic state-owned generator Landsvirkjun, and Landsnet, the transmission system operator. I want to press the Minister on where we are in the debate on a way forward. I know that she has taken a historic interest in this project as part of her keen interest in energy-related environmental matters, which also include barrages, but there have been hold-ups which are placing question marks over the whole project's development.

The latest information available to me points to difficulties over the need to upgrade the transmission system which encircles Iceland and which is limited to 100 megawatts' transmission capacity. An interconnector would be dependent on that ringed transmission system, which is clearly inadequate as currently operated. It would need to be substantially upgraded, if only to supply power to the interconnector. The ring is, in effect, the collector. The problem is further aggravated by the very vocal environmental protection movement in Iceland—which normally I strongly support—which is deeply concerned about damage to the visual environment from ugly power plants and overhead power lines. These considerations form part of a balance of arguments which are perfectly understandable in a country where environmental protection issues are crucial. They are key to Iceland's ability to attract a worldwide tourist trade.

However, there are now dark clouds on the horizon for the Icelandic economy. First, the future of the aluminium industry, which hitherto has been internationally competitive, is threatened by increasing Chinese competition subsidised by cheap coal. Secondly,

[Lord Campbell-Savours]
the pandemic has long-term implications for the Icelandic economy, which is increasingly dependent on tourism, and huge pandemic-related reductions in tourist movements have had a major effect on national income. Energy exports could certainly help alleviate downturn damage. The country will inevitably have to have that in mind when considering the perfectly legitimate concerns of the environment movement. Equally, the environment lobby there will need to consider the consequences of what may be a long-term dilemma arising out of reduced national income. No one knows where the pandemic is going to take us. The powers that be in Iceland will not be unaware of the looming dangers if alternative sources of national income cannot be found.

Admittedly, Icelandic resilience saw the country through the fisheries crisis in the 1960s and the recent financial crisis, but nevertheless the balance of these arguments may be such that Iceland has to make major compromises in its economic and industrial strategy, which could include a serious debate on potential interconnection business, from which Britain could benefit. I do not envy the heartfelt debate that may now have to take place. No doubt Björk, the Icelandic singer, will wish to consider these matters when she makes her next very substantial financial contribution to the Icelandic environmental movement.

This order is about electricity supplies in the new Europe. It will inevitably lead to the reshaping of the energy supply market, with Europe to the south and, potentially, Iceland to the north. It will be interesting to know where the Government stand on the use of these interconnectors in the policy of preparedness referred to by the Minister which stands at the heart of this statutory instrument.

6.35 pm

Lord Oates (LD): My Lords, I declare my interests as set out in the register as chair of the advisory board of Weber Shandwick UK. I am grateful to the Minister for her summary of the legislation. As so often with EU exit regulations, it not only raises issues of detail in relation to the statutory instrument itself, but gives rise to a whole series of questions about our future relationship with EU member states and the extent to which the Government are prepared to work collaboratively with our European neighbours going forward. In this case, it would be to ensure the security of our electricity supply in a crisis and to provide mutual aid to neighbouring countries should they require it.

My noble friend Lord Stephen has also raised critical issues about how we get ahead of the crisis to come, particularly with regard to investment in renewables. He made the important point that we need to focus in this area, not on new nuclear. The truth is that the economics of nuclear have been destroyed by the success of renewables, largely due to the vision of the then Secretary of State for Energy and Climate Change, Ed Davey, in pursuing offshore wind in particular.

Before I turn to the broader questions, I wonder if the Minister will be able to help the Grand Committee with some of the detail of these new regulations. As she explained, the instrument makes a number of amendments to Regulation EU 2019/941. She and the Explanatory Memorandum set out that these are intended to remedy deficiencies in retained EU law by, for example, substituting references to EU institutions for references to the Secretary of State and removing obligations for the UK to provide information to EU institutions. However, a dive into the detail of the statutory instrument suggests to me that it goes beyond such necessary technical changes, and I hope that the Minister will be able to provide some clarity here.

For example, the new regulation omits Articles 5 and 6 of the existing regulation. These relate to the methodology for identifying regional electricity crises and the identification of such scenarios. This has some logic, given that we are no longer part of the regional planning framework. However, incorporated within Article 5 are the key issues to consider in identifying regional crisis scenarios, and these are then referenced in relation to national crisis scenarios under the existing Article 7. They include for example, that

"The proposed methodology shall identify electricity crisis scenarios in relation to system adequacy, system security and fuel security on the basis of at least the following risks: (a) rare and extreme natural hazards; (b) accidental hazards going beyond the N-1 security criterion and exceptional contingencies; (c) consequential hazards including the consequences of malicious attacks and of fuel shortages."

The existing Article 7 is amended under this regulation to omit the first sentence of paragraph 3, which states that

"The national electricity crisis scenarios shall be identified on the basis of at least the risks referred to in article 5(2)".

Presumably, this sentence is deleted on the basis that Article 5 is omitted in its entirety from the new regulations. However, this means that we no longer have any agreed minimum criteria which the Secretary of State has to apply when identifying national electricity scenarios. Can the Minister tell us what criteria the Secretary of State intends to apply? If she cannot do so, can she explain on what basis Parliament will be able to determine whether the Secretary of State has discharged his responsibilities properly in this regard?

Secondly, the new regulation omits paragraph 4 of the original Article 7, which requires member states to inform the Electricity Coordination Group and the Commission

"of their assessment of the risks in relation to the ownership of infrastructure relevant for security of electricity supply, and any measures taken to prevent or mitigate such risks, with an indication of why such measures are considered necessary and proportionate".

Again, I understand the change to omit the reference to the Electricity Coordination Group and the European Commission, but why is there no provision to provide this information to Parliament? During the Brexit discussions, we heard much about a return to parliamentary sovereignty once we had left the EU, but we seem to have returned to executive dominance. Perhaps the Minister could deal with that allegation by explaining how Parliament will be kept informed on these matters.

The new regulation also omits Articles 8 and 9, relating to

"short-term and seasonal adequacy assessments".

Naturally, these articles would need to be amended as they refer to EU institutions and a regional approach, but why are they omitted entirely rather than amended? Do we think we will be immune to short-term and seasonal adequacy challenges simply because we have left the EU? In fact, are the impacts of these not likely to be even more acute given that we are no longer part of the regional crisis framework?

Lastly, on issues of detail, can the Minister explain why the new regulation omits the second sentence of paragraph 7 of Article 10? This relates to the

"protection of the confidentiality of sensitive information"

on the basis of the principles set out under Article 19. As Article 19 is retained in amended form in the new regulation, why has this reference to the protection of information been removed? I hope the Minister will be able to address these detailed questions in her response.

However, beyond the detail is the wider issue of post-Brexit co-operation with our neighbours and friends. The new regulation omits requirements for regional and bilateral measures, but, surely, whatever one's views of the European Union, it makes sense to have such arrangements in place both for our benefit and the purposes of mutual assistance. Can the Minister outline the Government's approach in this regard?

The Government's guidance on trading in electricity after 1 January 2021 makes it clear that, from that date, we will no longer be governed by EU legislation, which

"provides for efficient trade and cross-border cooperation in operating the electricity system".

Instead, we will be reliant on alternative trading arrangements, which, less than two months from exit from the transition period, have still not been determined. Given our reliance on interconnectors and the Government's estimate that, by 2025, they will account for nearly a quarter of all our supply, it is vital that we sort out these issues, establish a co-operative approach with our friends and neighbours, and start with regulations that adequately protect us in the event of an electricity crisis scenario being played out.

6.43 pm

Lord Grantchester (Lab): I thank the Minister for her introduction of the statutory instrument before the Committee today. As she said, this relates to risk-preparedness in relation to electricity failure now that the UK has left the EU, whether a deal on the future relationship with the EU is reached or not. The instrument transfers into UK law Regulation (EU) 2019/941. I will approve it, as it does not differ materially from the case that held previously, when the UK was a member state.

Great Britain will produce its own risk management plan. However, I have a few questions to ask the Minister. I have just made reference to Great Britain rather than the United Kingdom. I understand that, with the Executive now up and running again in Northern Ireland, Ministers there will be making the decisions. However, could the Minister go further and make any comments around the implications for the situation across the island of Ireland? The regulations could well be different from those in the rest of the UK for these reasons in themselves.

Risk management is a function that has to be recognised, with assessments and procedures reflected at all levels of organisational management. Can the Minister confirm that this will continue to be the situation throughout Great Britain, as before?

The EU directive included a provision that the UK's plans were published and circulated with neighbouring countries, with the EU as a whole and with the EU co-ordination body ENTSO-E. Can the Minister inform the Committee whether Great Britain will publish and share its plans in the future? Will that be partially answered by whether a deal is struck with the EU before 31 December 2020 or not?

There are interconnectors for grid access to the continent that I am sure will continue, and I am grateful to my noble friend Lord Campbell-Savours for identifying the importance of interconnectors and their future development, especially to Ireland, and how they could reshape the UK energy market. Will Great Britain publish the risk management plans and share them within the UK, including Parliament and the devolved Administrations, or would that make the plans vulnerable to terrorist attack in some way different from the way plans were published prior to circulation under the EU? Will plans be published merely to necessary electricity authorities? Who might those authorities be in the new Great Britain context? Ultimately, is it the responsibility of the Secretary of State? I am grateful to the noble Lord, Lord Oates, for his questioning of future intentions to share plans with members of the EU, and on what basis.

I have some more questions. The Explanatory Memorandum makes reference to the Downstream Gas & Electricity Resilience and Energy Resilience and Emergency Response units at the department. Can the Minister confirm any different role in risk management terms of these units and how they co-ordinate effectively in the risk management plans? It was a little difficult to hear her introduction with the noise interference of the Division bell, and I apologise.

Finally, can the Minister say who is responsible for auditing these plans now that the UK has left the EU? There must be some transparency in regard to the risk preparedness of Great Britain in the event of failure in the electricity system. I agree with the noble Lord, Lord Stephen, that future resilience in terms of climate change and renewables needs to be recognised. These risks are more likely to be identified and challenged with management at the audit stage. Any further clarity that the Minister may be able to provide would be most helpful.

6.47 pm

Baroness Bloomfield of Hinton Waldrist (Con): I thank noble Lords who have contributed to this debate, which has widened out considerably—as indeed it should—from the rather dry statutory instrument that we are faced with.

The noble Lord, Lord Stephen, raised an important point about the transformation of our energy system. As we transition towards net zero, maintaining energy resilience will continue to be a priority for the Government. The electricity system operator has a plan in place to transform the operation of Great Britain's electricity

[Baroness Bloomfield of Hinton Waldrist]
system and put in place the innovative systems products and services to ensure that the network is ready to handle 100% zero-carbon by 2025. I hope that this provides some reassurance to the noble Lord, Lord Oates, that this is our goal that we are working towards. This statutory instrument will ensure the continued security and resilience of the electricity system by identifying and mitigating new risks to the system.

The noble Lord, Lord Campbell-Savours, raised the issue of additional interconnector arrangements, and in particular the proposed Icelandic interconnector. Although I cannot comment on specific projects, I can assure the noble Lord that interconnectors will continue to play an important part in our energy system. There are currently six interconnectors between the GB electricity market and near neighbours, with a total capacity of 6 gigawatts. In 2019 net imports accounted for 6.1% of total supply. There are further plans for the delivery of a large number of electricity interconnectors, adding 11.9 gigawatts to the existing operational 6 gigawatts by 2023. These interconnectors provide significant benefits, including lower consumer bills as well as security of energy supply and, after the end of the transition period, our energy system will still be physically linked to the EU. Further interconnection is in the mutual interest of the UK and the EU, and we have continued to see new interconnector projects progress.

Going back to the Iceland interconnector, I agree entirely with the noble Lord, Lord Campbell-Savours, that it sounds like an appealing project until you get into the weeds of it. While you can build a 1,500-kilometre interconnector for up to 1.2 gigawatts between Iceland and the UK, there are a number of barriers under the water, thrown up by the seabed survey, which, while not showstoppers, would make it extremely difficult to do. From what I remember of the project, the main stumbling block was that most of the energy—geothermally and hydro-generated—comes from the south-west corner of the country, yet the best place to build an interconnector is the north-east. Getting over that terrain, much of which is bedrock, would have meant that the interconnector itself could not be buried. The effect on the environment of pylons or overland HVDC cables would have been enormous. Björk is the least of the issues there, I think; the entire environmental lobby would be very exercised by the prospect. Given that tourism is such a huge part of Iceland's economy—and has been until the pandemic—I wish the project well, but there are a lot of difficult problems to overcome.

The Government are committed to achieving a smooth end to the transition period for our energy system. We have brought forward a package of legislation to ensure that retained EU law is workable and free of deficiencies by the end of the transition period. This draft instrument falls within this category of legislation. The Government retain their obligation to produce these resilience plans on the same basis as before; this statutory instrument merely removes our obligation to circulate these plans among the EU, but it remains very much in our interest to carry out these studies—in fact, it is now set in law that we should do so. The failure to address the deficiencies of the SI would have caused uncertainty and inefficiency in the operation of Great Britain's market regulation, the role and functions of domestic and EU bodies in the markets, and requirements on market participants.

I must stress that this draft instrument and the UK's departure from the EU as a whole do not, and will not, alter the fact that our energy system is resilient and secure. In Great Britain, the Government have been working closely with the electricity system operator, the national grid, and the regulatory body, the Office of Gas and Electricity Markets, to ensure that measures are in place to deliver continuity of supply and confidence in the regulatory framework in all scenarios. The Government are therefore confident that the UK's electricity system is able to respond to any challenges, whether these are as a result of leaving the EU or other challenges facing the UK, such as the coronavirus pandemic.

Our energy system will still be linked to the EU after the end of the transition period through these interconnectors. The UK, as a result, has one of the most secure energy systems in the world and the industry has well-placed contingency plans to keep energy flowing and to ensure that our energy supplies are safe. This draft instrument will support this by ensuring that the sector is well prepared for a variety of risks that could impact the system. The noble Lord, Lord Grantchester, referred to the plans that were published previously, and asked whether these will be published in the future, and to which parties. We will publish the risk preparedness plans in 2022.

This draft instrument will help maintain a robust framework for electricity risk management, with continuity for the market and certainty for market participants. It will do this by retaining relevant functions to ensure the electricity risk preparedness regulations work properly and, where necessary, revoking provisions that will no longer be relevant after the transition period.

The noble Lord, Lord Grantchester, also asked how the SI affects risk preparedness planning with Ireland. We are working very closely with Northern Irish colleagues to determine what is in the scope of the Northern Ireland protocol, and how they will comply with their obligations under the risk preparedness regulation after the end of the transition period, which they will be obligated to continue by virtue of the Northern Ireland protocol. For example, this includes the reporting function to the EU and the more difficult issue of nominating a competent authority that would feed into the EU processes.

In conclusion, this draft instrument is required to ensure continuity for our energy system, and certainty for both market participants and consumers. In doing so, it will form an important part of the GB framework for preparing, preventing, and managing electricity crises. The noble Lord, Lord Oates, raised some very important points. Apart from the broader points he raised about the investments we are making in new forms of energy and, indeed, in battery technology, I was very interested to hear of the reports of new types of energy he mentioned, and I will look at *Hansard*. I will write to him on the other specific points he raised on the SI, so that his detailed questions receive the detailed answers they need.

On the emergency response, BEIS is the lead department for electricity emergencies, working closely with industry partners to consider risks to the supply and ways to effectively manage these risks. BEIS leads the emergency response, working closely with industry, with plans clearly set out in the *National Emergency Plan: Downstream Gas and Electricity*.

I commend these draft regulations to the Committee.

Motion agreed.

The Deputy Chairman of Committees (Baroness Watkins of Tavistock) (CB): My Lords, that completes the business before the Grand Committee this afternoon. I remind Members to sanitise their desks and chairs before leaving the Room.

Committee adjourned at 6.57 pm.

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