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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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

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

No party affiliation is given for Members serving the House in a formal capacity or for the Lords spiritual.

House of Lords

Tuesday 20 June 2023

2.30 pm

Prayers—read by the Lord Bishop of St Edmundsbury and Ipswich.

Industrial Strategy

Question

2.37 pm

Tabled by ***Lord Allen of Kensington***

To ask His Majesty's Government what is their industrial strategy.

Lord Haskel (Lab): In the name of my noble friend Lord Allen, and with his permission, I beg leave to ask the Question standing in his name on the Order Paper

The Minister of State, Department for Business and Trade (The Earl of Minto) (Con): The Government have set out an ambitious plan for growth and prosperity. Delivering economic growth in key sectors is a priority and the Chancellor has identified five growth sectors for the UK: digital technology; green industries; life sciences; advanced manufacturing; and creative industries. The Government have announced a £500 million per annum package of support for 20,000 research and development-intensive businesses and £650 million to support the UK's life sciences sector.

Lord Haskel (Lab): I thank the Minister, but we are still little the wiser about a strategy. The Prime Minister removed the words "industrial strategy" from the business department. As Chancellor, he scrapped the Government's industrial strategy and the independent Industrial Strategy Council. Instead, we now get announcements, as now—soundbites instead of sound economics. Can the Minister say precisely when the Government will produce a much-needed comprehensive and co-ordinated industrial strategy? That will help business, industry and investors plan for the long term and, we hope, get some growth and progress back into the economy.

The Earl of Minto (Con): My Lords, I think noble Lords will agree that this is a time for specialisation rather than a single, overarching, broad strategy. By targeting specifics, such as the five key growth sectors, we can be more effective and, in this age, more agile to respond to change.

Lord Howell of Guildford (Con): My Lords, does my noble friend agree that a key component of a successful industrial strategy and growth is massive investment, both from foreign sources, on the scale we used to attract and are not attracting now, and of course from pension funds, which are managing trillions and are ready to invest? Does he agree that in the energy sector the attraction is going to be more to quick-build small modular reactors than to any large, rather out-of-date, massive giants which take years to build and are full of risks? Will he advise his friends, as a priority, to put all their efforts behind developing small nuclear reactors as part of our sensible energy strategy and our move to a decarbonised electric sector?

The Earl of Minto (Con): I thank my noble friend for his comments and his question: indeed, I will. On the specific question of investment, the Government, along with Rolls-Royce, have invested over £300 million in small modular reactors. On inward investment—again, I agree that a massive amount of inward investment is always required—we have arrangements with the UAE, bringing in £5.9 billion, and Qatar, for £10 billion. We know about the Nissan/Envision billion-pound investment up in the north and Ford has put in nearly £400 million recently as well.

Lord Fox (LD): My Lords, Make UK, the manufacturing organisation—it represents most of the countries' manufacturers—issued an authoritative report on industrial strategy. Some 99% of respondents said that they believed that the UK should have an industrial strategy—which indicates that they do not think that the UK has one now. Will the Minister acknowledge that the very people who are going to deliver what he talks about have not heard what he thinks he has told them?

The Earl of Minto (Con): My Lords, I understand exactly the point that is being made. Communication is critical to any successful enterprise, and there is no doubt that the change from a unified industrial strategy to one that is more targeted and focused is, at times, not the easiest message to get across. However, I believe that the five growth sectors for which the specific strategies have been written will be very effective.

Lord Aberdare (CB): My Lords, an essential part of any industrial strategy is a strategy for addressing the skills needs on which it depends. When the Minister reads the Make UK report that the noble Lord, Lord Fox, has just referred to, he will find that it sets out a long-term vision for UK manufacturing and highlights the failure of current apprenticeships policy to support manufacturers in developing the talent pipeline they need. When will the Government respond to the barrage of demand from employers for a more flexible apprenticeship levy, with greater incentives to offer apprenticeships addressing skills and labour shortages?

The Earl of Minto (Con): My Lords, I think the whole House agrees with that point, and I can assure the House that the whole question of the apprenticeship levy and the flexibility thereof is being looked at closely right now.

Lord Woodley (Lab): My Lords, I have raised my serious concerns about the lack of industrial strategy for the automotive sectors, important as they are for our country. But I also pay tribute to the Government for supporting the Jaguar Land Rover battery plant that could easily have gone to Spain—well done. But does the Minister agree that this is small compared with the billions and trillions being set aside by the EU and the USA to encourage investment, particularly in battery gigaplants? What is our industrial strategy for this important sector, which, clearly, as I said last time, is genuinely at a tipping point?

The Earl of Minto (Con): My Lords, I quite agree with the noble Lord about the success of the announcement from JLR. It is extremely important that we continue

[The Earl of Minto]
to invest in all sorts of technologies and advances. We are continuing to see investment into that sector. As for where the tipping point comes, I am not quite clear. But I will go back and write to the noble Lord with specifics.

Lord Bellingham (Con): My Lords, is the Minister aware that only 15% of SMEs actually export? If that figure could be increased substantially, maybe to 20% or 25%, it would not only create a lot of jobs but help our balance of trade and be a crucial part of our industrial strategy.

The Earl of Minto (Con): I entirely agree with my noble friend. I assure him and the whole House that the Department for Business and Trade is specifically making it easier for small and medium-sized enterprises to consider and go through the process that they fear is difficult—and in fact is not so difficult—to start exporting, to the benefit of all.

Lord Anderson of Swansea (Lab): Do the Government agree that a continuation of steel production in the UK is vital to our industrial future? Therefore, does an industrial strategy include the investment at Port Talbot steelworks which Tata Steel is now wishing to make, without which there will be an enormous hole in employment in south Wales?

The Earl of Minto (Con): The Government fully recognise the role that steel plays within the UK economy, and they are working with the industry on its decarbonisation options. It is a foundation industry, it is high-wage, and it is extremely important to this country for all sorts of reasons. On the specific issues with Port Talbot and Tata, there are ongoing negotiations, which I am sure the House will realise I cannot divulge. But we are closely involved with Tata, British Steel and Liberty.

Baroness Hoey (Non-Afl): My Lords, an industrial strategy must be for the whole of the United Kingdom. How does the Minister think it will work in Northern Ireland, since so much in Northern Ireland is still under European Union rules and not British law?

The Earl of Minto (Con): My Lords, there is a conference later this year on investment into Northern Ireland, which I am sure will prove a successful enterprise. Investment into Northern Ireland is critical; the difficulty we have had with extricating that part of the United Kingdom is well known.

Baroness Chapman of Darlington (Lab): My Lords, Make UK says that the UK is

"the only leading nation in the world without a comprehensive, long-term industrial plan".

The Government might be on slightly firmer ground on the UK storming ahead of other economies but a range of initiatives, as the Minister has referred to, is not a strategy. The Government are sitting on their hands and we are losing out to the US and the EU too often when they should be acting. They will have to grip this at some point. When will they?

The Earl of Minto (Con): My Lords, the Atlantic declaration shows how closely we are working with our American colleagues. The value of trade with that nation is well known and there is no question that we will be able to grow that and continue working with it. The green deal industrial plan is being followed in the EU; I hope that we will get some breakthroughs in that area too.

Inheritance Tax: Cohabiting Siblings

Question

2.47 pm

Asked by ***Lord Lexden***

To ask His Majesty's Government what plans they have, if any, to make transfers of property between long-term cohabiting siblings exempt from inheritance tax.

The Parliamentary Secretary, HM Treasury (Baroness Penn) (Con): My Lords, the long-standing inheritance tax assumption for wealth transfers between spouses and civil partners reflects the formal legal obligations that marriages and civil partnerships necessarily entail. While the Government understand the issue, there are no plans to exempt transfers of property between long-term cohabiting siblings.

Lord Lexden (Con): My Lords, the Government say that two people who have shared a jointly owned home for years must be in a legal relationship if inheritance tax is to be deferred when they are parted by death. I remind the Government that they blocked my Private Member's Bill to open up civil partnerships to siblings after its Second Reading, where it gained wide support across the House. This would have enabled siblings to establish legal relationships and solve the problem. Why on earth should the postponement of tax on the death of the first of two people united in a loving association for years require sexual activity between them? Why should the survivor of a chaste relationship have to face the agony of selling the family home on the death of a loved partner to pay an inheritance tax bill? Have this Government no compassion?

Baroness Penn (Con): My Lords, it is important to set this Question in context. Each individual has a nil rate band of £325,000. Two cohabiting siblings who jointly own a house may have an inheritance tax liability only when the value of the house exceeds £650,000—well in excess of both the average UK house price and the average London house price. There are also circumstances in which inheritance tax can be paid over a period of time, giving the beneficiaries time to adjust to changed circumstances. That facility would enable people in those circumstances to remain in their home, which I believe is the concern at the heart of my noble friend's Question.

Lord Pannick (CB): My Lords, I declare an interest in that I acted for the two Misses Burden, who unsuccessfully challenged this policy in the European court in 2008. This is not a question of law but a question of fairness. How can it be fair for two elderly

sisters who have lived together for the whole of their lives, jointly own their property and have each made wills leaving the property to each other on the death of the first to be denied a tax benefit enjoyed by married couples and civil partners who may have a far less committed, developed and permanent relationship, or does fairness not count in the implementation of the tax system?

Baroness Penn (Con): My Lords, the Government have attempted to draw up a system that is fair but recognises the unique status of marriage and civil partnerships. As I pointed out to your Lordships' House, very few estates fall subject to inheritance tax, and we have put in place processes to ensure that those who live in the same house, for example, are able to meet their obligations over time, to lessen the impact of inheritance tax.

Lord Palmer of Childs Hill (LD): My Lords, one can leave all above £325,000 to your spouse, your civil partner, a charity or a community amateur sports club. Can the Minister explain how siblings are less important than a community amateur sports club?

Baroness Penn (Con): My Lords, I do not think that is the rationale behind the approach. The rationale in distinguishing between marriage and civil partnership and other relationships is the unique legal status and the unique legal and financial obligations that people enter into in that regard. As the noble Lord, Lord Pannick, referred to, this question was also referred to the courts, which found in the Government's favour.

Baroness Browning (Con): Does my noble friend accept that the Treasury seems to regard inheritance tax as locked into the Ovaltine family of the 1950s with 2.4 children? As my noble friend Lord Lexden's Question indicates, it is about time that it took a long look at how inheritance tax works for families that do not have 2.4 children. Can I add to the sibling argument, and I declare a personal interest, the parents who take responsibility for disabled adult children for all of their lifetime, where the amount of money that can be passed on during an adult's lifetime is severely limited on the assumption that lawyers—looking round the Chamber now, there are lots of grins around me—will be able to manage the trusts for that money after the parent has died? The parents want to do what is right for their children during their lifetime.

Baroness Penn (Con): My Lords, I am happy to look at the specific circumstance that my noble friend raises. I do not think the Government have an old-fashioned view of how families are formed in modern times; that is why the benefits of being able to pass on inheritance, if you are married, is also extended to those who are civilly partnered.

Lord Livermore (Lab): At the last Budget, the Government abolished the lifetime limit on tax-free pension savings. In the middle of a cost of living crisis, this giveaway for the very wealthiest cost £1.2 billion and increased the value of a £2 million pension pot by some £250,000. It also opened up an inheritance tax loophole whereby it is now possible to accumulate unlimited sums within a pension fund and pass them on entirely free of inheritance tax. What assessment has the Treasury made of the number of very wealthy individuals who will now use pension funds as a vehicle for inheritance tax planning, and at what additional cost?

Baroness Penn (Con): My Lords, I was disappointed that the party opposite did not support our changes to pensions, which were key for many public sector workers in respect of recruitment and retention for their posts. The primary purpose of a pension is to provide income or funds that individuals can draw on in retirement. If an individual dies before they get to use it for that purpose, we believe their beneficiaries should be able to have those funds, and that is why unspent pension pots do not normally form part of an individual's estate. As the Chancellor said to the TSC after the Budget 2023, we will keep any changes to the lifetime and annual allowances under consideration and look at the impact.

Baroness Deech (CB): My Lords, I think the Minister is avoiding the issue of principle. Ever since I took an interest some 15 years ago in the case of the Burden sisters, referred to by the noble Lord, Lord Pannick, I have wondered why the financial inheritance benefits of coupling up are confined to sexual relationships, whether it is husband and wife, civil partners or even a deceased person and the person they lived with. What is so special about the sexual relationship, when you might have two sisters who have been committed for much longer, are unable to marry and have undertaken freely to take care of each other? The Government would not even lose in the end, because the inheritance tax is rolled over. Will the Minister please address the issue of principle?

Baroness Penn (Con): My Lords, I do not think that I am not addressing the issue of principle; I am just disagreeing with some noble Lords on the conclusions of that question. The Government's view is that marriage and civil partnership relationships necessarily entail particular legal and financial obligations to one another for the parties concerned. We think it is right that those obligations are reflected in our inheritance tax system. When it comes to the impact of inheritance tax, however, on people in the circumstances to which the noble Baroness referred, there are several measures in place to ensure that those impacts are minimised. Those include the existence of the nil-rate band, which means that the vast majority of people in this country—fewer than 6% of estates this year are due to fall subject to inheritance tax—do not pay inheritance tax. For those who are affected, there are measures in place to ensure the smoothing of those obligations when they find themselves in circumstances that we have heard about today.

Lord Forsyth of Drumlean (Con): My Lords, following up on that last point, is not the problem that the only people who pay inheritance tax are the middle classes, or people whose only asset is the roof above their heads, whereas very rich people are able to buy farmland and make all kinds of arrangements to avoid inheritance tax? If the Treasury is keen on raising extra revenue, why not abolish inheritance tax and introduce capital gains tax on death, which would provide far more revenue and be far fairer to all concerned?

Baroness Penn (Con): I have to disagree with my noble friend that the wealthiest do not pay inheritance tax. Statistics from 2019-20 show that tax paid on estates valued at £1 million or more accounted for 82% of total inheritance tax liability for that year. When it comes to reforming inheritance tax and looking at areas such as agricultural property relief and business property relief, we would need to be really careful about considering the impacts of changing that approach on family farms and family businesses before taking forward such changes.

Lord Watts (Lab): My Lords, the Minister said that the Government introduced the pension changes to help GPs to be retained in the National Health Service. However, is it not the case that the majority of the savings will go to rich people rather than GPs?

Baroness Penn (Con): I have to disagree with the noble Lord. The feedback we have had comes not just from the medical profession but from people in many other public service jobs who benefit from defined benefit contribution pension schemes and who have found their annual allowance and the lifetime allowance to be a real barrier to staying on in their work. It was in response to campaigns such as those from the BMA that the Government took action.

Defence: Support Ships and Type 32 Frigates

Question

2.58 pm

Asked by ***Lord West of Spithead***

To ask His Majesty's Government when they expect to place orders for (1) multi-role support ships, and (2) Type 32 frigates.

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, the multi-role support ship—MRSS—and the Type 32 programmes remain in the concept phase and have not yet reached the level of maturity for me to confirm when orders are expected to be placed. The programme and procurement strategy for MRSS and Type 32 will be decided following the concept phase.

Lord West of Spithead (Lab): My Lords, as I stand here today, our great maritime nation has 11 operational destroyers and frigates. Why are we in this parlous state? The reason is that, for many years, up until fairly recently, we have not been ordering ships on a rolling basis. This is absolutely necessary for a proper shipbuilding industry. Indeed, the Government recognise that now and, within the MoD, Ministers understand the need for a rolling programme. We have had some recent orders, but they have stopped. We must keep ordering, otherwise we will have the same problem again. The Treasury does not seem to understand that, if we do not do that, the SMEs and all our trained people will go to the wall, we will not have a proper shipbuilding industry and we will not have a proper fleet. Could the Minister please go to the Treasury, point out the error of its ways, and explain how important it is for us to go down this route?

Baroness Goldie (Con): I do not impugn the noble Lord's right to hold the Government to account but I would not wish his persistent interrogation and commentary to imply that our Royal Navy is in some dysfunctional state. The Royal Navy was one of the few navies in the world to have ships in every ocean on the planet in 2022, from the High North to the Antarctic, and from the Baltic to the Pacific. It continues to deliver its commitments by undertaking the biggest recapitalisation of the fleet in a generation, from Type 23 to 26 and 31, and from Vanguard to Dreadnought. It is worthwhile reminding your Lordships that our Royal Navy is one of only three navies in the world to be able to operate to fifth-generation carriers and aircraft, along with the United States and China. The Royal Navy is our British pride and joy. I wish that sometimes the noble Lord, Lord West, would acknowledge that, instead of repeatedly and monotonously talking down his former service. It is time to champion it.

Baroness Smith of Newnham (LD): My Lords, I do not wish to talk down His Majesty's Royal Navy. However, like the noble Lord, Lord West, I am keen to ensure not only that we have an effective rolling programme but that our ships should be buoyant and seaworthy, ideally as soon as the trials are over. With regard to moving from the concept phase for the Type 32s, can the Minister tell the House what lessons His Majesty's Government have learned from procuring the Type 45s and the "Queen Elizabeth" class so that, when the next ships go into service, they will be seaworthy from day one?

Baroness Goldie (Con): Again, to disabuse anyone of any misconception of the noble Baroness's question, we have a functional, operational Royal Navy which is discharging its obligations to the country. As regards the more recent types of shipbuilding commissioning by the Royal Navy, such as the Type 26 and Type 31, part of their attraction is their design concept, which means that they are more readily produced, and they have an exportable value, and that means that the sorts of problems to which the noble Baroness refers, which certainly characterise some previous ships, are now much less likely to materialise. What I described to the Chamber with regard to what the Royal Navy is currently undertaking demonstrates beyond a shred of a doubt that it is highly professional, very well-equipped and functional.

Lord Lexden (Con): My Lords, is it not customary, in the year which sees the Coronation of a new monarch, for the Royal Navy to be reviewed by the new monarch? Will His Majesty review the fleet in the course of the current year?

Baroness Goldie (Con): That is a matter for the palace. However, I am sure that if His Majesty were to review the fleet, it would be very positively received.

Lord Mountevans (CB): My Lords, the Minister has made some excellent points in defence of our wonderful Royal Navy. However, the impressive response of Ukraine in the current conflict demonstrates the rapidly changing nature of warfare and the growing importance of agility and flexibility. The Royal Navy is working hard

to maximise these latest technologies, including AI. Does the Minister agree that the Type 32 frigate addresses all those developing priorities?

Baroness Goldie (Con): The Type 32 is conceived as an agile, resilient and capable ship. However, I point out to the noble Lord that we have already, for example, upgraded Type 45s with the Sea Viper Evolution programme and upgraded Type 23s with the Naval Strike Missile in partnership with the Norwegians—the first ship will be ready by the end of the year. In addition, the initial Sonar Type 2150 ships have already been upgraded. We are constantly reviewing how we can keep our fleet swift, agile and effective.

The Lord Bishop of St Edmundsbury and Ipswich: My Lords, given that one of the intentions and evident benefits of a national shipbuilding programme is local economic benefit, including the levelling-up aims of investing in young people and retraining older workers, and that shipyards are, by and large, in areas of deprivation where such benefit is vital, will His Majesty's Government ensure that current capacity and design skills, apprenticeship training and other essential infrastructure is maintained pending the commitment to the Type 32 frigates and MRSS programmes so that it does not cost a great deal more to initiate these vital programmes?

Baroness Goldie (Con): I thank the right reverend Prelate for making a number of extremely important points. The whole essence of the national shipbuilding strategy was to ensure that we got shipbuilding in the United Kingdom on to a more stable and sustainable basis. The right reverend Prelate is absolutely right: the MoD's direct spend supports 29,800 jobs in the shipbuilding industry—that includes submarines—with a further 21,300 jobs supported indirectly. There is an opportunity for shipbuilding in the UK to deliver exactly the sort of benefits to which the right reverend Prelate refers.

Lord Grocott (Lab): Can the Minister explain how asking questions, however persistently, about providing the Royal Navy with the equipment that it needs is somehow talking it down?

Baroness Goldie (Con): If the noble Lord had listened to my preface in response to the noble Lord, Lord West, he would have heard me say that I do not impugn the right of the noble Lord, Lord West, to hold the Government to account. However, I think the Chamber would agree that there is a certain predictability to the character of the noble Lord's questions; I know from first-hand experience the volume of questions with which I have to deal. I am not impugning his right to hold the Government to account but to do so repetitively, without ever counterbalancing the argument by acknowledging some of the Royal Navy's enormous triumphs, gives a slightly disproportionate and not totally representative picture.

Lord Trefgarne (Con): My Lords, how many qualified crews do we have to support our destroyers and frigates? Have any been deployed in recent days in search for the missing mini-submarine near the "Titanic"?

Baroness Goldie (Con): I have no information on my noble friend's latter point. I can seek specific information about the crew numbers to which he refers and will write to him.

Lord Tunnicliffe (Lab): My Lords, the Type 32 frigate was announced on 19 November 2020. I understand that, to make the national shipbuilding strategy work, the first ship needs to be laid down by mid-2027. After two years and seven months, the project is still in the pre-concept stage. I think that means, in plain English, that we do not even know what these ships are for. Can the Minister enlighten the House, or will the project slip, so plunging the British shipbuilding industry into chaos once again?

Baroness Goldie (Con): I have already indicated to the House that this ship is in the concept phase; there is no more that I can add to that. The programme and procurement strategy will be decided following the current concept phase, once that has concluded. However, I would observe that this is part of a shipbuilding programme for the Royal Navy that is substantial, significant and very important for the Navy's future operational effectiveness.

Lord Houghton of Richmond (CB): My Lords, on this particular argument I find myself more in favour of the Minister's point, inasmuch as the lineage of these questions, although entertaining, occasionally gives the impression that the sole purpose of the defence budget is the maritime renaissance. Increasingly, the issue of military advantage will be born not of hardware but of software. Can the Minister confirm that it is this strategic shift, and not necessarily by accounting for military competence and capability in the counting of input numbers, that is the qualitative output of a sophisticated and technologically equipped Armed Forces—the point of the Minister's expression of frustration—and a more balanced approach to the investment necessary?

Baroness Goldie (Con): I thank the noble and gallant Lord. He makes the point more eloquently and with greater authority than I can. I do not seek to pre-empt the defence Command Paper refresh, which is imminently in the stages of becoming public, but the hybrid nature of our capability will be obvious from that paper. The noble and gallant Lord is quite correct: we cannot put things in silos. We have to work out what we are trying to deal with, what the threat is, what the hybrid character of the threat is and how we can have a capability—whether by land, air or sea—that will effectively combine to address that threat.

School Buildings: Safety

Question

3.09 pm

Asked by ***Baroness Twycross***

To ask His Majesty's Government what assessment they have made of the safety of school buildings, particularly in relation to the use of reinforced autoclaved aerated concrete, and what action they are taking to address (1) current safety issues, and (2) any disruption to pupils' education caused by unsafe school buildings.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, safe and well-maintained school buildings are a priority. We are actively working with the sector to help identify reinforced autoclaved aerated concrete, or RAAC. If RAAC is suspected, we commission professionals to verify its presence and assess its condition. We support schools, including with capital funding, in measures to ensure that it does not pose any immediate risk and to minimise disruption based on professional advice.

Baroness Twycross (Lab): My Lords, I thank the Minister for her Answer, but the Government have already admitted that current funding will not be enough to make all schools safe. Will she tell us how long children, parents and school staff will have to wait for schools to be made safe once the data on their condition is finally released?

Baroness Barran (Con): I want to be absolutely clear to the noble Baroness and the House that the department is not aware of any child or member of staff being in a school which poses an imminent safety risk. We are working as fast as is humanly possible to identify RAAC across the school estate. We sent out a questionnaire last year and nearly 90% of schools and responsible bodies have sent in their initial responses. We are working closely with the structural engineering sector to identify accurately whether RAAC is present and whether it poses a risk.

Baroness Evans of Bowes Park (Con): Following on from my noble friend's answer, is she confident that there is enough capacity among surveyors to identify RAAC in schools before, as the noble Baroness said, issues become too serious? We have had similar problems in other parts of the public sector estate, hospitals for instance, where there have been safety issues because of RAAC. Perhaps she could provide us with reassurance on this issue.

Baroness Barran (Con): I thank my noble friend for her question. I hope it reassures her to know that I have met twice already the leading structural engineering firms. We have looked at different ways that we can accelerate the pace of surveys and are very confident that we will have carried out at least 600 surveys by the autumn.

Lord Addington (LD): My Lords, will the Minister give us an assurance that any new school is constructed with a material that we expect to have to pull down and will not fall down before we get there?

Baroness Barran (Con): I can give the House that reassurance. Not only that but any new school we construct will be net zero in operation.

Baroness Berridge (Con): My Lords, obviously, responsible bodies are legally responsible for the safety of the building. They come in all shapes and sizes. It could be a very strong, robust local authority or a large multi-academy trust with a lot of expertise; conversely, it could be a local authority that is in intervention with commissioners or a trust which has only one school. Of the 10% which have not returned their surveys, can my noble friend the Minister outline how we are going to approach those responsible bodies to make sure they respond and find out whether they are in that risky category because they are weak for other reasons?

Baroness Barran (Con): I do not think we can say that the 10% which have not responded are weak. We are dealing with it by running a small call centre in the department. There are organisations that we have had to contact multiple times—including, sadly, some local authorities—and we are working with MPs and others to make sure we get all the returns. We are also supporting, in slightly slower time, all trusts to improve their competency in relation to the management of their estate, including rolling out a free specialist capital adviser programme to support them in estate management.

Lord Hendy (Lab): My Lords, one aspect of safety in schools is fire safety. I declare an interest as a vice-chair of the All-Party Parliamentary Fire Safety and Rescue Group. In 2007, draft guidance was given that predicted that most schools would be fitted with sprinklers and very few would not. In 2021, further draft guidance was published which predicted the contrary: that very few schools would be fitted with sprinklers. I understand the consultation on that has not been published yet and therefore the guidance has not come into effect two years later. I understand, too, that the problem is that there is a division of opinion between the department on one side, which thinks the risk is low, and the insurance industry and fire chiefs on the other, which think the risk is high. Would the Minister be content to attend a meeting of the APPG with representatives of the insurance industry and fire chiefs to see whether there is some methodology to ascertain precisely what the risk is and therefore the need or lack of it for sprinklers?

Baroness Barran (Con): I would be delighted to meet the APPG, but I remind the noble Lord that there are 67,000 buildings on the school estate and about 450 fires a year, 90% of which cause no significant damage.

Lord Dobbs (Con): Does my noble friend agree that a much greater danger to children in our schools comes from a judge's ruling last week that parents are not allowed to know about the relationships and sex education that their children are given? This is a hugely controversial area. Parents may knock on the door of a school to ask what is being taught to their children, and can be denied. Does my noble friend accept that this is a nonsense that undermines the heart of family responsibilities and parental authority? Would the Government please do something quickly to make clear what parental rights are in knowing what their children are being taught?

Baroness Barran (Con): I am delighted to be able to let my noble friend know that the Government have already acted on this. We wrote to every school to be clear about exactly that relationship between parent and school and that trust, particularly on these very sensitive topics, is essential. Schools should not enter into arrangements with third parties that prohibit them sharing curriculum materials with parents.

Baroness Hussein-Ece (LD): To get back to the Question about the safety of school buildings, can the Minister give an assurance that schools deemed to be at risk have been made safe or at least closed until urgent repairs can take place? Is she also aware that teachers leaving the profession cite the state of school buildings and the environment in which they work as one of their reasons for leaving?

Baroness Barran (Con): I am very happy to give the noble Baroness reassurance on that point. To be clear, the returns that we have had from schools about whether they suspect RAAC on their estate indicate that a significant percentage believe they do, but then when we send the surveyors in, in fact they do not. When RAAC is identified, some poses a risk, but some does not. In every case where a risk is posed, whether in a single store cupboard or a whole block, we send our team in and work closely with the school, trust and local authority to provide both practical and financial support to address issues as quickly as possible.

Lord Laming (CB): My Lords, the noble Baroness knows that schools have made great progress on incorporating children who have special needs of all kinds. Sometimes, the buildings are an impediment to this. Has work been undertaken to ensure that schools are adapted to meet the needs of children with very special needs?

Baroness Barran (Con): That is extremely important. Access to and the shape of a building should never be an impediment to a child's learning. That is more straightforward in the new schools we are building, but we are making adjustments and supporting schools through our existing capital programmes to address exactly the needs that the noble Lord raises.

Register of Overseas Entities (Penalties and Northern Ireland Dispositions) Regulations 2023

Motion to Approve

3.19 pm

Moved by ***The Earl of Minto***

That the draft Regulations laid before the House on 26 April be approved. *Considered in Grand Committee on 13 June.*

Motion agreed.

Amendments of the Law (Resolution of Silicon Valley Bank UK Limited) (No. 2) Order 2023

Motion to Approve

3.19 pm

Moved by ***Baroness Penn***

That the draft Regulations laid before the House on 27 April be approved. *Considered in Grand Committee on 15 June.*

Motion agreed.

Armed Forces Act (Continuation) Order 2023

Motion to Approve

3.20 pm

Moved by ***Baroness Goldie***

That the draft Order laid before the House on 22 May be approved. *Considered in Grand Committee on 15 June.*

Motion agreed.

Judicial Appointments (Amendment) Order 2023

Judicial Pensions (Remediable Service etc.) Regulations 2023

Motions to Approve

3.20 pm

Tabled by ***Lord Bellamy***

That the draft Order and Regulations laid before the House on 11 and 15 May be approved. *Considered in Grand Committee on 15 June.*

Lord Davies of Gower (Con): My Lords, with the leave of the House and on behalf of my noble and learned friend Lord Bellamy, I beg to move the Motions en bloc standing in his name on the Order Paper.

Motions agreed.

Retained EU Law (Revocation and Reform) Bill

Commons Reasons

3.21 pm

Motion A

Moved by ***Lord Callanan***

That this House do not insist on its Amendment 15B, to which the Commons have disagreed for their Reason 15C.

15C: Because the Commons do not consider the Lords Amendment necessary in order to maintain environmental protection.

The Parliamentary Under-Secretary of State, Department for Energy Security and Net Zero (Lord Callanan) (Con): My Lords, with the leave of the House, at the same time as moving Motion A I will speak to Motion B.

The retained EU law Bill has once again returned to this House from the other place. I am pleased to say that the other place has accepted the final drafting change to Amendment 16, so that matter is now closed. This amendment significantly adds to the scrutiny that Parliament can conduct on this Bill.

[Lord Callanan]

However, the House of Commons has now been very clear, for the second time, that it is firm in its position on the remaining two amendments. Noble Lords asked the Commons to think again, and it has reached exactly the same conclusion. Indeed, the Solicitor-General noted the many ways in which the Government have already moved on the Bill to reflect the thoughts and concerns of this House. Therefore, today I propose Motions to accept the Commons position on the Bill and accede to the wishes of the elected House.

With regard to the other Motions in front of us today, Amendment 42D looks to be loosely based on one of the scrutiny provisions of the Legislative and Regulatory Reform Act 2006. However, its use in that Act relates to the legislative reform order power, which is much broader. It can act on any piece of legislation, including Acts of Parliament, whereas the revoke and replace power in this Bill can operate only on secondary retained EU law—in other words, retained EU law that is not primary legislation. We have taken steps to make clear what this retained EU law is by publishing and updating the retained EU law dashboard, and we will be reporting regularly to Parliament on our intentions to reform it. This will allow Parliament a substantial amount of time to scrutinise and report on reforming legislation, if Parliament wishes to do so. As such, these powers are clearly not comparable in terms of scope.

Furthermore, the legislative reform order process is not time-limited. It is still ongoing and available after 17 years, whereas this power will expire three years and three days from today. This is crucial when you consider how long parliamentary processes can take. Amendment 42D envisages up to 60 sitting days for Parliament to consider and debate proposals for statutory instruments, and potentially time after that for further scrutiny before the SIs can be made. We have supported and encouraged the initiative, which started in this House, to maximise transparency around the Government's plans for retained EU law reform via regular reports to Parliament. In our view, this additional 60-day pre-scrutiny period is simply not required.

Therefore, the Government cannot accept a requirement that would place such a significant time restraint on the usage of the power. Doing so would substantially reduce the time available for the power to be used, which is clearly not an appropriate balance between scrutiny and reform. The clause currently provides for this balance in a much more sustainable way; the third limb of the power already requires the affirmative procedure by default, and the second limb is automatically pushed to the affirmative procedure under specific circumstances. For all other circumstances, the sifting committee exists to recommend upgrading the scrutiny procedure, if Parliament judges it necessary. For all these reasons, the Government cannot accept the amendment.

On Motion A1, of the noble Lord, Lord Krebs, I am once again clear that Amendment 15D is unnecessary. I and many other Ministers have committed to uphold our environmental protections. Equally, the consultation part of the amendment is also irrelevant, as the Government remain committed to consulting on major policy changes, in line with usual practice. We take Dispatch Box commitments very seriously as a Government and will not shirk away from the commitments we have already made during the passage of this Bill.

This amendment is therefore unnecessary. The Government are clear that we have set a strong direction of travel on environmental regulation with our actions across this Parliament, and nothing in this Bill will change that. I therefore ask noble Lords to support Motions A and B on the Order Paper today. I beg to move.

Motion A1 (as an amendment to Motion A)

Moved by ***Lord Krebs***

At end insert ", and do propose Amendment 15D in lieu—

15D: After Clause 16, insert the following new Clause—

"Environmental protection

(1) Regulations may be made by a relevant national authority under section 12, 13, 15 or 16 only if the relevant national authority is satisfied that the regulations do not reduce the level of environmental protection arising from the EU retained law to which the provision relates.

(2) Prior to making any provision to which this section applies, the relevant national authority must seek advice from persons who are independent of the authority and have relevant expertise.""

Lord Krebs (CB): My Lords, I will be brief, because we have debated this many times before. I will simply explain why I found it necessary to come back yet again with an amendment on environmental protection.

In the previous round of ping-pong, on 6 June, the Minister, in urging your Lordships to reject a previous version of my amendment, said:

"we have substantive concerns that this amendment, in the way that it is worded, would actually make it more difficult to uphold those environmental commitments". [*Official Report*, 6/6/23; col. 1271.]

When I heard this, I was puzzled. It appeared that the Minister was saying that the problem was with the wording of the amendment, rather than the substance. I wondered which bit of the wording would make it more difficult for the Government to ensure that their policies do not lower standards of environmental protection.

Was it the non-regression element, requiring the Government to commit to not lowering standards if and when retained EU law is changed? Was it the requirement to consult relevant experts before making changes? We know from the past record that, when experts were not consulted, mistakes were made. Back in 2019, when Defra removed a protection under EU law relating to endocrine-disrupting pesticides, and it was pointed out that it had made a mistake, Defra quickly corrected its mistake and re-introduced the regulation. Was it the requirement for transparency—the need to publish the reasons for any change, and the advice received? Or was it, fourthly, the requirement to comply with international environmental treaties to which the UK is a signatory?

None of these four requirements seems to me to stand in the way of the policies designed to protect the environment, so I decided to try to find out. I requested a meeting with Ministers to help me understand how a change to the wording of the amendment would achieve

my objective of ensuring that environmental standards are not lowered, without making it more difficult to achieve this end. However, I regret to say that Ministers were not prepared to discuss this with me or to come up with an alternative form of words. Therefore, I have redrafted the amendment to make it even simpler than before, in the hope that I have succeeded in overcoming the objection the Minister raised last time around.

3.30 pm

The new version of the amendment has just two elements instead of the four that were in the previous version: non-regression on environmental protection and consultation with relevant experts. I have left out the other two elements of the previous version, which were compliance with international obligations and transparency in reporting on expert advice. I have conceded a great deal since my original amendment was passed on Report. In making these compromises, I am trying very hard to make this amendment acceptable to the Government. I am not making a partisan point; I am simply trying to ensure that our environmental protections are not weakened. I am not arguing against future changes to retained EU law. My amendment would simply put in the Bill what the Government say they wish to do in any case—the Minister said it just a few minutes ago—which is not to lower environmental standards. If that is what the Government want to do, why not put it in the Bill? It is not adding any burden or obstacles. As the Minister said, the Government already consult experts, so this is simply saying "Yes, that is what we will do".

As I said in the previous round of ping-pong, when my amendment passed with a majority of 54, the Government's watchdog, the Office for Environmental Protection, said that the additional insurance provided by this amendment is essential, especially bearing in mind the parlous state of our environment. I had unexpected support today. It is the first time in my life that I have been supported by the *Daily Express*—in an opinion piece by former England cricket captain David Gower, who expressed support for this amendment, so it is not just a narrow interest group that I represent. I hope that, in spite of what has been said by the Minister, this time around the Government will accept my stripped-down version, but if not, I will wish to test the opinion of the House. I beg to move.

Baroness Jones of Moulsecoomb (GP): My Lords, I am going to take the liberty of speaking on this amendment because the last time I spoke on an amendment tabled by the noble Lord, Lord Krebs, he said that he liked me speaking because I made him look more reasonable, so I will do my best now. The Minister said that the Commons is very clear on this. I would like to make a couple of points. First, I very much doubt whether any of them knew what they were voting on, because they do whatever the Whips tell them. Secondly, if it is so obvious that the Government are going to do this, why not just accept the amendment? Given that this has been brought back twice, it is clearly something this House cares very much about. Lastly, if the other end is stupid, it is our job to make it clear that it is being stupid and that we think this is a very important amendment to make to the Bill. Obviously, the Greens will be voting for it.

Baroness Parminter (LD): I rise briefly to add our Benches' support, if the noble Lord, Lord Krebs, pushes this to a vote. His amendment is a canary in a coal mine—perhaps a Cumbrian coal mine. You put a canary down a coal mine when you want to test whether essential resources that you rely on are about to be lost, to be snuffed out. This is what this is. It is about not just the essential protections for our much-depleted nature, but the essential protections that we as humans rely on: water, air quality and all the ecosystem services that nature provides.

I use that analogy for another purpose, as well. You do not see the canary in the coal mine, but if you talk to the general public about puffins and other wildlife, and all the things they care for when they see them on TV programmes, they know that they want them protected, and they want the Government to act. But we are here at the coalface, mining through the amendments, and we can see the damage that this will do to the protections for people and the animals and wildlife they care for. We are here to bring that canary to the surface. We should do that and press the matter again.

Lord Hope of Craighead (CB): My Lords, Motion B1, in my name, raises an issue that has been of great concern to many in this House from the outset in our examination of the Bill: parliamentary sovereignty. The clause that causes particular concern, and to which my Motion is addressed, is Clause 15, headed "Powers to revoke or replace". All the powers that it contains are exercisable by statutory instrument alone, with no provision for active or meaningful scrutiny by either House. That amounts to what the noble Lord, Lord Anderson, described when the issue was before us two weeks ago—without any exaggeration, I think—as a delegated superpower.

It is worth taking a moment to think about the key words that are used to describe the extent of the powers conferred on a relevant authority by this clause. For our purposes, the relevant authority is a Minister of the Crown. Clause 15(2) states that the Minister

"may by regulations revoke any secondary retained EU law and replace it with such provision as the relevant national authority considers to be appropriate and to achieve the same or similar objectives".

Clause 15(3) states that the Minister

"may by regulations revoke any secondary retained EU law and make such alternative provision as the relevant national authority considers appropriate".

The subsection (2) power extends not just to achieving the same objectives but to achieving objectives that the Minister considers to be similar. The decision as to whether they are similar or appropriate, about which there may reasonably be more than one view, is left entirely to the Minister.

Subsection (3) goes even further: it extends to the making of such alternative provision as the Minister considers appropriate. There is no limit here to the objectives that are to be achieved. They do not need to be similar—there is no limit to that extent—so they could be different from those of the secondary retained EU law that is being revoked. Again, there could reasonably be more than one view as to whether the alternative provision, whatever it may happen to be, was appropriate.

[Lord Hope of Craighead]

It is worth reflecting for a moment on the subject matter of what is open to revocation and replacement in the exercise of these powers. This is not simple, routine stuff for which delegated legislation is unquestionably appropriate. It extends to, among other things, major instruments of policy. It extends to fundamental rules relating to public health, trade and the environment, which were handed down to us by the EU and with which we have lived for several decades. It includes, for example, agricultural support, blood safety, fisheries management, food composition standards, nutrition, resources and waste, and the control of ozone-depleting and radioactive substances. Those are just some examples.

Your Lordships might consider it rather strange, given the nature and extent of what is involved, that neither House of Parliament can play any kind of active role in the scrutiny of these regulations. It really is a take-it-or-leave-it system dictated to Parliament by the Executive. The objections to this, which I need not repeat, have been set out many times, and that is what my amendment seeks to address.

I recognise that the previous amendments, which were moved first by me and later by the noble Lord, Lord Anderson, proposed a system that the Minister was right to describe as novel and untested. What I am now proposing is based on a system, as the Minister has pointed out, known as the super-affirmative procedure, which was enacted by Section 18 of the Legislative and Regulatory Reform Act 2006. I shall explain briefly what this involves.

It applies only to regulations made under Clause 15. It proposes a Commons committee—not a Joint Committee, as previously suggested—to sift regulations made under the clause in the light of an explanation by the Minister as to why the regulation is considered appropriate. If, but only if, the committee reports that there are any regulations to which special attention should be drawn, the Minister must arrange for them to be debated on the Floor of each House. The Minister must then have regard to any resolution of either House and may, but is not required to, propose a revised proposal in the light of what has been resolved. The procedure for approval in both Houses thereafter is the affirmative procedure. Finally, the committee may recommend that the Minister's proposal should not be proceeded with, but the House of Commons has the last word, as it can reject that recommendation. If it does that, the regulations may be laid.

This is a relatively light-touch procedure, which gives Parliament some measure of oversight of what has been proposed. I offer it as a compromise, in the hope that the Minister, despite the remarks he made at the outset of this debate, will feel able to give it serious consideration. At the heart of it all is an issue of principle, which is of basic concern to this House and the other on their entitlement to take an active part in the major exercise proposed. It is in that spirit that I propose to test the opinion of the House, if necessary, when the time comes.

Lord Hodgson of Astley Abbotts (Con): My Lords, I would like to detain the House for no more than a minute on this issue. I have spoken about it many times in the past.

I support what the noble and learned Lord, Lord Hope, has said on the principle of what we are looking at. It is very important we remember that my noble friend the Minister said, as a defence of the government position, that the House would have a chance to look at these instruments by means of the affirmative procedure —unamendable, as we know—and that it would have the appropriate back-up information. One of the things that has moved on from the days of just framework Bills is the increasing reluctance of the Government to produce the back-up information—impact assessments and Explanatory Memoranda—in time for the House to do its job properly. The spat we had last week about the Public Order Act regulations was the result of this very question of overcasual behaviour.

My noble friend will say that of course we will have absolutely similar treatment—this is the Government's argument—for affirmative resolutions as we do for primary legislation. I have the greatest respect for my noble friend on the Front Bench—for his patience, courtesy and diligence—but how he can say that with a straight face absolutely beats me. I am sure that the noble and learned Lord, Lord Hope, has done a very important service for Parliament—this House and the other House—in bringing back this issue for us to consider today.

But then we get to the politics—and politics does come into this. The reality is that the reforms that the noble and learned Lord, Lord Hope, many other Members of your Lordships' House and I would like to see come about will take place only if they are led by the House of Commons. If that does not happen, the Government will immediately say that this is the unelected House trying to tell the elected House how to do its job. That, I am afraid, will be game over. That is why I voted against the fatal amendment in the name of the noble Baroness, Lady Jones of Moulsecoomb. The House would be unwise, within one day of the Commons having passed a resolution, to immediately pass a fatal amendment.

The brutal truth is that we have been unable to get Members of Parliament in the House of Commons in sufficient numbers to understand what we are driving at: that it is not to do with EU law but is about parliamentary sovereignty, as the noble and learned Lord has said. There are stirrings there but they are only stirrings.

The case before us is further complicated by the fact that this is all going into the Brexit meat-grinder. In the debate in the House of Commons on 12 June, Sir William Cash MP said:

> "The way the House of Lords has dealt with these amendments demonstrates that the Lords are determined to try, by hook or by crook, to obstruct the House of Commons, which is the democratic Chamber in these matters as far as the electorate is concerned".

Later in the same speech he said:

> "We know from everything that we have heard over the last few weeks on the Bill that there is an intransigence—a stubbornness, if I may say so politely—from our noble Friends in the House of Lords in the face of any attempt to get rid of retained EU law in the way in which we are proposing".—[*Official Report*, Commons, 12/6/23; col. 34.]

3.45 pm

The House will realise from those quotes, which were not contradicted by the Solicitor-General when winding up the debate, that the issue of parliamentary sovereignty has now become irretrievably mixed up and commingled with Brexit, and indeed the last attempts to ask the House of Commons to think again were rejected by a majority of 65 in one case and 67 in another. I believe that the struggle between the Executive and the legislature, so elegantly and wittily explained by the noble and learned Lord, Lord Judge, in his lecture, "The King's Prerogative", will go on.

I hope, but I do not have much hope, that my noble friend will still have a chance to think again when he comes to wind up, and he will be able to accept, or go some way towards accepting, what is proposed by the amendment tabled by noble and learned Lord, Lord Hope. If not, I fear that this particular battle is lost, and as regards this vital principle of parliamentary sovereignty and involvement, I fear we may risk traducing it by continued referrals back, particularly when the issue concerned is the volatile and fiercely fought issue of Brexit. We need to encourage the uncommitted Members of the House of Commons to look beyond Brexit to the issue of parliamentary sovereignty and the relative power of Parliament and the Executive.

I hope my noble friend will still be able to make some concession, but in the meantime I am concerned about our continued actions in this regard, and although I entirely support the principle put forward by the noble and learned Lord, Lord Hope, it is with a heavy heart that, for this reason, I am not sure I will be able to support him in the Lobby if he chooses to divide the House.

Lord Pannick (CB): My Lords, the noble Lord, Lord Hodgson, makes a very strong case that the House of Commons is dealing with this as a matter of politics rather than of principle. I draw precisely the opposite conclusion to that of the noble Lord: it is precisely for that reason that we should send the matter back. We should emphasise, as the noble and learned Lord, Lord Hope, did, that this is a matter of constitutional principle. It is not a matter of whether you support Brexit or you do not support it. It is not a matter of politics, and we should respectfully invite the other House to focus on what we see as the real constitutional issues that lie behind the Motion proposed by the noble and learned Lord, Lord Hope.

Baroness Meacher (CB): My Lords, I support the amendments tabled by the noble Lord, Lord Krebs, and the noble and learned Lord, Lord Hope, but in doing so I want to put on record, as a former member of the Delegated Powers Committee, my objection to the Government's rejection of Amendments 42 and 42B, which proposed a very reasonable process, enabling both Houses of Parliament to debate, vote and make amendments to regulations, but only if those regulations involved a substantial change to the law. The Government's reaction to Amendments 42 and 42B is yet another example of their determination to bypass Parliament as far as possible and enable substantial law changes to be made by Ministers through delegated powers without the ability of Parliament to make any amendments.

The new amendment tabled by the noble and learned Lord, Lord Hope, is very modest indeed: it applies only to draft Clause 15 regulations, the broadest delegated powers in the Bill. Also, although Parliament will be able to recommend amendments to the regulations, it does not enable Parliament to amend those regulations, only to accept or reject them. Justice takes the view that the amendment tabled by the noble and learned Lord, Lord Hope, is a proportionate and necessary compromise, and should be supported.

Baroness Altmann (Con): My Lords, I apologise to my noble friends on these Benches, particularly my noble friend Lord Hodgson. I have the opposite conclusion from the one at which he arrived. My noble friend suggests that it could be game over if we vote once again to ask the Commons to think again. As far as I can see, if we agree to this, it could be game over for us anyway. The Government's arguments are that if we do not accept their position, these changes will delay the repeal of retained EU law and have also argued that sufficient scrutiny measures are already in place. We know that is not the case.

Giving almighty powers to Ministers to bypass Parliament upends the norms that have governed our country and given us the international reputation we have built. The possibility of allowing any Minister to revoke secondary legislation, just because it happens to emanate originally from the EU, confuses the issue of leaving the European Union with the issue of parliamentary democracy. A Minister could make, change or repeal laws or rules that they consider appropriate, according to this legislation, regardless of Parliament's view and regardless of whether that Minister even has any expertise in the areas so well outlined by the noble and learned Lord, Lord Hope, such as public health, agriculture, fisheries and blood safety.

The noble and learned Lord's amendment gives the House of Commons the last word. This is an existential issue beyond politics, and I urge noble Lords to think beyond this Parliament too. If we set this precedent now for this Government, presumably nothing can stop that precedent being used against these Benches, or in some other unacceptable manner, in the future. That could happen if we give up the idea that Parliament must make the rules, rather than Ministers.

Baroness Butler-Sloss (CB): My Lords, over the years I have sat in this House, I have become increasingly concerned about the powers which have been taken by successive Governments, particularly this Government, to the detriment of both Houses of Parliament. It seems extraordinary to me that the House of Commons has not yet appeared to realise the extent to which it, quite apart from us, is being marginalised. This is a very concerning matter. It goes, as my noble friend Lord Pannick said, far beyond the politics; this is a constitutional issue about the rights and powers of both Houses. This is just one example—the latest and one of the most disturbing—which this House has seen over a number of years.

I support both amendments, but particularly the amendment of my noble and learned friend Lord Hope. We really have to remind the House of Commons, the other place, what is happening to it as well as to us.

Lord Hamilton of Epsom (Con): My Lords, I totally agree with the sentiments of the noble Baroness, Lady Meacher, my noble friend Lady Altmann, and the noble and learned Baroness, Lady Butler-Sloss. However, at the end of the day, the House of Commons is the elected House, and it has the right, as the elected House, to be wrong. I am afraid we have to accept that.

If we go on throwing this back, saying it should think again—and the House of Commons thinks again and comes up with yet another quite substantial majority in favour of the status quo—all we are doing is antagonising the other place unnecessarily. I cannot understand why the other place is giving away the powers that it is—in the way that it seems happy to let the Executive take over everything—but that is what it has decided to do. It is the elected House and we should live with it.

Lord Fox (LD): My Lords, it is an honour to follow so many wise speeches. I am not going to attempt to lengthen this debate or trump that wisdom. In the various iterations of this discussion, we have benefited from having either the noble and learned Lord, Lord Hope, or the noble Lord, Lord Anderson; today, we have both of them in their places. Although I associate myself with my noble friend Lady Parminter's comments regarding the amendment in the name of the noble Lord, Lord Krebs, I will speak to the amendment in the name of the noble and learned Lord, Lord Hope.

I want to make just two points. First, the objection in the Commons largely and often dwelt on the unprecedented nature of the amendment that was being brought to them by your Lordships last time. In this case, the noble and learned Lord, Lord Hope, has dealt with that issue. This is not an unprecedented situation. It speaks a little to the point made by the noble Lord, Lord Hamilton: it is not that we are bringing back the same amendment, rewritten in different ways. Your Lordships are being asked to re-present a different proposition to the one that was presented last time. The Leader of the House can shake his head but, if he reads the amendments, he will see that they are fundamentally different; I am sure that he knows that in his heart. We are asking your Lordships not to be stubborn, in the words of William Cash, but to offer the Commons a different alternative. Stubbornness is doing the same thing over and over again. This is not the same thing; it is markedly different.

The other point that I want to address, which no one else has addressed, is the one made by the Minister about how much time this would take. I accept that it may take time, but we have to look at what we are doing. First, we are doing important things that Parliament should retain an ambit over. Secondly, the things that we are dealing with are things that we have lived with for many years—indeed, decades. This is not a burning platform; it is stuff that already exists. We are co-existing with it. It is not something that has a blue light on and must be rushed down the road as fast as possible. The argument about time does not count, in my view.

It is clear from what I and my colleagues have said that we support this amendment and will certainly vote for it when the noble and learned Lord, Lord Hope, presses it.

Baroness Chapman of Darlington (Lab): My Lords, I will speak briefly because I agree with everything that the noble Lord, Lord Fox, just said. We are grateful to the Minister for what he said in his introduction to this debate and to all noble Lords who have contributed and engaged with this Bill since the beginning. However, we on these Benches think that the Government should join us in insisting on Lords Amendments 15B and 42D, as they now are. We agree with noble Lords that their amendments in lieu are sensible compromises and remain deeply concerned by the potential for the protection of our environment, in particular, to be watered down without such protection on the face of the Bill. It seems slightly odd that the Government have compromised on the fundamental purpose and shape of this Bill in removing the sunset, which was a huge thing for them to do. It is strange that they are now determined to hold out on these two relatively minor outstanding issues, which are about improved scrutiny and environmental protection.

The proposal from the noble and learned Lord, Lord Hope, is a proportionate and necessary compromise. The noble Lord, Lord Krebs, is correct to highlight the inadequacy of the verbal commitment offered by the Minister, which obviously may not stand the test of time. These are important principles. Should the noble and learned Lord and the noble Lord wish to test the opinion of the House, we on these Benches will support them.

Lord Callanan (Con): My Lords, we have had this debate numerous times now, so the House will be delighted to know that I can keep my response fairly brief. I have responded to all the points made previously because noble Lords have repeated many of the points that they made in earlier debates.

Interestingly, the one person who did not repeat the points that he made in earlier debates was the noble Lord, Lord Fox; I was surprised to hear him say that he will support the Anderson/Hope amendment because, in the previous round, in response to a similar point about endless ping-pong made by my noble friend Lord Hamilton, the noble Lord, Lord Fox, said:

> "I respectfully suggest that we are not proposing"

endless ping-pong but that

> "we are proposing one more ping and one more pong".—[*Official Report*, 6/6/23; col. 1262.]

Unlike some of the sceptics behind me, I have faith in what the Liberal Democrats say. I am absolutely certain that, because that is what the noble Lord, Lord Fox, said last time, he will join us in the Lobby this evening. We have hope yet; I am sure that the Liberal Democrats would not want to go back on their word.

4 pm

On Amendment 42C, while I respect the noble and learned Lord, Lord Hope, on this point, I think he is pushing his luck slightly now, if I may say so, respectfully. I think he knows this is adding unacceptable time into the debate, and the Government cannot accept a procedure as unwieldy as what he has proposed. It would also cut the amount of time for the powers to be used by up to a third, which is an unacceptable limitation on the reform programme. I think the noble and learned

Lord knows this is not about additional parliamentary scrutiny; this is actually about stopping Parliament acting in this area. The reform programme is a crucial part of the Government's agenda, and it is not an appropriate balance between scrutiny and reform to restrict it in such a manner.

Turning to Amendment 15C, I will repeat the arguments that I have made previously and that the House of Commons has supported. The noble Lord's Motion proposes to insert additional measures into the Bill on environmental protection. I do appreciate the sentiment, but the noble Lord also knows very well the Government's position on this and the importance we attach to maintaining environmental standards. We do not believe that this amendment is necessary, and in light of the many commitments we have made in this House and the other place, I hope noble Lords will reject both.

Lord Krebs (CB): My Lords, I thank the noble Lords who have contributed to the debate on my amendment, as well as on the amendment of my noble and learned friend Lord Hope of Craighead. A key word that was mentioned in the contribution by the noble Baroness, Lady Chapman of Darlington, was "compromise". When my amendment passed at the last round of ping-pong, I asked Ministers whether we could talk about it and try to find a compromise wording that would satisfy the Government and the majority of Members of this House who supported the previous amendment; but no compromise was forthcoming. I thought that when you have a disagreement among reasonable adults, you talk it through and try to reach a compromise. That is not what the Government are trying to do, so I am left with little option but to test the opinion of the House.

I would also briefly like to thank the noble Baroness, Lady Jones of Moulsecoomb, for fulfilling her duty of making me look reasonable, so I thank her for that. I also thank the noble Baroness, Lady Parminter, for reminding us of the important fact that protecting our environment is of huge public concern. I am sure there will be noble Lords who will want to vote against my amendment, and I would like them to ask themselves whether they would be prepared to stand up in front of a television camera and explain to David Attenborough why they think it is not necessary for this Government to maintain our current standards of environmental protections. I wish to test the opinion of the House.

4.04 pm

Division on Motion A1

Contents 232; Not-Contents 187.

Motion A1 agreed.

Division No. 1

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Barker, B.
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Drake, B.
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4.15 pm

Motion B

Moved by ***Lord Callanan***

That this House do not insist on its Amendment 42B, to which the Commons have disagreed for their Reason 42C.

42C: Because the Commons consider the scrutiny procedure imposed by the Lords Amendment to be inappropriate.

Motion B1 (as an amendment to Motion B)

Moved by ***Lord Hope of Craighead***

At end insert ", and do propose Amendment 42D in lieu—

42D: After Clause 15, insert the following new Clause—

"Parliamentary scrutiny

(1) This section applies to all regulations proposed to be made under section 15 by a Minister of the Crown which revoke any secondary retained EU law and –

(a) replace it with such provision to achieve the same or similar objectives, or

(b) make such alternative provision,

as a Minister of the Crown considers to be appropriate.

(2) Regulations referred to in subsection (1) may not be made (under the applicable provisions of paragraphs 7 and 8 of Schedule 4) unless a document containing a proposal for those regulations has been referred to a Committee of the House of Commons, together with a statement by the Minister of the Crown which explains why the Minister considers the replacement or the alternative provision proposed, as the case may be, is appropriate, and the other requirements of this section have been met.

(3) If the Committee reports that special attention should be drawn to the proposed regulations in question, then subsections (4) to (8) apply.

(4) A Minister of the Crown must arrange for the proposal for the regulations to be debated on the floor of each House within the relevant period referred to in subsection (5).

(5) The relevant period is a period of 60 days beginning with the day on which the proposal and the corresponding statement were referred to the Committee, not including any period during which Parliament is dissolved or prorogued or either House is adjourned for more than four days.

(6) The Minister making the regulations must have regard to any resolution of either House and to any recommendations by the Committee made during the relevant period.

(7) If, after the expiry of the relevant period, the Minister making the regulations wishes to make an instrument in the terms of the proposal (under the applicable provisions of paragraphs 7 and 8 of Schedule 4), the Minister may do so only if the proposal for those regulations is approved by a resolution of each House of Parliament.

(8) If, after the expiry of the relevant period, the Minister making the regulations wishes to make an instrument in the terms of a revised version of the proposal (under the applicable provisions of paragraphs 7 and 8 of Schedule 4), the Minister must lay before Parliament a document containing the revised proposal for the regulations together with a statement of the changes proposed and may make an instrument in the terms of the revised proposal only if the revised proposal is approved by a resolution of each House of Parliament.

(9) The Committee may, at any time before the regulations are laid in draft or made (under the applicable provisions of paragraphs 7 and 8 of Schedule 4), recommend that they should not be proceeded with.

(10) Where a recommendation is made by the Committee under subsection (9), the regulations may not be laid in draft or made unless the recommendation is rejected by a resolution of the House of Commons.""

Lord Hope of Craighead (CB): My Lords, I am grateful to all noble Lords who spoke to my Motion B1. I have only one comment to make, which is that the noble Lord attributed to me a state of knowledge that I simply do not recognise. It is not my intention to frustrate the intentions of the Government in any way; my amendment is all about the issue of principle to which the noble Lord, Lord Pannick, referred—it is a crucial instrument. That being the point, I beg to test the opinion of the House.

4.16 pm

Division on Motion B1

Contents 241; Not-Contents 181.

Motion B1 agreed.

Division No. 2

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Beith, L.
Benjamin, B.
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Berkeley, L.
Best, L.
Birt, L.
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Henig, B.
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Hussain, L.
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Lindsay, E.
Lingfield, L.
Mancroft, L.
Manzoor, B.
Markham, L.
Marlesford, L.
Maude of Horsham, L.
McColl of Dulwich, L.
McCrea of Magherafelt and Cookstown, L.
McInnes of Kilwinning, L.
Meyer, B.
Minto, E.
Mobarik, B.
Montrose, D.
Morris of Bolton, B.
Morrissey, B.
Moylan, L.
Moynihan, L.
Moyo, B.
Murray of Blidworth, L.
Naseby, L.
Neville-Jones, B.
Nicholson of Winterbourne, B.
Noakes, B.
Norton of Louth, L.
O'Neill of Bexley, B.
Parkinson of Whitley Bay, L.
Patten, L.
Penn, B.
Pickles, L.
Pidding, B.
Popat, L.
Porter of Spalding, L.
Powell of Bayswater, L.
Price, L.
Reay, L.
Redfern, B.
Remnant, L.
Risby, L.
Robathan, L.
Roberts of Belgravia, L.
Roborough, L.
Rock, B.
Rogan, L.
Sanderson of Welton, B.
Sandhurst, L.
Sarfraz, L.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Sharpe of Epsom, L.
Sherbourne of Didsbury, L.
Shinkwin, L.
Smith of Hindhead, L.
Soames of Fletching, L.
Stedman-Scott, B.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathcarron, L.
Strathclyde, L.
Stroud, B.
Sugg, B.
Taylor of Holbeach, L.
True, L.
Tugendhat, L.
Udny-Lister, L.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.
Warsi, B.
Wasserman, L.
Waverley, V.
Wei, L.

Weir of Ballyholme, L.
Wharton of Yarm, L.
Willetts, L.
Williams of Trafford, B. [Teller]
Wolfson of Tredegar, L.
Wrottesley, L.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

Economic Crime and Corporate Transparency Bill

Report (1st Day)

4.29 pm

Relevant documents: 27th and 36th Reports from the Delegated Powers Committee

Clause 1: The registrar's objectives

Amendment 1

Moved by ***Lord Johnson of Lainston***

1: Clause 1, page 2, line 8, leave out from "to" to "a" on line 9 and insert "ensure that records kept by the registrar do not create"

Member's explanatory statement

This brings the wording of objective 3 into line with objectives 1 and 2.

The Minister of State, Department for Business and Trade (Lord Johnson of Lainston) (Con): My Lords, before we begin proceedings, I draw your Lordships' attention to my interests as set out in the register of interests, including as a director and person with significant control of AMP Ventures Ltd, a person with significant control of Cigarkeep and as a shareholder of several other companies, including a previous shareholder and person of significant control of Somerset Capital Management. As I have set out before, I believe these interests serve only to increase my enthusiasm for this Bill to ensure that the UK remains the best place to start and grow a business while driving dirty money out of the UK. It is at the absolute core of this Government's mission that we help legitimate business thrive.

I express my gratitude for the vast amount of engagement that has taken place since we concluded Committee in May, and the constructive way in which your Lordships have worked with me, my noble friend Lord Sharpe, my noble and learned friend Lord Bellamy, and all our exceptionally hard-working officials to ensure this Bill reaches its full potential. I am pleased that the Opposition Front Benches remain supportive of the intentions of the Bill and that they desire to ensure it works effectively. I am particularly grateful for the focus they have brought to bear on the drafting of the new objectives for the Registrar of Companies and for the constructive dialogue they have had with the registrar and me in recent weeks. I also give particular thanks to my noble friends Lord Agnew of Oulton and Lord Leigh of Hurley and the noble Lord, Lord Vaux of Harrowden, for their scrutiny of the Bill and their amendments on shareholder transparency, authorised corporate service providers and the register of overseas entities, which we will debate shortly.

Before I turn to the government amendments in this group, I briefly remind the House of the key principles of this Bill. It builds on last year's Economic Crime (Transparency and Enforcement) Act, which contained key measures to help crack down on dirty money, including from Russia and other foreign elites abusing our open economy. That Act introduced reforms to the UK's sanctions framework and to unexplained wealth orders and it provided for the introduction of the register of overseas entities.

Forming a key part of the wider government approach to tackling economic crime and sitting alongside the recently published economic crime plan, this Bill will further tackle economic crime, including fraud and money laundering, by delivering greater protections for consumers and businesses, boosting the UK's defences, and allowing legitimate businesses to thrive.

I direct noble Lords to read the economic crime plan, if they have not already done so, as it contains a significant set of actions. Soon after the plan came out, our Home Office colleagues supplemented it with the launch of the new fraud strategy and in the coming months the Treasury will consult on the future of the anti-money laundering supervisory framework. These are relevant points because they fit within the debate today. My own department will conclude its review of the whistleblowing framework. This is a lot of activity and rightly so, because economic crime is a growing issue and affects people of all backgrounds and businesses large and small.

This Bill will make an immediate difference to real people. For example, we have discussed the problems of fraudsters creating companies using an individual's or business's personal details or address without their consent, including to obscure ownership and control of a company. Innocent citizens have been left seriously distressed by huge volumes of post for fake companies arriving through their letterbox and finding to their horror that their credit reference scores have suffered because they have been appointed a director of a debt-ridden company without their knowledge. The Bill introduces safeguards to put an end to these issues.

Elsewhere, the Bill provides vital new powers to underpin our law enforcement agencies; for example, over crypto assets, and to address corporate criminal liability. The powers supplement the £400 million package the Government have allocated to tackle economic crime over the spending review period, including support for the National Economic Crime Centre, reform of suspicious activity reporting and upgrading the Action Fraud service.

The Bill also supports our national security by making it harder for kleptocrats, criminals and terrorists to engage in money laundering, corruption, terrorism financing, illegal arms movements and ransomware payments. We have continuously sought to improve the Bill as it has progressed through Parliament. As noble Lords will know, the Government have tabled a number of significant amendments to be considered at Lords Report stage, including on strategic lawsuits against public participation, corporate criminal liability, the role of authorised corporate service providers and the transparency of information on trusts on the register of overseas entities. We believe these present a significant, meaningful package of measures that demonstrates that we have listened carefully to the concerns of this House.

[Lord Johnson of Lainston]

Yet, throughout the passage of this Bill, it has also been essential to hold uppermost in our minds the fact that the vast majority of businesses are entirely law-abiding, and that the 350 or so pages of the Bill as it now stands and the dozens of secondary regulations which will follow it represent a lot for the business community to grapple with. The reforms in this Bill will touch every company in the country—nearly 5 million of them. The Government have worked very hard to ensure that, despite the length of the Bill, the burdens it will place on businesses are slight. As the FSB has tweeted today:

"The Economic Crime Bill must work for small businesses".

The estimated net direct cost to the business community of the package of reforms to Companies House is less than £20 million a year. Indeed, these reforms will underpin systems changes that will improve the user experience for company directors. Elsewhere, the Home Office measures in Part 5 will reduce the reporting burdens on businesses, enabling the private sector to work with law enforcement more efficiently and effectively.

I am therefore extremely pleased that we have been able to maintain the support of the business community as the Bill has progressed. Indeed, the Institute of Directors very recently said:

"The UK is rightly seen as a country which champions high standards of business conduct. The IoD welcomes this legislation as a measure that will help maintain the integrity of the UK business system".

However, that support cannot be taken for granted. As we reach the concluding phases of the Bill's passage, I hope that noble Lords will work with the Government to ensure that what emerges is an Act which works for the law-abiding majority at a time when so many businesses and businesspeople are under strain. We are doing a great deal, and we need to bed it in and monitor how this will affect businesses before going significantly further.

Turning to the reforms in Parts 1, 2 and 3, which we will debate today and which are the responsibility of my department, I say that noble Lords will know that these measures will fundamentally change the role of Companies House, transforming it from a passive recipient of the data it receives to a proactive gatekeeper that upholds the integrity of the companies register—the most significant reform to the UK's framework for registering companies in some 170 years. This, of course, means significant changes for Companies House as an organisation—to its systems, processes and culture. Investment in new capabilities is already under way, with a £63 million allocation to Companies House across the spending review period and the creation of some 400 new roles to ensure delivery of the registrar's new objectives. Furthermore, through additional investment of up to £20 million of allocated spending on economic crime, new anti-money laundering intelligence teams are being created at both Companies House and its close partner the Insolvency Service to tackle the misuse of UK companies, corporate entities and property.

Having met with the registrar, Louise Smyth, several times in recent weeks—I express my gratitude to her and her team for their time; I am sure noble Lord will join me in doing so—I am convinced that she is well aware of both the challenges and opportunities this brings. These are transformative changes that will require a step change in the capabilities and practices of Companies House staff and its systems and users.

I hope that noble Lords who joined our session with the registrar and her team a fortnight ago share my conviction that the registrar and her team will rise to these challenges. Those who attended heard how, even before the reforms reach the statute book, Companies House is breaking new ground with HMRC, the National Crime Agency and others to maximise the power of its data to tackle criminality. The amendments we are about to debate get to the core of these changes.

I turn first to the government amendments in this group, starting with Amendments 1 and 2. The Bill introduces a wholly new set of objectives for the registrar. These are: to ensure that any person who is required to deliver a document to the registrar does so and that the requirements for proper delivery are complied with; to ensure that documents delivered to the registrar are complete and contain accurate information; to ensure that records kept by the registrar do not create a false or misleading impression to members of the public; and to prevent companies and others carrying out unlawful activities or facilitating others carrying out unlawful activities. These objectives were warmly welcomed across the House, as were the amendments tabled in Committee to broaden and strengthen the scope of those objectives.

However, in the interesting and lively debate we had on the subject in Grand Committee, it was apparent that a number of noble Lords felt we could have been more ambitious in the tone the registrar's objectives set. Mindful of the need to strike a balance between that which is sensibly aspirational and what is simply unachievable, we have looked closely at the drafting once more.

I recall that the language of "ensuring" found your Lordships' favour in the context of the first two objectives, concerning compliance and accuracy respectively. I trust, therefore, that the House will similarly support our amendment to replicate that language in objective 3, which is concerned with the risk of register records creating a false or misleading impression to members of the public. Instead of tasking the registrar "to minimise that risk", the intention is that she will now have the more stretching objective "to ensure" that it does not happen. Furthermore, we understand the strength of feeling on the wording of the fourth objective and recognise that noble Lords wanted an alternative to "minimising" the extent of companies' and others' unlawful activities.

We have been cautious here for good reason, not wishing to subject the registrar to either unrealistic expectations or the risk of unnecessary legal challenge. However, following dialogue with the registrar, we have resolved to replace the wording

"minimise the extent to which"

with "prevent" in objective 4. I know that the noble Lords, Lord Coaker and Lord Fox, in particular, felt strongly about that point. I hope these amendments will be welcomed as a further demonstration both that we have listened to the views of the House and of the commitment on the part of both the Government and the registrar to improve the quality of register information and work proactively in combating economic crime.

I turn to government Amendments 46 to 48, 51, 54 to 56, 64, and 80 to 82. Companies legislation contains various regulation-making powers allowing the Secretary of State to delegate duties and functions to the Registrar of Companies. For efficient administration, there are instances where it is appropriate for such powers to allow the Secretary of State to confer on the registrar discretion as to how she discharges her statutory duties.

We have identified various new delegated powers within the Bill where such discretion would be beneficial to efficient delivery. The common thread linking them is that they determine, at a high level, how various statutory mechanisms for applications, notifications and appeals to the registrar shall be established through secondary legislation. Although we strive to establish the parameters of such mechanisms as precisely as possible, operational experience shows that sometimes being overprescriptive can hinder efficient administrative delivery.

The primary legislation is not consistent. In some cases, it allows the registrar discretion on all aspects of processes, in other cases only some aspects, and in others, none. These amendments will give the Secretary of State the ability to delegate consistent discretions. These will cover matters such as who she gives notice to when she exercises her powers, periods allowed for certain objections and what material is required to substantiate applications and objections.

Briefly, on government Amendment 40, the Bill provides the registrar with new powers to examine and query applications for company incorporation and restoration and verify certain information. Although it is expected that this will significantly improve the integrity of the register, it is inevitable that criminals will try and, in some cases, succeed in finding ways to circumvent these checks and file under false, deceptive or misleading pretences.

Existing powers, further enhanced by the Bill, allow for the removal of false information from the register—for example, directors' names and registered office addresses. However, the circumstances in which the registrar can, by her own action, remove a company itself from the register through the process of strike-off are limited. She must be satisfied that the company is no longer operating and is effectively defunct. Forming that judgment and seeing the process to a conclusion is a relatively lengthy process, involving various statutory notification obligations.

It will be immensely beneficial for the registrar to be able to act more quickly than current processes allow. This amendment will allow the registrar to act expeditiously where there is reasonable cause to believe that the incorporation or restoration of a previously struck-off company is based on a false premise. This will mean that she can act much more quickly to expunge potentially fraudulent companies from the register.

Finally, this group contains several minor and technical amendments to Parts 1 and 2 to correct drafting errors or ensure that the drafting works properly—namely, government Amendments 3, 4, 18 and 38. Amendments 3 and 18 correct cross-references in Clause 4 and Schedule 2. Amendment 4 changes the definition of "the registrar" in Clause 30 so that it does not refer to the Companies Act—which is itself not defined. Amendment 38 corrects a mistake in Section 1082(1) of the Companies Act 2006 by spelling out that the power conferred by that subsection is exercisable by regulations—that this was always the intention is clear from the subsequent subsections.

In combination, these amendments will further improve the registrar's objectives and powers, enabling her to better fulfil her new role. I therefore hope that your Lordships will support these amendments and I beg to move.

4.45 pm

Lord Leigh of Hurley (Con): My Lords, there seems to be a gap, so I will happily fill it. I remind the House of my declaration of interests in the register, which discloses that I am a director of a number of private and public companies, and I am a person with significant control of rather a large number of private companies that should really be consolidated, but there you are. Now that Companies House has made it easier, perhaps I shall do that.

I thank the Minister for the discussions that he has held with me and others between Grand Committee and today. I congratulate him on most of these amendments. It really shows that he and his colleagues have listened, and it is really pleasing to know that our House has contributed to improving this Bill in such a dramatic way, with so many government amendments to the Bill at this stage. Nearly all of them—if not all of them—are going to be welcomed by this House.

There are a few points and comments that I would like to make. We do not have the consistency point that I wanted in the objectives, but the proposals that the Government are making on the objectives are tremendous and will make a big difference to the quality of the Bill. On Clause 40, perhaps the Minister could explain—now or later—that if we are going to have a power to strike off companies registered on a false basis, what about those companies that submit accounts on a false basis? The clause addresses when the companies are created; it does not deal with—I do not think it does, unless it is dealt with elsewhere—those regular company accounts. Perhaps I have misunderstood, and the Minister could clarify.

I turn to my noble friend Lord Agnew's Amendment 49; he has not had a chance to speak to it, so it is perhaps not right for me to comment on it. There is obviously going to be extra work to do this risk assessment, and I would not want the registrar to be let off the hook by just doing a risk assessment, so perhaps he could clarify that that was not his intention by inserting that clause.

I welcome the discretion that the registrar is given throughout the clauses, especially Clauses 54 to 56. I think that giving the registrar much more discretion is a very good thing. As a result, I would suggest, in advance of my noble friend Lord Agnew's words, that his idea of a review is a very good idea because, if the registrar is going to be given this discretion and so much is going to happen, it would be helpful for us to see what is happening. We all remember how disappointing the unexplained wealth order legislation is in practice in that nothing much has happened. It would be helpful for us to have an annual or regular update on the implementation of this Bill when it is enacted.

Lord Agnew of Oulton (Con): My Lords, I thank my noble friend the Minister for all the engagement and patience he has shown over the last few weeks and months, not just with me but with a wide congregation. We now have something that is much better than when it began its journey through the House, so I thank the Minister for that.

I am very pleased with two particular changes in this batch of amendments from the Government. First, that key, vital objective has been added for the registrar, so that it is absolutely crystal clear culturally for the organisation Companies House to know what it has to do. Added to that, giving her more discretion on how she delivers on that is very sound because, of course, it will be a mobile battlefield and she will have to be more fleet of foot.

Lastly—and I have said this before, but I think it is important that it goes on the record—we should not underestimate the extent of the cultural change needed in Companies House to move from being, as my noble friend said, a passive recipient of data to something far more dynamic and intelligent. That is why this reporting to Parliament—albeit with a sunset clause up to 2030—is really important to keep driving the momentum of that change. Every single employee of Companies House will need to be thoroughly retrained in this new mission.

Baroness Bennett of Manor Castle (GP): My Lords, I apologise for my croakiness; the hay fever is definitely winning. I join others in welcoming, in these government amendments, that we have seen significant change since Committee. It is worth highlighting a couple of comments from the Minister's introduction. He said that the aim of the Bill to drive dirty money out of the UK; I hope we can all agree that that is essential. He also said that we had seen so many people abusing our open system; I think we have to acknowledge that we invited those people in, and that that is the situation we created. We are now trying to fix it.

In that light, I very much welcome the fact that the Minister said that we need to see how these changes bed in before going significantly further. I want to make sure that we acknowledge, and see on the record, the fact that the Government have acknowledged that this is not enough, and that a lot more will need to be done, in what is, after all, as described by UK Finance, "the fraud capital of the world".

Lord Fox (LD): My Lords, there are political Bills, where the House divides on political issues and argues among itself, and there are Bills of practical importance, when the House can come together and pull in the same direction. We will not all agree about everything, but the motives behind what we are proposing have been similar. In this case, it is about helping to clear up and clean up a bad situation, and to do so in the best possible way. The Minister and his colleagues, the noble Lord, Lord Sharpe, and the noble and learned Lord, Lord Bellamy, must be congratulated on their openness and their listening ears. They have not just listened but acted on what they heard, and we should all be grateful that we have moved in this direction.

I am pleased that I can agree with the noble Lords, Lord Leigh of Hurley and Lord Agnew, in their characterisation of these changes, which are important. I think the change to the mission of Companies House is absolutely fundamental. It is vital that it is there, and it then plays to the point made by the noble Lord, Lord Agnew, about the culture change, as well as, I think, giving the flexibility and understanding that—again, as the noble Lord, Lord Agnew, said—this is going to be a mobile struggle that we have to move forward.

This group of amendments is followed by other groups which are other examples of where listening has turned into positive changes. From these Benches, we are really pleased that we are moving in this direction, and are grateful that we have done that. As we have heard, the Bill is improving as a result. So we are very supportive of these measures, and continue to be supportive of the other measures that we will hear about later.

Baroness Blake of Leeds (Lab): My Lords, I add my thanks to the Ministers for their regular updates, and the access we have had to their officials. The ability to meet the team from Companies House was particularly helpful and instructive. I too believe that we have a better Bill before us.

Having said that, we must not forget the scale and severity of the consequences of actions of bad actors, particularly the exposure of the public to fraud, nor the victims, who have suffered so appallingly over many years. As we know, the Ukraine war has brought all these issues to a head, necessitating a swift response. I thank everyone involved for responding positively to some of the many proposals that we have put forward.

I will refer particularly to Amendment 2, with regard to the fourth objective. It would be wrong of me not to mention the fact that the noble Lord, Lord Coaker, as has been mentioned, was very forceful in his views that the objective surely must be to prevent unlawful activities rather than to minimise them, as was the earlier wording. I also welcome the change to the third objective, and the increase in the ability of the registrar to strike off companies and take swift action. Again, I think that running through this is the emphasis on the ability to act quickly with clarity.

I acknowledge the amendments in the name of the noble Lord, Lord Agnew, which would bring in a framework of intervention criteria to assist the registrar, and particularly Amendment 57, which recognises the sheer scale of the task ahead of Companies House and seeks full, regular scrutiny. I want to put on record our concern about the sheer scale of the task ahead of Companies House and make it plain that we must communicate to everyone involved that there is a fallback position and that it can come back if the resources are not adequate for the job it has in hand. The scale of change it has to go through, from being a receiver of information to a proactive partner, is quite significant.

I again thank the Ministers involved for their openness and for having moved on a number of our suggestions.

Lord Johnson of Lainston (Con): I am extremely grateful to all noble Lords who participated in this debate. I shall answer their questions in order.

The financial guru, my noble friend Lord Leigh of Hurley, pointed to Amendment 40. He is right that it does not specifically mention submitting misleading information—this is related specifically to the filing of

accounts—but I believe that the Companies Act enables the Secretary of State to issue a winding-up order if there are materially inaccurate filings in the accounts. I am happy to write to him specifically on that issue.

I am grateful to my noble friend Lord Agnew for his comments. I am extremely pleased to come back to the noble Baroness, Lady Blake, about the objectives. We had long and specific discussions about the difference between the words "minimise" and "prevent". I think the House understood clearly from my approach that I was being carefully guided by our legal advisers. It is right that we should be, and it is also right that we found a word that would be suitable in how the noble Baroness saw the Bill being presented. We want to make sure that we get the language right. It is important that we have remained in our current function to ensure that there is flexibility for the registrar to perform her duties while at the same time sending the appropriate signal.

The noble Baroness, Lady Bennett, rightly commented on the need to continue to review the situation as we see it. I hope that the noble Baroness has been reassured by my attitude to the Bill as it has progressed through the stages in this House. My point was to ensure that we do not deluge businesses with unnecessary obligations at this stage before we know how this process will transpire. I am also very aware of the dangers of being too prescriptive. Technology changes and the activities of criminals change, and it is important that we assess the situation as it stands and work out how to ensure that we can confront those challenges as and when they arise.

I turn specifically to the amendment tabled by my noble friend Lord Agnew, Amendment 57. Reporting by Companies House is an extremely important element of its activities, and I agree that it is important that Parliament is informed about the implementation and delivery of the reforms that we are undertaking. That is why the Government brought forward an amendment in the other place to that effect, which is now Clause 187. I am aware of the comments made about the cultural and operational changes linked to Companies House's new responsibilities. I hope that through meeting the registrar we felt a sense of reassurance that the head of investigations is extremely dedicated to his task. We believe that the amount of money we are applying to Companies House and the fees, which we will discuss later, will amply cover expenditure, and could be increased if necessary. It is up to Companies House to ensure that it presents to the Government its funding requirements to ensure that it can do its job and perform its tasks.

It might be helpful for me from the Dispatch Box to go through some of the points formally so there is a record of what we expect Companies House to report when it has finished reporting on what it is intending to do—the inputs—and then turn our attention to the outputs, which is the difference between what it is obliged to report to Parliament for the first three years of operation, I think, and what we then expect to be business as usual.

From the discussions with Companies House to date, I can commit that, subject to the successful implementation of the necessary information systems, early reports will cover items such as: the number of documents rejected for not being properly delivered or for a discrepancy; rejected incorporations and name changes; the number of documents removed from the register for being inaccurate, incomplete or fraudulent; and the number of times the querying power is used and the resulting actions taken by Companies House. We are also looking into how we might report on the number of times Companies House has shared data with other organisations and vice versa. I would be happy to explore with Companies House officials how they might incorporate some of the new items in this amendment into its reporting without the need for this statutory requirement, and of course we listen to all sides of the House about other areas where noble Lords feel it would be beneficial for Companies House to report.

5 pm

However, I hope that I have convinced my noble friend Lord Agnew that his amendment is not the best way to achieve his intended effect. The Government's report will be comprehensive, and a statutory list of specifics is likely to become out of date quickly. I therefore urge him not to move his amendment.

Amendment 49 would insert new requirements to the manner in which the registrar should carry out her analysis function and how she should share evidence with the relevant law enforcement agencies. The Bill already provides that the registrar must carry out analysis where she considers it appropriate, and she has the relevant powers to query information and exchange information with law enforcement agencies for the purposes of crime prevention and detection. I understand that my noble friend would like to see the mandatory prescription of the use of those powers and a risk-based approach in legislation. However, the Government are firmly of the view that to do so would unnecessarily restrict the registrar in making judgments about how to make best use of her resources.

Although the Bill does not explicitly require the registrar to take a risk-based approach, it provides that she must carry out analysis where she considers it appropriate and gives her relevant powers to query information and exchange information with law enforcement agencies for the purposes of crime prevention and detection. The Bill provides the registrar with functions and objectives which have been carefully drafted to allow her to do everything she can within the resources at her disposal without imposing upon her duties which there can be no guarantee she will be capable of attaining. It is imperative that we afford the registrar sufficient discretion to focus her efforts on the areas of highest risk. In doing so, she will be implicitly operating in a risk-based fashion. It is the intention that the risk-based approach will be informed and driven by an intelligence hub in Companies House. Utilising ever-more sophisticated data science methodologies, the hub will only expand over time in its ability to identify strategic and tactical economic crime threats.

I was pleased that there was an opportunity for noble Lords to hear from the registrar in person earlier this month, and what she said, in my personal view, was very encouraging. The commitment is there, and the plans are well advanced. It is a significant task we are giving her, and I do not wish to unnecessarily tie her hands as she goes about it. I therefore ask my noble friend not to move his amendment.

Amendment 1 agreed.

Amendment 2

Moved by ***Lord Johnson of Lainston***

2: Clause 1, page 2, leave out lines 11 to 13 and insert—

"Objective 4 is to prevent companies and others from—

(a) carrying out unlawful activities, or

(b) facilitating the carrying out by others of unlawful activities."

Member's explanatory statement

At the moment the registrar's fourth objective is to minimise the extent to which companies and others carry out unlawful activities etc. This amendment makes it an objective to prevent companies and others from carrying out unlawful activities etc.

Amendment 2 agreed.

Clause 4: Proposed officers: identity verification

Amendment 3

Moved by ***Lord Johnson of Lainston***

3: Clause 4, page 4, line 7, leave out "206(7)" and insert "207(1)"

Member's explanatory statement

This amendment corrects a cross-reference in Clause 4 of the Bill.

Amendment 3 agreed.

Clause 30: Registered email addresses: transitional provision

Amendment 4

Moved by ***Lord Johnson of Lainston***

4: Clause 30, page 22, line 8, leave out from second "the" to end of line 9 and insert "meaning given by section 1060(3) of the Companies Act 2006."

Member's explanatory statement

This amendment changes the definition of "the registrar" so it does not refer to the Companies Acts (which is itself not defined).

Amendment 4 agreed.

Clause 36: Disqualification of persons designated under sanctions legislation: GB

Amendment 5

Moved by ***Lord Johnson of Lainston***

5: Clause 36, page 26, leave out line 26 and insert "and Article 15A of the Company Directors Disqualification (Northern Ireland) Order 2002 (see section 3A of the Sanctions and Anti-Money Laundering Act 2018)"

Member's explanatory statement

This amendment makes it clear that a person who is subject to director disqualification sanctions will be so subject both for the purposes of section 11A of the Company Directors Disqualification Act 1986 and for the purposes of Article 15A of the Company Directors Disqualification (Northern Ireland) Order 2002.

Lord Johnson of Lainston (Con): My Lords, the amendments in this group relate to the new director disqualification sanctions measure introduced in Committee. This measure created a completely new type of sanction in the Sanctions and Anti-Money Laundering Act 2018 called director disqualification sanctions. It will be unlawful for a designated person subject to this new measure to act as a director of a company. I welcome the support this measure received from this House in Committee.

Government Amendments 5 to 11 address some technical drafting concerns raised by Northern Ireland officials. The amendments clarify that the definition of a

"person who is subject to director disqualification sanctions"

encompasses disqualification for the purposes of the Company Directors Disqualification Act 1986, which applies in England, Wales and Scotland, and the Company Directors Disqualification (Northern Ireland) Order 2002, which applies in Northern Ireland. This does not alter the legal consequences of the measure but simply clarifies that the definition relates to both Great Britain and Northern Ireland legislation.

The amendments also make clear that the Department for the Economy in Northern Ireland will now be required to maintain information about individuals subject to the new director disqualification sanction in the department's register of disqualified directors. This mirrors the requirement for the Secretary of State to update the UK-wide director disqualification register, ensuring consistency between GB and NI legislation.

Lastly, these amendments clarify when a designated person, or a person acting on the instructions of a designated person, is responsible for the debts of a company. The current drafting does not address the liability of a third party who acts on the instructions of a designated person. These amendments therefore specify the circumstances in which a third party acting under instructions from a designated person may be liable and clarifies the defences that may relieve the designated person or the third party from personal liability.

The amendments mean that a person will not be responsible for debts incurred when they could not reasonably have known they were subject to director disqualification sanctions. And a third party who acts on instructions that were given by a person who they did not know was subject to director disqualification sanctions, or who they reasonably believed was acting under the authority of a licence, will similarly not be responsible. As a package, these amendments improve the coherence of the new director disqualification sanctions measure.

Government Amendments 52 and 53 amend Clause 101 of the Bill, which inserts new Section 1132A into the Companies Act 2006. Government Amendment 83 inserts into the Bill after Clause 169 a new clause which amends Section 39 of the Economic Crime (Transparency and Enforcement) Act 2022. Both new sections allow the Secretary of State to make regulations which confer power on the registrar to impose a financial penalty on a person if satisfied, beyond reasonable doubt, that the person has engaged in conduct amounting to an offence. These amendments align the drafting with the drafting of Clause 202 of this Bill, which inserts new Section 17A into the Sanctions and Anti-Money Laundering Act 2018. These amendments mean that regulations must provide that no financial penalty may be imposed on a person in respect of whom criminal proceedings are ongoing, or if a person has been convicted of an offence. At the moment, it is the other way around, so criminal proceedings cannot be continued once a penalty is imposed. This is clearly unhelpful, as without amendment, prosecutors' discretion to prosecute could be infringed upon.

Government Amendment 50 relates to the setting of Companies House fees. It will allow the Secretary of State to take into account additional costs incurred, or likely to be incurred, in relation to the new disqualified directors sanction which the Bill is introducing. Specifically, this amendment will ensure the costs of delivering the licensing function for this sanction can be covered by Companies House fees. Without this amendment, the costs of this licensing regime would fall on the taxpayer. We have made great strides through this legislation to require those that benefit from incorporated status to contribute towards maintaining the integrity of the register and a healthy business environment. It therefore seems reasonable for this to extend to the funding of the licensing regime that enables sanctioned directors to remain compliant and continue lawfully to carry out certain activities within the limitations set out in the licence.

I hope noble Lords will support these amendments. I beg to move.

Lord Fox (LD): My Lords, again this is a group of amendments with which we can thoroughly agree, which is a nice position to be in. Government Amendments 5 to 11 speak for themselves in the sense of tidying up the situation in Northern Ireland. The one amendment that is worth dwelling on a little bit is government Amendment 50, which gets to the point around resources and having sufficient resources for Companies House to be able to do what it needs to do.

There is a certain irony that, if the Companies House team is successful, there will be fewer companies on the register. So one of the things they will need to consider about fees is that they will be reducing the number of companies or the amount of income that will come per company. One of the issues in setting them is that, if estimates of 5% of companies being fraudulent are right, there will be 5% fewer companies paying the annual renewal. Some people, and some organisations, put that number much higher, so I suggest that the Government think about the success that Companies House will hopefully have in order to set a fee that does not become self-defeating if it removes companies.

The more companies the team removes from the register, the less money Companies House receives in annual renewal. That is the point I am making. I am assuming that this number will come quite soon after this Bill becomes an Act, and it would be useful for the Minister to update us on when we think the secondary legislation will come, because, clearly, Companies House and others will rely on this money for planning ahead. I am assuming the money goes to Companies House and not the Treasury, but perhaps the Minister could confirm that.

If the Minister could say a little around the operation of Amendment 50, that would be helpful—so that I understand it even if everybody else already does. He could say a little about how much money and how changeable it will be in the event that more money is needed to support the drive to remove criminality from our companies. I think that everything else is broadly very welcome.

Lord Ponsonby of Shulbrede (Lab): My Lords, we agree with all the amendments in this group. This group is all government amendments which make minor changes to ensure that penalties align with previous legislation, that they are taken into account when setting fees and that penalties do not stop criminal proceedings, as the noble Lord explained introducing the amendments.

I take the point the noble Lord, Lord Fox, made about Amendment 50. I presume fees can be updated as the situation evolves regarding the number of companies on the register. Nevertheless, we support this group of amendments and look forward to the Minister's response to the questions asked by the noble Lord, Lord Fox.

Lord Johnson of Lainston (Con): As always, I am extremely grateful to noble Lords for their interventions and the points raised in debate.

I turn to government Amendment 50. It is not a technical point, but it would not, in my view, be a point of significant consequence. It is just to ensure that when the Secretary of State has a licensing regime for directors who have been disqualified but whom she may require to perform a director's duties, such as winding up a business—it is practical to allow disqualified directors in some instances to perform certain functions—the cost for administering that process is met by the fees. I do not imagine that would be a significant component of the Companies House fees. This is a tidying-up point more than anything else. It just means that the taxpayer does not have to pay the bill. If I am wrong in my expectations, I will certainly correct that for the House, but I do not think that is the case. It is a technical point.

We have discussed at great length what we feel the Companies House fees should be. I do not think there is a single similar opinion; every noble Lord in this House has a different view on the exact amount to the nearest 50p it should cost to register a company and to reregister it or confirm the registration each year. The fact is that Companies House now has a licence to propose its budget, which must be agreed. That budget will be met through the fees charged to companies using its services.

The noble Lord, Lord Fox, raised a good point. It is anticipated that some companies will leave the register. I hope that there will not be a significant number of companies forced to leave the register because they are not legitimate companies, but it is right that this investigative power will encourage those companies that should not be on the register to leave. The quantum of the number of companies—I think there are nearly 5 million companies—at any reasonable fee rate, which the discussions established is between £50 and £100, would allow there to be ample funding for Companies House.

To answer the question the noble Lord, Lord Fox, asked about what happens to any excess money raised by fees, there is only one place excess money raised by anything in this great nation of ours goes: His Majesty's Treasury. We would clearly wish to avoid that. We would rather make sure that the fees were set at the right level.

To end on a serious note, we are not looking to have a fee rate. This is why the Government have been careful not to hypothecate fees for Companies House activity with other activities. It is not right, in our

view, to charge legitimate businesses excess amounts of money to cover other things unrelated to their Companies House registration. We have tried to set this in the right fashion. I think this will result in the right outcome. I hope very much that the House will support what are seen as largely technical amendments.

Amendment 5 agreed.

Amendments 6 and 7

Moved by ***Lord Johnson of Lainston***

6: Clause 36, page 27, leave out lines 4 to 15 and insert "where—

(i) the instructions are given by a person whom they know at that time to be subject to director disqualification sanctions (within the meaning of section 11A),

(ii) the giving of the instructions does not fall within any exception from section 11A(1) created by virtue of section 15(3A) of the Sanctions and Anti-Money Laundering Act 2018, and

(iii) the instructions are not authorised,

(but see subsection (3A))."

Member's explanatory statement

This amendment ensures that a person who acts on instructions that were given by a person that they did not know was subject to director disqualification sanctions would not be responsible for all of the relevant debts, and is otherwise consequential on my amendment to page 27, line 16.

7: Clause 36, page 27, line 16, at end insert—

"(f) after subsection (3) insert—

"(3A) But—

(a) a person who is subject to director disqualification sanctions (within the meaning of section 11A) is not personally responsible under subsection (1)(a) for any relevant debts of the company incurred at a time when the person did not know and could not reasonably have been expected to know that they were subject to director disqualification sanctions;

(b) a person is not personally responsible under subsection (1)(c) for any relevant debts of the company incurred at a time when the person reasonably believed that the instructions were authorised.";

(g) after subsection (5) insert—

"(6) Subsection (7) applies where a person ("P") at any time—

(a) was involved in the management of a company, and

(b) acted on instructions where—

(i) the instructions were given by a person ("D") whom P knew at that time to be subject to director disqualification sanctions (within the meaning of section 11A),

(ii) the giving of the instructions did not fall within any exception from section 11A(1) created by virtue of section 15(3A) of the Sanctions and Anti-Money Laundering Act 2018, and

(iii) the instructions were not authorised,

unless P reasonably believed at that time that the instructions were authorised.

(7) For the purposes of this section P is presumed, unless the contrary is shown, to have been willing at any time thereafter to act on any instructions given by D.

(8) For the purposes of this section instructions are "authorised" if they are given under the authority of a licence issued by virtue of section 15(3A) of the Sanctions and Anti-Money Laundering Act 2018.""

Member's explanatory statement

This amendment means that a person is not responsible for debts incurred when they didn't know they were sanctioned, or they reasonably believed they were acting on instructions under a licence. A person who acts on instructions given by a sanctioned person is presumed to be willing to do so thereafter.

Amendments 6 and 7 agreed.

Clause 38: Disqualification of persons designated under sanctions legislation: NI

Amendments 8 to 11

Moved by ***Lord Johnson of Lainston***

8: Clause 38, page 28, line 24, leave out "(see section 3A of that Act)" and insert "and section 11A of the Company Directors Disqualification Act 1986 (see section 3A of the Sanctions and Anti-Money Laundering Act 2018)"

Member's explanatory statement

This amendment makes it clear that a person who is subject to director disqualification sanctions will be so subject both for the purposes of section 11A of the Company Directors Disqualification Act 1986 and for the purposes of Article 15A of the Company Directors Disqualification (Northern Ireland) Order 2002.

9: Clause 38, page 28, leave out lines 36 to 46 and insert "where—

(i) the instructions are given by a person whom they know at that time to be subject to director disqualification sanctions (within the meaning of Article 15A),

(ii) the giving of the instructions does not fall within any exception from Article 15A(1) created by virtue of section 15(3A) of the Sanctions and Anti-Money Laundering Act 2018, and

(iii) the instructions are not authorised,

(but see paragraph (3A))."

Member's explanatory statement

This amendment ensures that a person who acts on instructions that were given by a person that they did not know was subject to director disqualification sanctions would not be responsible for all of the relevant debts, and is otherwise consequential on my amendment to page 28, line 47.

10: Clause 38, page 28, line 47, at end insert—

"(f) after paragraph (3) insert—

"(3A) But—

(a) a person who is subject to director disqualification sanctions (within the meaning of Article 15A) is not personally responsible under paragraph (1)(a) for any relevant debts of the company incurred at a time when the person did not know and could not reasonably have been expected to know that they were subject to director disqualification sanctions;

(b) a person is not personally responsible under paragraph (1)(c) for any relevant debts of the company incurred at a time when the person reasonably believed that the instructions were authorised.";

(g) in paragraph (5), in the closing words, after "given" insert "by";

(h) after paragraph (5) insert—

"(6) Paragraph (7) applies where a person ("P") at any time—

(a) was involved in the management of a company, and

(b) acted on instructions where—

(i) the instructions were given by a person ("D") whom P knew at that time to be subject to director disqualification sanctions (within the meaning of Article 15A),

(ii) the giving of the instructions did not fall within any exception from Article 15A(1) created by virtue of section 15(3A) of the Sanctions and Anti-Money Laundering Act 2018, and

(iii) the instructions were not authorised,

unless P reasonably believed at that time that the instructions were authorised.

(7) For the purposes of this Article P is presumed, unless the contrary is shown, to have been willing at any time thereafter to act on any instructions given by D.

(8) For the purposes of this Article instructions are "authorised" if they are given under the authority of a licence issued by virtue of section 15(3A) of the Sanctions and Anti-Money Laundering Act 2018.""

Member's explanatory statement

This amendment means that a person is not responsible for debts incurred when they didn't know they were sanctioned, or they reasonably believed they were acting on instructions under a licence. A person who acts on instructions given by a sanctioned person is presumed to be willing to do so thereafter.

11: Clause 38, page 28, line 47, at end insert—

"(5) In Article 22 (register of disqualification orders and undertakings), in paragraph (3), after sub-paragraph (c) insert—

"(d) persons who are subject to director disqualification sanctions within the meaning of Article 15A;

(e) any licences issued by virtue of section 15(3A) of the Sanctions and Anti-Money Laundering Act 2018 that authorise such a person to do anything that would otherwise be prohibited by Article 15A(1).""

Member's explanatory statement

This amendment ensures that the register of disqualification orders kept by the Department for the Economy in Northern Ireland includes details of persons who are subject to director disqualification sanctions and any licences that allow those persons to act in Northern Ireland.

Amendments 8 to 11 agreed.

5.15 pm

Clause 46: Register of members: information to be included and powers to obtain it

Amendment 12

Moved by ***Lord Johnson of Lainston***

12: Clause 46, page 35, line 29, after "changes" insert "and, at the time of the change, it is a non-traded company"

Member's explanatory statement

This amendment means that only non-traded companies are required to keep old information about their members (eg old addresses).

Lord Johnson of Lainston (Con): My Lords, before we turn to the amendments tabled by my noble friend Lord Agnew of Oulton and the noble Lord, Lord Vaux of Harrowden, I shall briefly outline government Amendments 12, 13, 14 and 15 in this group. Clause 46(4) amends Section 113 of the Companies Act 2006, including by inserting new subsection (6A). This will require all companies to retain information about a member in their register of members where it changes, and to note the date on which the information changed and was entered into the register by the company. The requirements apply only prospectively, not retrospectively. The government amendments target the scope of this requirement, so it applies only to non-traded companies, to ensure that excessive burdens on traded companies with large numbers of shareholders are avoided.

However, these amendments do include a power for the Secretary of State to make regulations which allow for a full or partial reversal of this scope restriction, allowing this requirement to retain old information and note the dates of changes to also be applied in future to traded companies, should it be judged to be useful and proportionate. In considering all the amendments in this group, I remind noble Lords that the UK already has one of the most open and accessible shareholder registers in the world. Disclosure of shareholder information is far from a global norm. In fact, the UK is one of relatively few international countries to have any publicly available shareholder information for companies not listed on its stock exchange. Noble Lords will know that many countries do not even disclose major shareholders or beneficial owners publicly.

The UK led by example with its public register of PSCs. We were the first G20 nation to institute such a register, back in 2016, and we have been a strong voice ever since in promoting the importance of collecting and sharing beneficial ownership information. Numerous jurisdictions, including the EU, the US and Australia, have been influenced by our approach. But a responsible Government must weigh carefully the benefits of further transparency regulations, and the inevitable rules, forms and penalties that would follow, against the costs and impact. The Government support the publication of accurate and useful shareholder information and we are one of the most open countries in the world in this respect—but do we need to go further, and if so how far? What really are we seeking to achieve?

There are over 10 million shareholders of UK companies. At a time when this Government are looking to reduce regulatory constraints on business, even small cost changes to shareholder obligations could very quickly add up to a large drag on our economy. I ask noble Lords to reflect carefully on the value of the amendments we are about to discuss. I beg to move.

Lord Vaux of Harrowden (CB): My Lords, I shall speak to the amendments in this group in my name, Amendments 16 and 17. I should remind the House of my interest in the register as a non-practising member of the Institute of Chartered Accountants in England and Wales. I also take the opportunity, since it is the first time I have spoken so far, to thank the various Ministers and their officials, and indeed the registrar and her staff, for their constructive engagement and the generosity they have shown with their time. The engagement process on the Bill has been exemplary. We are helped by the fact that this is generally agreed to be a fundamentally good Bill: we are all on the same side here, just trying to ensure that it is as good as it can be.

These two amendments are designed to improve the transparency of ownership of our companies, to ensure we know who really owns or controls them. I remind the House of the words of the Minister at Second Reading:

[Lord Vaux of Harrowden]

"The use of anonymous or fraudulent shell companies and partnerships provides criminals with a veneer of legitimacy and undermines the UK's reputation as a sound place to do business".—[*Official Report*, 8/2/23; col. 1250.]

I think we all agree with that.

One of the classic ways to hide the real ownership of a company is through the use of undisclosed nominee arrangements, where a shareholder is named on the register but is in fact holding the shares on behalf of another person. At present, while the company must try to identify any persons with significant control, or PSCs, according to the guidance, all it really needs to do is look at its shareholder register: if there is no shareholder with 25% or over, it can reasonably conclude that there is no person of significant control. For example, if a company has five shareholders, each with 20%, the company can reasonably conclude that there is no person with significant control that needs to be named or verified.

However, what if those five shareholders were in fact holding the shares on behalf of a single third party? That third party would then control 100%. There is an obligation under the PSC rules for that third party to tell the company, but a dishonest actor probably would not do so. The problem is that there is no obligation for the person who is acting as the nominee to disclose that fact, which makes it far too easy for a dishonest actor to hide their identity. The company has the right to ask the nominees, but, remember, the company in my example is controlled by the dishonest actor—so it will not do that. If it is asked, it can point to the fact that it has followed the guidance, having checked its register and not found anyone with a share of 25% of more. In fact, all the dishonest actor has to do to hide their ownership is find five willing people who are prepared to have their name on the shareholder register and hold the shares on behalf of the dishonest actor. There is no comeback for these nominees. They have no obligation to disclose.

Where does one find five such willing people? I suggest that noble Lords would find it interesting to google "nominee shareholders". They will find pages and pages of businesses that will do this, with few questions asked, for around £200 to £300 a year. They advertise specifically that the nominee service is for the purpose of hiding the true identity of the shareholder. In passing, it is worth saying that many of the people offering such services are the same people who will be the authorised corporate service providers and will carry out the ID verification under this Bill. That introduces an interesting conflict, but I stress: under the current proposals, these people will be doing nothing wrong.

Amendment 16 aims to close this loophole by making it a requirement for shareholders to state, as well as their name and address, whether they are—or, importantly, are not—acting as a nominee. If they are acting as a nominee, they would have to provide the name and address of the person on whose behalf they are holding the shares. I said that it was important that they should state that they are not holding the shares on behalf of someone else; that is because they would then have to lie actively if they are a nominee but do not disclose it. I believe that there is a real difference between lying actively and just keeping quiet passively—that is, turning a blind eye, as has happened all too often in the past.

This simple step of making people declare whether they are a nominee should make it much more difficult for dishonest actors to find people willing to act as nominees. They will need to find someone who is willing actually to lie on the record rather than just to keep quiet. Having this information will make it much easier for companies to identify hidden PSCs. Knowing which shares are held by nominees will also assist Companies House and organisations such as Transparency International to focus their attention where the risk is greatest.

We have heard the Minister telling us that we have to be careful not to create too great a burden on legitimate businesses. I agree with him, but I do not think that this would do that. Shareholders already have to provide their name and address. I struggle to understand why it would add any material extra burden to have to make a simple declaration—perhaps even as simple as ticking a box—and to provide the details of the actual beneficial owner. I really do not see that as adding any significant additional effort. In any event, there are significant benefits that arise from a company structure; it really cannot be too much to ask that the beneficial owner of the shares is disclosed in return for having those benefits.

I turn now to my second amendment in this group, Amendment 17. The Bill introduces a welcome identity verification requirement for persons with significant control, but that applies only to shareholders who own 25% or more. I should say that I know the Minister will correct me on that point, because it also applies to those who might have below 25% of the shares but otherwise exert control. He would be right, but in practice the 25% level is the driver. As my previous example shows, it is quite easy to structure a company so that there is no apparent 25% shareholder. There is certainly a legitimate debate to be had over where the correct level to trigger identity verification should lie, but I do not hear many people arguing that it should be as high as 25%.

Amendment 17 would reduce the level to require identity verification from 25% to 5%. Why 5%? There are a number of precedents. For UK listed companies, 3% shareholdings must be disclosed, with an exemption for fund managers, who must disclose at 5%, so 5% is deemed of sufficient importance for all listed companies to disclose. The rules around entrepreneur relief, which gives a reduction in capital gains tax payable on a disposal, state:

"A company is your personal company if you hold at least 5% of the ordinary share capital and that holding gives you at least 5% of the voting rights in the company".

So tax rules consider that 5% gives sufficient influence for the company to be treated as your personal company, and there is a high degree of consistency supporting a 5% level. As I say, though, there is potentially a debate to be had about that level.

Again, I am sure we will hear that we should not create an undue burden on innocent parties, so let us consider the impact of that. I understand that the average number of shareholders for UK companies is

two, so for the average company the amendment would create no additional burden; they already have to verify the identity of their shareholders. It would apply only where a more complex shareholder structure has been created with a greater number of shareholders. Yes, it would create a little more work for them, but in fact it would only increase the maximum number of ID verifications required by a company from a maximum of four to a maximum of 20, which should be easily manageable. We are not talking about companies having to verify hundreds of IDs.

Both these amendments would make a significant difference to the transparency of the register, helping to ensure—to get back to the Minister's words that I referred to earlier—that we make it more difficult for criminals to use anonymous or fraudulent shell companies. I will listen carefully to what he has to say in response, but I give notice that I intend to divide the House on at least Amendment 16 unless he is able to provide very strong assurances.

Lord Agnew of Oulton (Con): My Lords, I support Amendments 16 and 17 from the noble Lord, Lord Vaux. I shall also speak to my Amendment 19.

I do not want to repeat everything that the noble Lord has said, but I received a letter from my noble friend the Minister yesterday on this subject that included the subheading, "Transparency over shareholders and nominees", and one of the arguments that the Government are making is that this could cause a significant cost to the economy. We have just heard from the noble Lord, Lord Vaux, that that is, frankly, a fantasy; if the average number of shareholders per company is two—perhaps the Minister could confirm that, but it is certainly my instinctive understanding—then what is the cost?

In any case, that should be put against the cost to the economy of the fraud and economic crime that is happening at the moment at an increasing rate. We have endlessly reminded ourselves that 40% of all crime in this country is now economic crime. I know from my time in government that the loss to fraud in government alone each year—this is the bottom-end estimate by the NAO—is £30 billion, and a lot of that is facilitated through the holes in the Companies House structure. I urge the Minister to think hard about this because it is a great opportunity, at minimal cost to the economy or to business, to make a substantial change.

Lord Fox (LD): I shall speak to Amendment 16, to which I have added my name, and I support the noble Lord, Lord Vaux, in his clear outline as to why this is an elegant solution. It is so because it would push the onus on to the supplier of the service and make them decide whether to lie or tell the truth. A lie detector, in a sense, for dishonest actors is a very good way of exposing this practice. It is not unreasonable to know who is behind a company; in fact, it is perfectly reasonable that we should.

Amendment 17 from the noble Lord, Lord Vaux, also contains an important point: at what point does the cut-off come? It will be interesting to hear what the Minister has to say about the continuum between 25% and 5%. The Government have chosen 25%, which is a very large number when you think about it. The numbers breakdown given by the noble Lord, Lord Vaux, is clear that it would not mean that a huge number of people had to be identified, even if his suggestion of 5% was adopted by the Government.

If the noble Lord chooses to move Amendment 16 then it is safe to say that we on these Benches will support it, and we will wait to hear what the Minister has to say on other matters.

5.30 pm

Baroness Blake of Leeds (Lab): I thank the Minister for his comments on the government amendments. We support Amendments 16, 17 and 19. They would significantly help improve the integrity of the register. This issue has been raised in amendments throughout the passage of the Bill. While we welcome many of the other changes that the Government have made and the manner in which they have collaborated with colleagues to make the Bill stronger, the issue of nominees represents a weak point in the Bill. We must know which bad companies and actors are acting fraudulently in order to fight fraud, corruption and economic crime.

A point that has repeatedly been made is that, as things stand, shareholder information is incomplete. It is difficult to identify the real owners of certain companies, which reduces the reliability of shareholder information published by Companies House, which we are all determined to improve. That undermines the corporate register as a whole.

As I said, we support Amendments 16, 17 and 19. I was struck by the comments of the noble Lord, Lord Agnew, about the cost of fraud to the economy, which we need to keep front of mind when we are told to be concerned about the cost of putting these measures in place. I confirm that, if the noble Lord, Lord Vaux, is minded to test the opinion of the House on Amendment 16, these Benches will support him.

Lord Johnson of Lainston (Con): I thank the noble Lord, Lord Vaux of Harrowden, and my noble friend Lord Agnew of Oulton for their amendments. If noble Lords allow me to, I will just set the scene.

We have made some significant advances in understanding who is behind a company and who is running these organisations, which is at the core of these measures. By understanding who the people with significant control are, we will be able to crack down on crime and the dirty money going through the system. That is at the core of it, as far as we are concerned; any other changes around that are fundamentally peripheral.

On a comment made by the noble Lord, Lord Vaux, a nominee is obliged to declare if they acting on behalf of a person with significant control, as is the company collecting the data. If they are acting as a nominee in a collective way to achieve a threshold of 25% or above, or acting as a person of significant control, that nominee has to declare themselves a person of significant control. There is no additional benefit from changing the rules to see how people who stand as nominees are listed as such. It is important for me, for Companies House, for

[Lord Johnson of Lainston]
this Government, for the House and, frankly, to reduce crime with this Bill to understand who is behind the companies, and these measures do that.

My concern, if we try to track every move, is that we will bring into the criminal and penalties regime a large number of people who do not necessarily know that they have to register—for example, if they are a registered nominee on behalf of a very small shareholder. We are concerned that we may go too far at this stage. We need to see how the work that Companies House does develops before expanding the regime.

I stress that the work that we have done on PSCs is at the core of the Bill. Most of the government amendments reframe the existing PSC information gathering and disclosure rules to make them clearer and to work more effectively with a centrally held PSC register. This may be covered a little later, but it is worth noting that it is not necessarily for the company to hold the register of PSCs any more; the registrar will now hold this information centrally.

The amendments we are proposing make provision to require more information to be provided by UK companies concerning the transparency of their ownership, including full explanations to be given by companies which claim they are exempt from the PSC requirements, and for notifications to be made to the registrar where a company believes it has no PSC. That is a relatively unique point but it is certainly possible, and so the company has to then explain why it has none. Every company will have a person of significant control listed and registered de facto; if it does not, it will have to explain why that is the case.

My noble friend Lord Agnew rightly pointed out that the average number of shareholders is two—I think it is actually 2.2. If you look at the 4.8 million or so companies that are registered and add up the numbers of companies with one, two or three shareholders, from memory—no doubt my officials will correct me—you would account for 80% of all companies, at around 4.1 million or 4.2 million. Some 3.7 million companies are held by one shareholder, who will automatically be a person of significant control. If you have two shareholders, the assumption is that you will probably have two shareholders with significant control, and so on. You are looking at a relatively small number of shareholders in the 10 million or so shareholders of the 4.8 million or so companies who would not necessarily fall, specifically and immediately, without debate, into the PSC legislation.

I turn to Amendments 19 and 16, put forward by my noble friend Lord Agnew and the noble Lord, Lord Vaux. I have some specific text about the improvements we are going to make to the Bill, and I will read it out to make sure I get the wording right on what we believe we can take to Third Reading. I stress that we welcome greatly the work we have done in this area, and I hope the noble Lord, Lord Vaux, sees the spirit with which I have entered into the debate, particularly around the issue of classifying who is a nominee and who is not. The Government have great sympathy with the intention around that, and I will come on to talk about it in a moment.

As I say, these amendments are not ones that we would be keen to accept. I do not believe they achieve their intent, and they risk disproportionate burdens on legitimate actors and Companies House. The Government considers that further amendment is not warranted because the provisions in the person with significant control framework already require the whole process of disclosure of a PSC behind a nominee. To reaffirm, if a nominee does not declare that they are acting on behalf of a PSC, or becomes a PSC on account of their nominee holdings, then they are committing an offence. I believe the company is also required to collect the information, so there are a number of tiers around this structure.

I emphasise to noble Lords one more time how the existing requirements achieve what we in this House want to achieve. Where a company sees that it has a shareholder with over 25% of the shares or voting rights, or otherwise knows or has reasonable cause to believe the shareholder may fall under the definition of a PSC, the company is obliged to check with the shareholder whether they are in fact a PSC, and the shareholder is obliged, on pain of criminal sanction, to respond.

It is worth mentioning to the House that we talk at length about the 25% threshold but, as the House well knows, a person with significant control can own one share in a shareholding of a billion shares and would still be registered as the PSC if they controlled the business. This legislation is quite well crafted, if I may say so, to ensure that we catch the people who are exercising control over these businesses.

I repeat that the shareholder is obliged, on pain of criminal sanction, to respond. If the person responds to deny that they are a PSC, despite meeting the share-ownership voting rights threshold for qualification, the implication is that they are holding the shares as a nominee for a PSC. Under the Bill, shares held by a person as nominee for another are treated as held by that other and not by the nominee for the purposes of assessing who a company's PSCs are. That is an important point, and I hope it gives noble Lords some reassurance.

The Bill gives companies the power to require third parties to provide information about the PSC they are holding the shares for. The nominee commits an offence if they fail to respond or give a false statement in response. Amendments I will bring forward at Third Reading will make it easier to prosecute these offences—I will come on to this momentarily. The Government's position is that it would not be proportionate to require all shareholders to state whether they are nominees or to provide information about who they are holding the shares for. If a company had cause to believe a minority shareholder knew who its PSCs were, the company already has the power to require the shareholder to provide that information.

If noble Lords' proposals became law, they would be difficult to enforce effectively, and it is unlikely that bad actors would comply with the new requirements. This measure would create a large and expensive haystack with few, if any, needles to find inside. It would therefore serve only to impose new undue burdens on the law-abiding majority, which the Government are actively seeking to avoid. As several noble Lords heard directly

from Companies House executives earlier this month, gathering more and more information on shareholders would risk diverting its resources away from material intelligence work and more harmful cases and into more administrative work. An important point to emphasise is that we want Companies House to focus on running an effective companies register and on catching the criminals who are abusing our system.

I am sure that noble Lords who have greater experience than me in this House—looking around, I cannot see one with less experience sitting on the Benches—will know that, if we make too prescriptive legislative statements for these operational entities, they can easily become distracted by the minutiae to try to get to the nth degree and, because of the implementation of the legislative processes placed upon them, not necessarily focus on the core tasks. I repeat again my sympathy and empathy with noble Lords putting these amendments forward. However, I am extremely concerned that they would place undue burdens on individuals, and in particular on Companies House, which would then be distracted from its duties. At the same time, we believe that we have brought in a strong framework which will ensure that we deter crime while allowing legitimate businesses to function.

I appreciate noble Lords' concerns that the current framework may not always lead to the disclosure of all PSCs, and that having further information about minority shareholders acting as nominees could in theory be useful to help flush out undeclared PSCs. However, the Government's position is that there is no evidence that any additional benefit would outweigh the costs to all companies and that the totality of measures in the Bill, such as the registrar's new objectives and powers, will serve better to deter non-compliance and flush out such persons.

I now come to the undertaking to bring forward amendments at Third Reading. The amendment in the name of the noble Lord, Lord Vaux, has stressed the importance of the transparency of ownership and control of companies. The Bill already makes great strides forward in this area, as I am sure the noble Lord knows. However, after further review of the PSC framework and the changes made to it by the Bill, the Government have identified a number of necessary improvements, and I undertake to bring forward amendments to address this at Third Reading.

The current legislation allows companies to maintain their own PSC registers and to then notify the registrar of changes to those locally held registers. The Bill changes that framework so that after it is brought into force the registrar will maintain a central PSC register for all companies. Most of the amendments will reframe the existing PSC information-gathering and disclosure rules to make them clearer and work more effectively with a centrally held PSC register.

The amendments will include provisions which will enable those persons thought to be PSCs to confirm that they are, and to confirm their details before those are published. The amendments will also make provision to require more information to be provided by UK companies concerning the transparency of their ownership, including for explanations to be given by companies which claim they are exempt from the PSC requirements, and for notifications to be made to the registrar where a company believes it has no PSC. The amendments will align the drafting of false statement offences relating to the PSCs of UK companies with other similar offences in the Bill.

I regret that these amendments could not be finalised for Report, but, given the strength of feeling that noble Lords have demonstrated today on ensuring that this legislation is as robust as possible, I trust they will welcome them. We of course stand ready to engage with noble Lords on these amendments ahead of Third Reading.

Finally, on Amendment 17, put forward by the noble Lord, Lord Vaux, my officials have analysed what the cost to businesses would be should identity verification requirements extend beyond directors, PSCs and filers. As I mentioned to noble Lords, the individuals—as in the numbers of companies covered—will be broadly covered, in my estimation, to the tune of about 80% of the number of people who are single shareholders or shareholders of companies containing one, two or three, and then of course all the other companies, in theory except in rare circumstances, would have PSCs associated with them. The verification process will be deep and significant, and will cover many millions of people who will be required to formalise their identity through these processes.

This analysis estimates that introducing identity verification for all shareholders in non-traded companies could have a net annual direct cost to business of up to around £150 million. I will say that again, so that noble Lords may hear it: we believe that these measures, if introduced, could have a net annual direct cost to business of up to around £150 million. The costs and methodology have been published on GOV.UK, and I am happy to share them directly with noble Lords, if that would be of use.

5.45 pm

This analysis also indicates that setting a threshold for identity verification—for instance, 5%, 10% or 20% of shareholdings in a company—will not mean significantly lower burdens than if all shareholders needed to verify. Moving the level, thinking 15% or 20% or whatever is a reasonable level, does not change the burden significantly, given the number of shareholders who additionally, it is believed, will apply. I have not had a chance to see the analysis on GOV.UK, but I will be happy to talk to noble Lords in further detail about that. This is due to the fact that any change in requirements would attract familiarisation costs, which affect all companies, most of which have very few shareholders, and all companies would likely need to follow a new Companies House submission process independent of the PSC identity verification process.

I am concerned that this amendment could therefore lead to a sizable cost to business, in particular small businesses—and the vast majority of the register is made up of small companies. Further, there are on average 2.2 shareholders per company, meaning that many shareholders will already be captured by identity verification requirements for PSCs. This Government are committed to supporting small business and boosting growth. Adding more requirements for these companies could place undue burdens on small businesses, and

[Lord Johnson of Lainston]
that is not something that I or this Government can support. Identity verification requirements already capture the key players in a company. Any improved transparency achieved by extending these requirements to individuals who do not exercise any significant control is unlikely to exceed the cost to business.

In order for the noble Lord's amendment to work, these individuals would need to face criminal penalties for failure to verify their identity. These sanctions can be justified for directors and PSCs who are the key players in a company, but to subject minority shareholders to criminal sanctions would be disproportionate and would likely disincentivise investors—aside from the point mentioned earlier about the complexity and additional burdens placed on Companies House, which might act as a terrible distraction when it comes to it performing the crucial task we have laid before it. Finally, imposing any additional identity verification requirements would have significant resourcing burdens for Companies House. I am concerned that accepting these amendments could likely delay the implementation of other necessary reforms for minimal value. I am afraid therefore that I will ask the noble Lord, Lord Vaux of Harrowden, to not press his amendment.

Amendment 12 agreed.

Amendments 13 to 15

Moved by ***Lord Johnson of Lainston***

13: Clause 46, page 35, line 30, leave out "that" and insert "the fact that the information has changed"

Member's explanatory statement

This is consequential on my amendment to Clause 46, page 35, line 29.

14: Clause 46, page 35, line 38, at end insert—

"(6B) Where any of the information required to be entered in a company's register of members changes and, at the time of the change, it is a traded company, the company is not required to include or retain the old information in the register.

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

(a) amend subsection (6A) so as to provide for it to apply in relation to traded companies, and

(b) repeal subsection (6B) in consequence.

(6D) Regulations under subsection (6C) are subject to affirmative resolution procedure."

Member's explanatory statement

This amendment means that traded companies are not required to keep old information about their members (eg old addresses). It also confers a regulation-making power to require them to keep old information in future.

15: Clause 46, page 35, line 39, at end insert—

"(g) after subsection (8) insert—

"(9) In this section—

"non-traded company" means a company that is not a traded company;

"relevant market" has the meaning given by section 853E(6);

"traded company" means a company any of whose shares are admitted to trading on a relevant market or on any other market which is outside the United Kingdom.""

Member's explanatory statement

This is consequential on my other amendments to Clause 46.

Amendments 13 to 15 agreed.

Amendment 16

Moved by ***Lord Vaux of Harrowden***

16: Clause 46, page 36, line 14, at end insert—

"113BA Required information about members: nominees

The required information about a member includes a statement by the individual, or where the member is a body corporate, or a firm that is a legal person under the law by which it is governed, by an officer of that body corporate or firm, as to whether or not they are holding the shares on behalf of, or subject to the direction of, another person or persons, and if they are—

(a) where any such person is an individual, the information required by section 113A in relation to that individual;

(b) where any such person is a body corporate or firm that is a legal person under the law by which it is governed, the information required by section 113B in relation to that body corporate or firm."

Member's explanatory statement

This amendment would require a person or firm holding shares as a nominee to declare whether or not that is the case, and to provide the details of the person or persons on whose behalf, or under whose control the shares are held. This would assist the company in identifying Persons of Significant Control, and would introduce an offence for a nominee who did not declare themselves as such.

Lord Vaux of Harrowden (CB): My Lords, I thank the Minister for his response and for his undertakings to bring further amendments at Third Reading. I will make just a few comments. First, in terms of Amendment 17, which I do not intend to move, I find the concept that it is going to cost £150 million a year frankly unbelievable. A small number of companies—as the Minister pointed out—verifying up to a maximum of an additional 16 shareholders, and in most cases fewer, cannot possibly come to £150 million a year. I am afraid I find that unrealistic.

To move to Amendment 16, I want to correct something that the noble Lord was saying about nominees having to declare that they are nominees. That is not actually correct. What has to happen is that the company has to look at its shareholder base and see whether it has anybody who is a PSC—a person with significant control. If it has no shareholders over 25%, it can conclude that it does not have any. If there is a PSC behind that, the PSC has to declare it, but if that is a bad actor, they are hiding and will not declare it. The nominees need to declare they are nominees only if the company seeks out and asks them. We are talking about a situation where a bad actor controls the company—so guess what? It will not. There is nothing there at the moment that makes nominees have to disclose the fact that they are nominees. I think the idea that disclosing nominees would create too much noise for Companies House is ridiculous. It does the opposite. It identifies where the risk lies.

We have heard from the noble Lord, Lord Agnew, about requiring risk assessments and a risk-based approach. This allows us to see which companies are most at risk of having bad actors who are hiding behind nominees, by ensuring that they are disclosed. The point here is to make it more difficult for bad actors. You make it much more difficult for bad actors if people are unwilling to be nominees. At the moment,

there is no downside, so there is a huge industry of people who are prepared to do it for almost nothing—there is no risk to them. If we put a risk on those people and make them have to lie actively and on the record to say that they are not a nominee when they are, you will get many fewer people who are prepared to do it. That will make life a lot more difficult for the bad actors, and the nominee industry will have to clean up its act. So I am afraid that I have not heard anything that changes my mind, so I wish to test the opinion of the House.

5.50 pm

Division on Amendment 16

Contents 218; Not-Contents 175.

Amendment 16 agreed.

Division No. 3

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6.01 pm

Amendment 17 not moved.

Schedule 2: Abolition of certain local registers

Amendment 18

Moved by ***Lord Johnson of Lainston***

18: Schedule 2, page 200, line 15, leave out "206(7)" and insert "207(1)"

Member's explanatory statement

This amendment corrects a cross-reference in Schedule 2 to the Bill.

Amendment 18 agreed.

Amendment 19 not moved.

Amendment 20

Moved by ***Lord Johnson of Lainston***

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

"Use or disclosure of profit and loss accounts for certain companies

(1) The Companies Act 2006 is amended as follows.

(2) After section 468 insert—

"468A Use or disclosure of profit and loss accounts for certain companies

(1) The Secretary of State may by regulations make provision requiring the registrar, on application or otherwise—

(a) not to make available for public inspection profit and loss accounts, or parts of them, delivered to the registrar under—

section 443A (micro-entities), or

section 444 (other small companies);

(b) to refrain from disclosing such accounts, or parts of them, except in specified circumstances.

(2) Regulations under subsection (1) which provide for the making of an application may make provision as to—

(a) who may make an application;

(b) the grounds on which an application may be made;

(c) the information to be included in and documents to accompany an application;

(d) the notice to be given of an application and of its outcome;

(e) how an application is to be determined;

(f) the duration of, and procedures for revoking, any restrictions on the making of information available for public inspection or its disclosure.

(3) Provision under subsection (2)(e) or (f) may in particular provide for a question to be referred to a person other than the registrar for the purposes of determining the application or revoking the restrictions.

(4) The circumstances that may be specified under subsection (1)(b) by way of an exception to a restriction on disclosure include circumstances where the court has made an order, in accordance with the regulations, authorising disclosure.

(5) Regulations under subsection (1)(b) may not require the registrar to refrain from disclosing information under section 1110F (general powers of disclosure by the registrar).

(6) Regulations under this section may in particular confer a discretion on the registrar.

(7) Regulations under this section are subject to affirmative resolution procedure."

(3) In section 1087 (material not available for public inspection), in subsection (1), after paragraph (bb) insert—

"(bba) the following—

(i) any application or other document delivered to the registrar under regulations under section 468A (regulations protecting profit and loss accounts for certain companies);

(ii) any information which regulations under section 468A require not to be made available for public inspection;"."

Member's explanatory statement

This allows the Secretary of State to make regulations requiring the registrar not to disclose profit and loss accounts for micro entities and other small entities. The regulations might cover all such accounts or only accounts relating to certain descriptions of company (see section 1292 of the Companies Act 2006).

Lord Johnson of Lainston (Con): My Lords, government Amendment 20 will give the Secretary of State the ability to make regulations to specify what aspects of the profit and loss account delivered by companies that qualify as micro-entities or small companies might be withheld from public inspection. Such regulations would also set out the parameters and circumstances in which the information may be withheld.

Currently, Section 468 of the Companies Act gives us the power to specify the form and content of the profit and loss account that is to be delivered to Companies House. However, it does not provide us with the power to collect information and then withhold it from public inspection. Making the profit and loss accounts of micro-entities and other small companies available to the public benefits users of the register, such as credit agencies. It is a highly valuable data source and would aid the detection of economic crime.

We are of the firm belief that the Bill's provisions requiring such accounts to be delivered to Companies House are important additions to transparency requirements. We know that the minimal requirements that currently exist make incorporating as a micro-entity, or as another small company, open to abuse by those who wish to present a false picture of a company's financial position. However, I am mindful of the concerns raised by some noble Lords and stakeholders about the potentially negative impacts on privacy and competition for small business owners; they point to the risk that increased transparency might lay SMEs open to unwelcome commercial pressures.

We have also received some correspondence from small business owners who are concerned that publishing accounts will, in effect, reveal their personal salary. For example, the director of a small accountancy company from London wrote to us to complain that publishing their profit and loss account would let their neighbours and competitors know what they earn. The owners of a small company from Shoreham-by-Sea have written to us to express their discomfort with their earnings being viewed by clients and subcontractors, who might seek to gain commercial advantage with the information. The Federation of Small Businesses today tweeted:

"Requirements to declare profits and losses would leave small firms open to a high level of risk. … Commercially sensitive information could be used against them by competitors and suppliers".

To recap, we are not looking not to collect this information; we are looking to ensure that there is a full review in terms of what level of information we publish.

Following Royal Assent to the Bill, and prior to exercising this power, the Government will consult further with business groups, credit lenders, the accountancy sector, enforcement agencies and others to understand what, if any, information should be withheld from the public register. The amendment therefore gives the right level of flexibility to enable the Government to formulate a balanced approach between the information required to be included on the public register and the privacy of small businesses. I beg to move.

Lord Leigh of Hurley (Con): My Lords, we have discussed this concept of disclosure at earlier stages. Of course, if a person does not want anything disclosed, they could become a sole trader or a limited liability partnership or a partnership, in which case very little, if anything, needs to be disclosed. My question and concern is just to understand the approach that government will take to this. Is it the intention just to give a blanket exemption for, perhaps, companies in defence or companies with complicated IP or companies in sensitive sectors? Is it to respond to those who make the request generally in the affirmative or to ask further questions to determine why a company should be exempted from disclosure? If a company simply asks to be exempted because it does not want its competitors to know, will that open the floodgate to everybody to do the same? I am not sure that "because we don't want our competitors to know" is a particularly good reason, to be honest. I am therefore a little nervous about this clause, particularly because it is a bit vague. It just talks about regulations, and Section 1292 of the Companies Act 2006 is just an empowering section on regulations. We are opening the door very wide, and I hope that the Minister, in due course, will be able to give us some very clear guidance on what the Government have in mind.

Lord Vaux of Harrowden (CB): My Lords, may I very briefly support what the noble Lord, Lord Leigh, has just said? This amendment troubles me a little bit. The Companies House information is important for people who are dealing with those companies, be they suppliers or customers. When we were doing the inquiry into digital fraud for the committee on digital fraud, we met a range of fraud victims. For those where it was relevant, what was interesting was that every single one of the people whom we met, before they parted with their money, had gone to Companies House and had a look at the company. They took comfort from that and lost their money. The information there is important, and reducing the amount of information on it should be done only with real thought and consideration.

I get it that in certain circumstances it makes sense for companies to be able to apply that certain information should not be made available—there are plenty of situations where one could think that makes sense. However, this amendment goes a lot further than that. It gives the Government the power to make regulations to allow micro and small companies to make all or parts of their accounts public on application or otherwise. In theory, therefore, those regulations could simply say that no micro or small entity needs to publish anything. That would be going far too far, so it would be good to understand from the Minister what is actually intended here.

Lord Fox (LD): I have nothing to add.

Lord Johnson of Lainston (Con): I thank my noble friend Lord Leigh and the noble Lord, Lord Vaux, for their comments. It is absolutely right that we have this brief discussion about this point. Just to reaffirm, the intention of the amendment is not to suppress information or increase opacity. It is to give the opportunity to be discretionary in terms of what is published and what is not published. Section 468 of the Companies Act provides us with the power only to prescribe the format that small and micro entity accounts are received in but not to differentiate between what is received and what is included on the public register. The first point, therefore, is that it just gives flexibility, which, I think, noble Lords will agree is sensible.

The second point is that we have received a number of representations from small and micro-entities that are naturally concerned about the publishing of information that relates specifically to their own wealth. There is concern that they may be open to a higher degree of fraud and that they will receive undue commercial pressures as a result of, say, a landlord being able to see what their turnover is and so adjusting their rent upwards accordingly, and so on. The point is that I am speculating.

If noble Lords will allow me to say so, the intention of this amendment is to allow us the flexibility to consult broadly with all stakeholders—I listed clearly that these include credit lenders, enforcement agencies, small businesses, micro-entities and others—in order to work out what the right level of information is. It may be all of it, but this amendment certainly gives the Secretary of State, in some situations and for some specific cases, an opportunity not to publish this information, although it will still be retained by Companies House. That flexibility is absolutely right; it is right that this House allows the Secretary of State that level of flexibility. It is also right that this House will no doubt engage in a meaningful and useful debate on levels of transparency, but at least we now have flexibility.

Amendment 20 agreed.

Clause 63: Procedure etc for verifying identity

Amendment 21

Moved by ***Lord Johnson of Lainston***

21: Clause 63, page 54, line 20, leave out "under section 1110A(1)(b) or"

Member's explanatory statement

This has the effect that the registrar is required to make verification statements available for public inspection. A "verification statement" is the statement that an authorised corporate service provider is required to make to confirm that it has verified an individual's identity.

Lord Johnson of Lainston (Con): My Lords, as we discussed in Committee, identity verification is at the heart of the reforms in this Bill. It is essential that the framework for this is robust and reliable, including the role of authorised corporate service providers. I am therefore grateful for noble Lords' continued input to ensure that the Bill is as effective as possible in this area, making sure that we really know who is interacting with Companies House.

This group of amendments contains several measures to strengthen arrangements, including in response to sensible suggestions put forward by the noble Lord, Lord Vaux of Harrowden, and my noble friend Lord Agnew of Oulton. This is a significant package of measures from the Government to improve the Bill and address the concerns of the House. I very much hope that the House will therefore support these amendments.

I turn first to government Amendments 21 and 22. This group of amendments relates to the verification statements that authorised corporate service providers, known as ACSPs, must deliver to the registrar when they verify an individual's identity. Amendment 21 will require that all verification statements are made publicly available on the register. This responds directly to concerns raised by Members of both this House and the other place—including the noble Lords, Lord Vaux and Lord Fox—by increasing the transparency of the verification checks carried out by ACSPs. The statements will be made public.

Amendment 22 requires ACSPs to specify their anti-money laundering supervisor—or supervisors if they have more than one—on the statement. It also enables the Secretary of State to make further provisions regarding the contents of the statements via regulations so that this can be adapted if there is ever a need for different information to be available in the public domain. These regulations will be subject to the affirmative procedure to ensure appropriate scrutiny. Our intention is to align ACSP verification statements with those required for overseas entities under Section 16(2) of the Economic Crime (Transparency and Enforcement) Act 2022. Given that this area was previously discussed in Committee, I very much hope that noble Lords will support these amendments.

I turn now to government Amendments 34, 35 and 37. Reflecting on contributions made by noble Lords in Committee, for which I express my gratitude, my officials have been scrutinising the ACSP framework and looking for ways to strengthen it. Amendment 34 therefore clarifies that regulations can be made that impose duties on ACSPs to provide information to the registrar where this relates to monitoring compliance with any requirements under any part of the Companies Act 2006. This includes the requirement to carry out identity checks to the correct standard. It removes any ambiguity in the original drafting, ensuring that the information that can be requested is not limited to information relating specifically to Clause 64 only.

This is important as it means that there is no uncertainty regarding the use of the power to make ACSPs provide information on the identity checks that they carry out, the detail of these checks being in Clause 63. Tightening up the wording in this manner therefore ensures that the registrar will have the right tools to monitor ACSP compliance—something that the Government take very seriously. We want only legitimate actors to perform these identity checks and make filings on behalf of others.

6.15 pm

I now turn to government Amendments 27 to 29, 31, 32 and 36 which make changes to the registration, suspension and deauthorisation elements of the ACSP framework overseen by the registrar. These amendments respond to the general concern of noble Lords that the framework should be as clear and effective as possible. They also respond to feedback in the Delegated Powers and Regulatory Reform Committee's report on the Bill.

Amendment 29 inserts new criteria into Section 1098B(4) meaning that the register must not accept an ACSP application if it appears that the applicant is not a fit and proper person to carry out the functions of an ACSP, these functions being to file on behalf of others and undertake identity verification checks. This ensures that Companies House can reject applications from persons who have previously been deauthorised as an ACSP and who have taken no redeeming actions to make themselves fit and proper, even if they are supervised for anti-money laundering purposes. It ensures that the registrar has full agency in rejecting applications to be an ACSP, even where these are delivered by supervised persons.

On suspension, Section 1098G has been removed in its entirety and incorporated into Section 1098F, on ceasing to be an ACSP or deauthorisation, by Amendment 27. The circumstances for suspension are then specified as occurring when the registrar is deciding whether an ACSP should be deauthorised. For example, this could be if the registrar has received intelligence that suggests that an ACSP is not fit and proper and she wants to prevent the ACSP acting while determining whether deauthorisation is appropriate. It enables immediate action to be taken. I therefore hope that, by taking this opportunity further to tighten the ACSP framework, as well as responding to the Delegated Powers and Regulatory Reform Committee's report, the government amendments will be supported.

I now turn to government Amendments 39, 41 to 45, 62, 65 to 68 and 75. Provisions in existing Clause 69 restrict who can file with Companies House to individuals who have had their identity verified, are an ACSP, are an employee of an ACSP or fall within an exception. We have identified a loophole in this provision that could be exploited by third-party agents who do not want to register as an ACSP. Such individuals could technically file documents on behalf of their client simply by verifying their identity and not also registering as an ACSP. This was clearly not the Government's intention. These amendments close this loophole and restrict who is permitted to file directly with Companies House on behalf of a firm. It means that only ACSPs and officers or employees of the firm can deliver filing on behalf of a firm. This forces third-party agents to register as ACSPs, meaning that the registrar will check they are supervised and has the power to suspend or deauthorise them, if needed. The amendments also make related changes to provisions about limited partnerships, including by ensuring that the list of documents that LPs have no choice but to deliver by ACSPs may be delivered by officers of ACSPs as well as their employees.

New Section 1067A(4) in Amendment 42 also improves the exception-making power. It means that the Secretary of State can make an exception to allow a person who has not verified their identity to file with Companies House as well as making exceptions to the categories of filers specified in new Section 1067A(2). These powers are necessary as there are cases where requiring identity verification will not be needed or will be disproportionate —for instance, documents being delivered as part of the process to become identity verified or applications by individuals to remove personal information whose registration was procured by fraud.

As I mentioned at the start of my speech, the Government have taken major steps through these amendments to make the ACSP regime work robustly and to address the concerns of the House. I therefore hope that noble Lords will support all the amendments I have outlined, and I beg to move.

Lord Agnew of Oulton (Con): My Lords, I thank the Minister for a very comprehensive set of government amendments. He has completely revolutionised the impact of the Bill in relation to ACSPs. I congratulate him and his staff on that. It is important to remind noble Lords about why this is so important. Around half of all company formations occur through the offices of an ACSP. Frankly, it has been a cowboy environment. At the moment, they are not even required to be approved under the fourth anti-money laundering directive. So at one stroke with this Bill we will see a much cleaner field and a proper alignment of interests in that it will be in their interest to behave with integrity if they are to remain in business. I will not go through the comprehensive package, but my noble friend should be congratulated. This is probably the single biggest improvement to the Bill in the Companies House section.

Lord Vaux of Harrowden (CB): My Lords, I also thank the Minister for having listened to the points that were made in our previous debates about the importance of ACSPs' verification statements being made publicly available and for making this comprehensive suite of amendments. Indeed, I think he has gone further than my original amendments on the subject and the Bill is considerably strengthened as a result. I am extremely grateful.

Perhaps I may add one quick word in support of Amendment 93 from the noble Lord, Lord Agnew. A very high number of the ACSPs are going to be authorised and regulated by HMRC, and it is an unfortunate truth that such regulation is not the principal function of HMRC. Accordingly, that regulation has been somewhat light-touch. I ask the Minister to reassure us that considering how HMRC carries out this role will be an important part of the forthcoming consultation on AML regulation? The only requirement to become an ACSP is to be regulated for AML, so we need to make sure that regulation is robust and that only genuine, suitable persons are therefore authorised.

Baroness Altmann (Con): My Lords, I thank the Minister and congratulate him on this suite of amendments. I know that my noble friend is keen that this should be a really landmark Bill and that he has

[Baroness Altmann]
worked really hard to listen carefully and ensure that it is as robust as it can be. I know his dedication to this matter, and I thank him for it.

Lord Leigh of Hurley (Con): Although my noble friend the Minister has described me in very flattering terms today, for which I am grateful, I will not add to the flattery, as his noble kinsman is no longer sitting next to me. I just want to add a note of caution, because it is on the record in Amendment 93 from my noble friend Lord Agnew, on the possibility of HMRC taking AML to be of equal priority to tax collecting, essentially. I declare an interest as chairman of the Finance Bill Sub-Committee of the Economic Affairs Committee that investigated R&D tax credits, which led to HMRC's accounts being qualified given the level of uncertainty. I just want to put it on the record that we all want HMRC to focus on tax collection, with fraud focused on in other areas.

Lord Fox (LD): The Minister will be blushing with the fulsome praise that he has received. I think he described it as a significant package of improvements and as major steps. The noble Lord, Lord Agnew, went further and described them as revolutionary changes. The Minister can be sure that he has hit an important nail very firmly on the head with this set of amendments. I think we all believe that this makes the Bill a much better Bill, and for that, we are very pleased.

Baroness Blake of Leeds (Lab): I rise just to add our support for the amendments. I emphasise the concern that has been raised in Amendment 93 from the noble Lord, Lord Agnew, in terms of recognising the significant function that HMRC has. I listened to the noble Lord, Lord Leigh, with interest. I think there is some issue with looking at the two functions equally and making sure there is no conflict between them.

Lord Johnson of Lainston (Con): I thank all noble Lords who have spoken during this debate, and I am grateful, personally, for the kindness they have shown to me as a new Minister on this Bill over the last few months. I am grateful for the high degree of collaboration and the sense of common purpose that all Members of this House have shown in trying to create a truly effective Bill to change—after 170 years—Companies House and what it can do for companies and to eradicate crime at the same time. I thank all noble Lords, my officials and the Government for the work we have done together.

However, we have not finished; we are only half way through. I thank my noble friend Lord Agnew for his Amendment 33. I appreciate the strength of feeling, but we would not wish to impose a duty on Companies House to carry out, as he has described, risk assessments. All ACSPs must be supervised for anti-money laundering purposes, and supervisors will already carry out risk assessments on them. I am aware of the concerns surrounding the supervisory regime, and I can confirm that the Treasury will publish a consultation on its structural reform. I believe this is to take place within the next month, which is very important and will be welcomed by this House and help inform further debate.

As I have just set out, the Government have tabled amendments to strengthen the ACSP regime, enabling Companies House to act if it has knowledge that a person is not fit and proper to carry out the functions of an ACSP, and to strengthen the registrar's powers to request information. We are enabling the registrar to focus her attention on high-risk ACSPs rather than making it a duty to do so. A duty would reduce her operational flexibility—for example, inadvertently preventing her spot-checking the identity verification done by lower-risk ACSPs. We engaged with the registrar fruitfully on this subject only a few weeks ago. It is for these reasons that I urge my noble friend not to move his amendment.

I turn to Amendment 93. While the Government agree wholeheartedly on the crucial role that supervision must play in tackling economic crime, we are not keen to support this amendment. Under money laundering regulations, HMRC already has anti-money laundering supervisory functions and it takes them very seriously. HMRC is one of 25 supervisors of the money laundering regulations, alongside the Financial Conduct Authority, the Gambling Commission, and 22 accountancy and legal professional bodies. HMRC supervises around 30,000 businesses across nine sectors.

HMRC's anti-money laundering supervisory function is resourced through the fees that it collects from the businesses it supervises, and these fees are solely for use by HMRC's anti-money laundering supervisory function. HMRC attaches great importance to its anti-money laundering work, including its supervisory function. For example, in 2022-23, HMRC carried out over 3,200 anti-money laundering compliance interventions, including desk-based reviews and face-to-face visits. It also refused 439 applications to register from businesses considered inappropriate or unsuitable. The number of staff working on supervisory activity has more than doubled from 197 in 2018 to 397 in 2023; in 2022-23, they issued a total of 770 penalties, totalling £5.5 million. Specifically, £1.2 million of this amount came from trust or company service providers.

HMRC also works to help businesses understand the risk of money laundering. In 2022-23, its relevant web pages saw nearly 475,000 hits and it issued 850,000 alerts to businesses telling them about changes to law, inviting them to webinars or raising awareness of emerging risks.

The proposed amendment would duplicate the work that HMRC already does. It could make HMRC responsible for all anti-money laundering supervision, when Regulation 7 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 states that certain persons are subject to supervision by certain supervisors. For example, it states that

"the FCA is the supervisory authority for … credit and financial institutions".

So it would not make sense to mandate that HMRC supervises them. HMRC would not necessarily have the expertise that it would need to supervise all sectors—for example, lawyers or large-scale financial institutions—and it would cut across existing regulatory relationships such as those between the banks and the FCA.

In conclusion, I urge noble Lords once more to support the government amendments that I outlined earlier, which address specific concerns raised during our debates. I believe they will deliver our shared ambition for a robust ACSP framework.

Amendment 21 agreed.

Amendments 22 to 26

Moved by ***Lord Johnson of Lainston***

22: Clause 63, page 54, line 34, at end insert—

"(2A) A verification statement must also specify the authorised corporate service provider's supervisory authority or authorities for the purposes of the Money Laundering Regulations.

(2B) The Secretary of State may by regulations make further provision about the contents of verification statements (including provision amending this section)."

Member's explanatory statement

This amendment requires a verification statement to specify the authorised corporate service provider's supervisory authority or authorities. It also confers a regulation-making power to make further provision about the contents of verification statements.

23: Clause 63, page 54, line 40, after "may" insert "by regulations"

Member's explanatory statement

This amendment spells out that the power conferred by new section 1110A(4) is exercisable by regulations.

24: Clause 63, page 55, line 6, after "statement" insert ": (A)"

Member's explanatory statement

This is consequential on my amendment to Clause 63, page 55, line 8

25: Clause 63, page 55, line 8, at end insert "(B) specifying the authorised corporate service provider's supervisory authority or authorities for the purposes of the Money Laundering Regulations, and (C) containing anything else required by the regulations."

Member's explanatory statement

This amendment requires a reverification statement to specify the authorised corporate service provider's supervisory authority or authorities and to contain anything else required by regulations.

26: Clause 63, page 55, line 10, at end insert—

"(7) In this section—

"Money Laundering Regulations" means the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692);

"supervisory authority" means an authority that is a supervisory authority under the Money Laundering Regulations (see regulation 7 of those Regulations)."

Member's explanatory statement

This is consequential on my amendments to Clause 63, page 54, line 34 and page 55, line 8.

Amendments 22 to 26 agreed.

Clause 64: Authorisation of corporate service providers

Amendments 27 to 32

Moved by ***Lord Johnson of Lainston***

27: Clause 64, page 56, line 24, leave out "section 1098G" and insert "section 1098F."

Member's explanatory statement

This amendment is consequential on my amendment to page 59, line 36.

28: Clause 64, page 57, line 7, leave out "may grant the application only" and insert "must grant the application"

Member's explanatory statement

This amendment is consequential on my amendment to page 57, line 16.

29: Clause 64, page 57, line 16, at end insert ", and

(d) the registrar is not required by subsection (4A) to refuse the application.

(4A) The registrar must refuse the application if it appears to the registrar that the applicant is not a fit and proper person to carry out the functions of an authorised corporate service provider."

Member's explanatory statement

This amendment requires the registrar to refuse an application for authorisation as a corporate service provider if it appears that the applicant is not a fit and proper person to become an authorised corporate service provider.

30: Clause 64, page 58, line 22, leave out "(a) and (d)"

Member's explanatory statement

This is consequential on my amendment to Clause 69, page 64, line 10.

31: Clause 64, page 59, line 36, at end insert ", whether automatically or as a result of a decision taken by the registrar;

(b) provide for circumstances in which the registrar may suspend a person's status as an authorised corporate service provider pending a decision by the registrar under regulations made by virtue of paragraph (a).

(2A) The provision that can be made under subsection (2) includes provision as to—

(a) procedure;

(b) the period of a suspension;

(c) the revocation of a suspension."

Member's explanatory statement

This amendment and my amendment to leave out lines 1 to 13 on page 60 are intended to narrow the power to make regulations for suspension of an authorised corporate service provider's status so that it is available only pending a decision as to termination of an authorised corporate service providers' status.

32: Clause 64, page 60, leave out lines 1 to 13

Member's explanatory statement

This would remove the power to make regulations for suspension of an authorised corporate service provider's status. My amendment to page 59, line 36 introduces a narrower power to suspend.

Amendments 27 to 32 agreed.

Amendment 33 not moved.

Amendments 34 to 37

Moved by ***Lord Johnson of Lainston***

34: Clause 64, page 60, leave out lines 16 to 23 and insert "require a person who is or has been an authorised corporate service provider to provide information to the registrar in accordance with the regulations (including information for the purpose of monitoring compliance with the requirements of this Act)."

Member's explanatory statement

This ensures that the registrar can obtain information about compliance with provisions such as new section 1110B of the Companies Act 2006 (see Clause 63), including from former authorised corporate service providers (including suspended providers).

35: Clause 64, page 60, line 24, leave out "(a)"

Member's explanatory statement

This is consequential on my amendment to page 60, lines 16 to 23.

36: Clause 64, page 60, line 27, leave out from "1098F(2)" to "include" on line 29

Member's explanatory statement

This is consequential on my amendment to page 60, lines 1 to 13.

37: Clause 64, page 60, line 30, leave out "(a)"

Member's explanatory statement

This is consequential on my amendment to page 60, lines 16 to 23.

Amendments 34 to 37 agreed.

Clause 66: Allocation of unique identifiers

Amendment 38

Moved by ***Lord Johnson of Lainston***

38: Clause 66, page 62, line 28, at end insert—

"(zi) after "may" insert "by regulations";"

Member's explanatory statement

This amendment corrects a mistake in section 1082(1) of the Companies Act 2006 by spelling out that the power conferred by that subsection is exercisable by regulations (that this was always the intention is clear from the subsequent subsections).

Amendment 38 agreed.

Clause 67: Identity verification: material unavailable for public inspection

Amendment 39

Moved by ***Lord Johnson of Lainston***

39: Clause 67, page 63, line 16, leave out "(3) or (4)" and insert "(1) or (2)"

Member's explanatory statement

This is consequential on my amendment to Clause 69, page 64, line 10.

Amendment 39 agreed.

Amendment 40

Moved by ***Lord Johnson of Lainston***

40: Before Clause 68, insert the following new Clause—

"Registrar's power to strike off company registered on false basis

(1) The Companies Act 2006 is amended as follows.

(2) After section 1002 insert—

"Registrar's power to strike off company registered on false basis

1002A Power to strike off company registered on false basis

(1) The registrar may strike a company's name off the register if the registrar has reasonable cause to believe that—

(a) any information contained in the application for the registration of the company, or in any application for restoration of the company to the register, is misleading, false or deceptive in a material particular, or

(b) any statement made to the registrar in connection with such an application is misleading, false or deceptive in a material particular.

(2) In subsection (1) the reference to an application includes any documents delivered to the registrar in connection with the application.

(3) The registrar may not exercise the power in subsection (1) unless—

(a) the registrar has published a notice in the Gazette that, at the end of the period of 28 days beginning with the date of the notice, the name of the company mentioned in the notice will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved, and

(b) the period mentioned in paragraph (a) has expired.

(4) If the registrar exercises the power in subsection (1), the registrar must publish a notice in the Gazette of the company's name having been struck off the register.

(5) On the publication of the notice in the Gazette the company is dissolved.

(6) However—

(a) the liability (if any) of every director, managing officer or member of the company continues and may be enforced as if the company had not been dissolved, and

(b) nothing in this section affects the power of the court to wind up a company the name of which has been struck off the register."

(3) In section 1024 (application for administrative restoration to the register), in subsection (1), for the words from "section" to the end substitute "—

(a) section 1000 or 1001 (power of registrar to strike off defunct company), or

(b) section 1002A (power of registrar to strike off company registered on false basis)."

(4) In section 1025 (requirements for administrative restoration), for subsection (2) substitute—

"(2) The first condition is that—

(a) in the case of a company struck off the register under section 1000 or 1001, the company was carrying on business or in operation at the time of its striking off;

(b) in the case of a company struck off the register under section 1002A, at the time of its striking off, the registrar did not have reasonable cause to believe the matter set out in section 1002A(1)(a) or (b)."

(5) In section 1028A (administrative restoration of company with share warrants), in subsection (1), for "or 1001" substitute ", 1001 or 1002A".

(6) In section 1029 (application to court for restoration to the register), in subsection (1)(c)—

(a) omit the "or" at the end of sub-paragraph (i);

(b) after that sub-paragraph insert—

"(ia) under section 1002A (power of registrar to strike off company registered on false basis), or".

(7) In section 1030 (timing for application to court for restoration to the register), in subsection (5)(a), after "company)" insert "or section 1002A (power of registrar to strike off company registered on false basis)".

(8) In section 1031 (decision on application for restoration by the court), in subsection (1)—

(a) after paragraph (a) insert—

"(aa) if the company was struck off the register under section 1002A (power of registrar to strike off company registered on false basis) and the court considers that, at the time of the striking off, the registrar did not have reasonable cause to believe the matter set out in section 1002A(1)(a) or (b);";

(b) in paragraph (c), for "other case" substitute "case (including a case falling within paragraph (a), (aa) or (b))"."

Member's explanatory statement

This Clause amends the Companies Act 2006 to confer on the registrar a power to strike off a company where the company was registered on a false basis, and makes provision for restoration of such a company to the register.

Amendment 40 agreed.

Clause 69: Delivery of documents: identity verification etc

Amendments 41 and 42

Moved by ***Lord Johnson of Lainston***

41: Clause 69, page 64, line 7, at end insert—

"(1A) In section 9 (registration documents), omit subsection (3)."

Member's explanatory statement

This is consequential on the other amendments made by Clause 69.

42: Clause 69, page 64, line 10, leave out subsection (3) and insert—

"(3) After section 1067 insert—

"Who may deliver documents to the registrar

1067A Delivery of documents: identity verification requirements etc

(1) An individual may not deliver a document to the registrar on their own behalf unless—

(a) their identity is verified (see section 1110A), and

(b) the document is accompanied by a statement to that effect.

(2) An individual (A) may not deliver a document to the registrar on behalf of another person (B) who is of a description specified in column 1 of the following table unless—

(a) the individual is of a description specified in the corresponding entry in column 2, and

(b) the document is accompanied by the statement specified in the corresponding entry in column 3.

	1 Description of person on whose behalf document delivered (B)	2 Description of individual who may deliver document on B's behalf (A)	3 Accompanying statement
1	Firm	Individual who is an officer or employee of the firm and whose identity is verified (see section 1110A).	Statement by A— (a) that A is an officer or employee of the firm, (b) that A is delivering the document on the firm's behalf, and (c) that A's identity is verified.
2	Firm	Individual who is an officer or employee of a corporate officer of the firm and whose identity is verified.	Statement by A— (a) that A is an officer or employee of a corporate officer of the firm, (b) that A is delivering the document on the firm's behalf, and (c) that A's identity is verified.
3	Firm	Individual who is an authorised corporate service provider (see section 1098A).	Statement by A— (a) that A is an authorised corporate service provider, and (b) that A is delivering the document on the firm's behalf.
4	Firm	Individual who is an officer or employee of an authorised corporate service provider.	Statement by A (a) that A is an officer or employee of an authorised corporate service provider, and b) that A is delivering the document on the firm's behalf.
5	Individual	Individual whose identity is verified.	Statement by A— (a) that A is delivering the document on B's behalf, and (b) that A's identity is verified.
6	Individual	Individual who is an authorised corporate service provider.	Statement by A— (a) that A is an authorised corporate service provider, and (b) that A is delivering the document on B's behalf.
7	Individual	Individual who is an officer or employee of an authorised corporate service provider.	Statement by A— (a) that A is an officer or employee of an authorised corporate service provider, and (b) that A is delivering the document on B's behalf.

(3) In relation to a corporate officer that has only corporate officers, the reference in row 2 of the table to an individual who is one of its officers is to—

(a) an individual who is an officer of one of those corporate officers, or

(b) if the officers of those corporate officers are all corporate officers, an individual who is an officer of any of the corporate officer's corporate officers,

and so on until there is at least one individual who is an officer.

(4) The Secretary of State may by regulations—

(a) create exceptions to subsections (1) or (2) (which may be framed by reference to the person by whom or on whose behalf a document is delivered or by reference to descriptions of document or in any other way);

(b) amend this section for the purpose of changing the effect of the table in subsection (2).

(5) Regulations under subsection (4)(a)—

(a) may require any document delivered to the registrar in reliance on an exception to be accompanied by a statement;

(b) may amend this section.

(6) The Secretary of State may by regulations make provision requiring a statement delivered to the registrar under subsection (2) to be accompanied by additional statements or additional information in connection with the subject-matter of the statement.

(7) Regulations under this section are subject to affirmative resolution procedure.

(8) In this section "corporate officer" means an officer that is not an individual.""

Member's explanatory statement

This changes the categories of people who may deliver documents on another's behalf. Among other things, it means an individual whose identity is verified can only deliver documents on behalf of a firm if they are an officer or employee of the firm or one of its corporate officers.

Amendments 41 and 42 agreed.

Clause 70: Disqualification from delivering documents

Amendments 43 to 45

Moved by ***Lord Johnson of Lainston***

43: Clause 70, page 65, line 22, after first "an" insert "officer or"

Member's explanatory statement

This allows officers as well as employees or authorised corporate service providers to deliver documents on behalf of a disqualified person.

44: Clause 70, page 65, line 23, leave out "and acting in the course of their employment"

Member's explanatory statement

This is consequential on my amendment to Clause 69, page 64, line 10. An employee delivering a document under new section 1067B(2)(b) must be acting in the course of their employment without the need for express provision to that effect.

45: Clause 70, page 65, line 33, leave out from "person" to end of line 37

Member's explanatory statement

This amendment removes the requirement for a statement to include certain information that will be covered by the statement that a person must make under new section 1067A of the Companies Act 2006 (inserted by Clause 69) when delivering documents.

Amendments 43 to 45 agreed.

Clause 82: Administrative removal of material from the register

Amendment 46

Moved by ***Lord Johnson of Lainston***

46: Clause 82, page 71, line 46, at end insert—

"(4A) Regulations under this section may in particular confer a discretion on the registrar."

Member's explanatory statement

This amendment enables any provision made by regulations under new section 1094A of the Companies Act 2006 to confer a discretion on the registrar.

Amendment 46 agreed.

Clause 88: Protecting information on the register

Amendments 47 and 48

Moved by ***Lord Johnson of Lainston***

47: Clause 88, page 75, leave out line 35

Member's explanatory statement

This amendment is consequential on my amendment to Clause 88, page 76, line 11.

48: Clause 88, page 76, line 11, at end insert—

"(8A) Regulations under this section may in particular confer a discretion on the registrar."

Member's explanatory statement

This amendment enables any provision made by regulations under new section 1088 of the Companies Act 2006 to confer a discretion on the registrar.

Amendments 47 and 48 agreed.

Clause 89: Analysis of information for the purposes of crime prevention or detection

Amendment 49 not moved.

Clause 90: Fees: costs that may be taken into account

Amendment 50

Moved by ***Lord Johnson of Lainston***

50: Clause 90, page 76, line 41, at end insert—

"(ba) any function of the Secretary of State under or in connection with regulations under section 1 of the Sanctions and Anti-Money Laundering Act 2018 that make provision in connection with licences of the kind mentioned in section 15(3A) of that Act;"

Member's explanatory statement

This enables fees set under the Companies Act 2006 to be set at a level to cover the Secretary of State's costs in connection with licences for people who are subject to director disqualification sanctions under the Sanctions and Anti-Money Laundering Act 2018.

Amendment 50 agreed.

Clause 91: Disclosure of information

Amendment 51

Moved by ***Lord Johnson of Lainston***

51: Clause 91, page 77, line 34, at end insert—

"(1A) In section 243 (permitted disclosure by registrar), for subsection (6) substitute—

"(6) Regulations under subsection (4) may in particular confer a discretion on the registrar.

(6A) Provision under subsection (5)(d) may in particular provide for a question to be referred to a person other than the registrar for the purposes of determining the application.""

Member's explanatory statement

This amendment enables any provision made by regulations under section 243 of the Companies Act 2006 to confer a discretion on the registrar.

Amendment 51 agreed.

Clause 101: Financial penalties

Amendments 52 and 53

Moved by ***Lord Johnson of Lainston***

52: Clause 101, page 85, line 40, after "if" insert "—

(i) proceedings have been brought against the person for that offence in respect of that conduct and the proceedings are ongoing, or

(ii) "

Member's explanatory statement

This amendment and my other amendment to Clause 101 would mean that regulations must provide that no financial penalty may be imposed on a person in respect of whom criminal proceedings are ongoing; at the moment it is the other way around so that criminal proceedings cannot be continued once a penalty is imposed.

53: Clause 101, page 85, line 43, leave out "or continued"

Member's explanatory statement

See the explanatory statement to my other amendment to Clause 101.

Amendments 52 and 53 agreed.

Clause 102: Registered office: rectification of register

Amendment 54

Moved by ***Lord Johnson of Lainston***

54: Clause 102, page 87, line 23, at end insert—

"(4C) Regulations under this section may in particular confer a discretion on the registrar."

Member's explanatory statement

This amendment enables any provision made by regulations under section 1097A of the Companies Act 2006 to confer a discretion on the registrar.

Amendment 54 agreed.

Clause 103: Rectification of register: service addresses

Amendment 55

Moved by ***Lord Johnson of Lainston***

55: Clause 103, page 89, line 15, at end insert—

"(11A) Regulations under this section may in particular confer a discretion on the registrar."

Member's explanatory statement

This amendment enables any provision made by regulations under section 1097B of the Companies Act 2006 to confer a discretion on the registrar.

Amendment 55 agreed.

Clause 104: Rectification of register: principal office addresses

Amendment 56

Moved by ***Lord Johnson of Lainston***

56: Clause 104, page 91, line 9, at end insert—

"(11A) Regulations under this section may in particular confer a discretion on the registrar."

Member's explanatory statement

This amendment enables any provision made by regulations under section 1097C of the Companies Act 2006 to confer a discretion on the registrar.

Amendment 56 agreed.

Amendment 57 not moved.

6.30 pm

Clause 107: Required information about partners

Amendment 58

Moved by ***Lord Johnson of Lainston***

58: Clause 107, page 92, line 32, at end insert—

"(3) In this section "the Companies Acts" has the meaning given by section 2(1) of the Companies Act 2006."

Member's explanatory statement

This amendment inserts a definition of "the Companies Acts" into the Limited Partnerships Act 1907.

Lord Johnson of Lainston (Con): My Lords, the amendments in this group relate to Part 2, which includes a number of reforms to prevent the abuse of limited partnerships. These measures are incredibly significant and will enable fundamental change in the transparency of limited partnerships while maintaining their crucial position as legitimate vehicles for doing business. They are the biggest changes to the legal framework for limited partnerships since the Limited Partnerships Act 1907.

We must keep in mind that limited partnerships, including Scottish limited partnerships, facilitate legitimate and important commercial activity. They are used across the UK in a variety of sectors, particularly in the private equity and venture capital industry, as well for a variety of other purposes, such as oil and gas exploration and production and real estate.

The measures in the Bill were formulated after several rounds of consultation to deliver the right balance of more transparency without undermining the use of these structures by legitimate business. The British Private Equity and Venture Capital Association reports that, in 2021, £17.3 billion was invested into UK companies from private equity and venture capital, with nine in 10 investments directed at small to medium-sized enterprises. We do not want to disrupt this activity, nor the 2 million or so people who are employed by companies backed by private equity and venture capital who use these vehicles.

Before I turn to the government amendments, it may be helpful to clarify a few points about the structure and principles of limited partnerships. These are business associations made up of one or more general partners who are responsible for the management of the partnership, and one or more limited partners who cannot partake in management and whose liability is limited to the amount they invest. In the Bill, to achieve more clarity over limited partnerships and those who have influence and control over the partnership, the Government have rightly focused on creating more transparency over the partners, and specifically the general partners. The Bill already ensures that, in future, we will know the names, addresses and dates of birth

[Lord Johnson of Lainston]
of all partners in a limited partnership, and all of this information will need to be confirmed at least annually. It is important to have these points in mind before we turn to the amendments tabled by my noble friend Lord Agnew.

In the meantime, I have a handful of minor government amendments to Part 2, which concerns limited partnerships—Amendments 58, 59, 60 and 61. These are required, in the most part, to correct drafting errors, by adding missing definitions and removing ones which are not essential. Amendment 60 is a minor change to the information that has to be delivered by general partners of a limited partnership when they give their annual confirmation statement. It means that a notice changing a general partner's registered officer must be delivered at the same time as a confirmation statement, if the registered officer is not ID verified. I beg to move.

Lord Agnew of Oulton (Con): My Lords, I shall speak to my Amendments 63, 69 and 70. Again, I am grateful to my noble friend the Minister for his engagement and for his detailed letter to me recently to allay many of my concerns.

The Bill goes a long way to deal with the opacity of LLPs and LPs. It is very important that we regard them as similar in the level of transparency needed as we would consider for a company. We know there have been plenty of examples in the past where they have been used as a front for a lot of very bad activity.

I am not going to press my amendments today, and I thank my noble friend the Minister for his amendments. He has said to me that the Government plan to bring forward some work very soon after the Bill. I would be quite interested if he could just give us some sense of the timescale for this work. His brief said:

"Following Royal Assent, the Government intend to bring into force provisions to require a company director to be a natural person, with limited exemptions for corporate directors".

If my noble friend could give us a timeline for that, I would be most grateful.

Amendment 58 agreed.

Clause 119: Notification of information about partners

Amendment 59

Moved by ***Lord Johnson of Lainston***

59: Clause 119, page 109, leave out lines 24 to 26

Member's explanatory statement

This amendment removes the definition of a term that is no longer used in the section.

Amendment 59 agreed.

Clause 123: Confirmation statements

Amendment 60

Moved by ***Lord Johnson of Lainston***

60: Clause 123, page 116, line 30, leave out "and (b)" and insert "to (c)"

Member's explanatory statement

This amendment means that notice changing a general partner's registered officer must be delivered at the same time as a confirmation statement, if the registered officer is not ID verified.

Amendment 60 agreed.

Clause 134: Material not available for public inspection

Amendments 61 and 62

Moved by ***Lord Johnson of Lainston***

61: Clause 134, page 127, line 14, leave out "(4) or"

Member's explanatory statement

This amendment corrects a mistake. A statement under 8R(4) is not required to confirm that an individual is an individual whose identity is verified.

62: Clause 134, page 127, line 19, leave out "(3) or (4)" and insert "(1) or (2)"

Member's explanatory statement

This is consequential on my amendment to Clause 69, page 64, line 10.

Amendments 61 and 62 agreed.

Amendment 63 not moved.

Clause 136: Disclosure of information about partners

Amendment 64

Moved by ***Lord Johnson of Lainston***

64: Clause 136, page 129, line 31, leave out "and (6)" and insert "to (6A)"

Member's explanatory statement

This is consequential on my amendment to Clause 91, page 77, line 34.

Amendment 64 agreed.

Clause 142: Delivery of documents relating to limited partnerships

Amendments 65 to 68

Moved by ***Lord Johnson of Lainston***

65: Clause 142, page 138, line 12, leave out "and (3)"

Member's explanatory statement

This is consequential on my amendment to Clause 142, page 138, lines 18 to 25.

66: Clause 142, page 138, line 16, after first "an" insert "officer or"

Member's explanatory statement

Certain documents under the Limited Partnerships Act 1907 can only be delivered to the registrar by authorised corporate service providers or their employees. This amendment adds officers of authorised corporate service providers to those who are allowed to deliver those documents.

67: Clause 142, page 138, line 17, leave out "and is acting in the course of their employment"

Member's explanatory statement

This is consequential on my amendment to Clause 69, page 64, line 10. An employee delivering a document under new section 1067B(2)(b) must be acting in the course of their employment without the need for express provision to that effect.

68: Clause 142, page 138, leave out lines 18 to 25

Member's explanatory statement

This amendment removes the requirement for a statement to include certain information that will be covered by the statement that a person must make under new section 1067A of the Companies Act 2006 (inserted by Clause 69) when delivering documents.

Amendments 65 to 68 agreed.

Amendments 69 and 70 not moved.

Amendment 71

Moved by ***Lord Johnson of Lainston***

71: After Clause 158, insert the following new Clause—

"Information about changes in beneficiaries under trusts

(1) Schedule (Duty to deliver information about changes in beneficiaries) (duty to deliver information about changes in beneficiaries) imposes further duties on registered overseas entities to deliver information.

(2) The amendments made by paragraph 2 of Schedule (Duty to deliver information about changes in beneficiaries) do not apply in relation to any statements or information delivered to the registrar under section 7 of the Economic Crime (Transparency and Enforcement) Act 2022 during the period of 3 months beginning when that paragraph comes fully into force."

Member's explanatory statement

This introduces the new Schedule to which it refers and makes transitional provision.

Lord Johnson of Lainston (Con): My Lords, as noble Lords well know, the Economic Crime (Transparency and Enforcement) Act 2022 created a new register of overseas entities, requiring overseas companies owning or buying property in the UK to give information about their beneficial owners to Companies House. The register launched successfully on 1 August 2022, and companies in scope that already owned property had until 31 January 2023 to apply for registration. As of 18 June, more than 28,000 entities out of some 30,000 had registered, which represents a very good rate of initial compliance. Since 1 February, all non-compliant companies have been restricted in their ability to sell, lease or raise finance over their land; this remains the case until they comply. Companies House is beginning the process of assessing cases for additional action. This second economic crime Bill we are debating today makes a number of changes to further strengthen the register.

I will speak first to Amendment 85, a fairly minor amendment that the Government have tabled to strengthen the register. Schedule 6, which was inserted into this Bill in Committee, sets out the anti-avoidance measures that we debated a few weeks ago. These measures require that beneficial owners must report every change in beneficiary for the relevant period to Companies House. The anti-avoidance measures are effectively time limited because they impose a requirement on overseas entities to make a one-off submission to Companies House as part of their annual update. The Government have decided that it is therefore appropriate to limit the time within which the power related to them can be exercised; this demonstrates the Government's intention to use the power only for the purposes that I described during our previous debate. The measures include a power to exclude descriptions of beneficial owners from the requirement to comply with Schedule 6. As I set out in Committee, this power will be used to exclude structures such as large pension trusts, where this requirement would be disproportionately burdensome.

Furthermore, turning to Amendment 86, because regulations made using this power may engage issues of devolved competence in Scotland, we have inserted a mechanism to ensure that Scottish Ministers must be consulted before regulations are made, if those regulations would be within Scottish legislative competence. These minor changes to the power will have no impact on the effectiveness of the anti-avoidance measures. I hope noble Lords will agree that they are appropriate.

During the passage of this Bill many concerns have been expressed about the use of trusts. I note that my noble friend Lord Agnew of Oulton has tabled Amendment 89, which would require Companies House to publish information about trusts that is obtained for the register of overseas entities but that is not available for scrutiny. The Government have tabled a number of amendments that are intended to address concerns in this area.

Amendment 71 will strengthen the reporting requirements and close a potential gap in the information provided to Companies House. Overseas entities registered on the register of overseas entities are required to update annually the information that they have provided to Companies House. They must provide an update that includes all in-year changes to the entity's beneficial owners. Where the entity is associated with a trust, only a snapshot of the trust information is currently required to be provided with the annual update. This leaves a small risk that a beneficiary determined not to be registered might use convoluted means to ensure that they are not a beneficiary at the time of the update but become so immediately afterwards.

We have discussed this issue at length, and I hope noble Lords are pleased with the amendment that we are bringing forward at this time. It will ensure that in-year changes to beneficiaries must be reported to Companies House in the same way as is required for beneficial owners. There is nowhere to hide. Information supplied to Companies House via this amendment will be required to be verified along with all the other information that is being provided.

The amendment also includes a power for the Secretary of State to make exceptions to the duty to provide the in-year beneficiary information. This power will be used to exempt structures such as large pension fund trusts, where it would be disproportionate to expect them to provide every change that occurs in a given period. A number of multinational corporations use trust structures for their pension funds. One example we are aware of, which is a British multinational, is a fund registered on the register of overseas entities with over 8,000 beneficiaries. There are numerous and regular changes to the beneficiaries in circumstances such as this and the Government consider it unreasonable to expect such structures to deliver the new information that will be required.

Before regulations under this power are made, the Secretary of State must consult the Scottish Ministers and Northern Ireland Department of Finance. This is because these issues may engage areas of devolved competence. A number of consequential amendments, Amendment 76, 77 and 84, are also required so that the new provisions work as intended.

I turn to government Amendment 78. We have listened to the strength of feeling among parliamentarians, on all sides and in both Houses, that information about trusts supplied to Companies House as part of the registration of an overseas entity should not be withheld from public inspection. I stress that all the

[Lord Johnson of Lainston]
information held by Companies House about trusts is available to HMRC and law enforcement bodies. While the Government remain of the view that, in most circumstances, it is appropriate to withhold information about trusts, good arguments have been made that more transparency is required. In particular, it would seem appropriate to allow certain people, such as investigative journalists, to access the information under certain circumstances.

That is why we are tabling an amendment to create a regulation-making power by which the Secretary of State can set out details of who may apply to access trust information, how to apply and the circumstances in which an application can be made. To achieve this, we will also need to widen the scope of the protection regime in Section 25 of the Economic Crime (Transparency and Enforcement) Act to allow for people who are involved in trust arrangements—settlors, beneficiaries et cetera—to make an application. This does not require an amendment to this Bill as it can be achieved via regulations using the Section 25 power.

The Government intend to use this new power to provide a mechanism for access that is as straightforward as possible. My officials will work with Transparency International and other stakeholders and prepare regulations as soon as possible. I am happy to commit to keeping interested Peers informed and involved. Minister Hollinrake and I will keep a close eye to ensure that the processes Companies House put in place off the back of these regulations are indeed straightforward.

There will be some information that will not be appropriate for release, such as the day of date of birth of a person or their usual residential address. These will remain protected. In addition, given that most trusts are family affairs, and many are set up for minors or other vulnerable people, there may be other reasons why a given piece of information may not be suitable for release.

Before regulations under this power are made, the Secretary of State must consult with the Scottish Ministers and the Northern Ireland Department of Finance. This is because these issues may engage areas of devolved competence.

Finally, this group contains minor and technical Amendments 87 and 88. I hope that these amendments, in addition to the mechanisms already in place on the register of overseas entities, will provide sufficient reassurance to noble Lords and I beg to move.

Lord Vaux of Harrowden (CB): My Lords, I have submitted Amendments 72 and 73 in this group.

Amendment 72 is designed to close an anomaly that arose in part because of the rushed nature of the emergency first Economic Crime Act. Unlike any other corporate register that I can think of, the register of overseas entities is required to be updated only annually. In contrast, the register of persons with significant control of UK Companies must be updated within 14 days of the company becoming aware of the change. This does matter. It means that the register can be as much as a year out of date, with changes potentially made to who owns or controls the overseas entity in the meantime.

The purpose of the register is to ensure that we know who owns UK property, so this anomaly creates a very real gap. There is a risk, for example, that an innocent third party could unknowingly find themselves buying a property from a sanctioned individual, thus allowing that sanctioned individual to realise and export the value of the property. By the time the register is updated, perhaps many months later, the money will be long gone.

There was a rather technical reason why we could not close this anomaly at the time of the first Act. The main penalty for failing to update the register is that property transactions cannot be registered. That would create a risk for an innocent buyer, if the register had to be updated within 14 days, because the innocent buyer could not know whether or not the company was in breach, and therefore the innocent party might not be able to register the transaction.

6.45 pm

Amendment 72 therefore has two parts to it to try to solve that problem. First, it creates the obligation for the register to be updated within 14 days of the entity becoming aware of any change, bringing it into line with the PSC register, as I said before. However, to solve the issue that existed around the risk to the innocent buyer—or indeed the seller—of a property, the amendment adds a second updating requirement to take place no more than 14 days prior to the purchase or disposal of a property. Doing that would introduce a safeguard for the innocent buyer or seller by ensuring that the register is up to date prior to the transaction taking place. The innocent party will then know who they are transacting with.

Eagle-eyed Members of the House will have noticed that the amendment changed between my initial submission and the final version we are looking at today. The reason for that was that the Minister kindly arranged for me to spend quite a lot of time with officials and the Law Society, who raised some issues with the previous wording. I would not want to pretend that they support what is currently there, but I think that the new wording goes a long way to solving the problems they raised, which were around introducing risk into property transactions. As the amendments are now drafted, the risk around the transaction of the innocent party not being able to register it is exactly the same as it would be if the innocent party undertook the transaction after the annual update—so it makes no difference to that. I hope that it will solve it.

This creates a little more work for both parties to the property transaction: the overseas entity will have to update its register to confirm that it is up to date, and the buyer or seller will need to check that that has happened within the permitted timescale. There is a little more burden—and I know that, as the Minister said several times today, that is a huge concern of the Government—but it is not really any different from the usual searches, EPC requirements or any of the other things that have to be delivered as part of a property transaction. Therefore, the amount of additional work it creates is very small and easily manageable in a transaction.

This is a practical solution to the anomaly of the register potentially being out of date for up to a year, and it should reduce the risk of innocent parties

unknowingly enriching sanctioned individuals. In principle, any buyer or seller of a property to or from an overseas entity should be able to be certain that they know the identity of the counterparty—and, frankly, they should want to know that. I am sure that the Minister does not disagree with that principle; therefore, I hope that he can accept the amendment, or at least confirm that the Government have a better solution to try to meet the problem. If he is not able to do that, I do intend to test the opinion of the House.

Amendment 73 is a new amendment that we did not discuss in Grand Committee. I am grateful to Transparency International for pointing out to me that there is a gap in the overseas entity register rules which may completely undermine the purpose of the register, which is, as I have said, to ensure that we know the identity of those who own UK property. The problem is that, while the register gives us a good insight into who owns the companies that own the properties, it does not tell us where there may be a nominee arrangement between the real owner of the property and the company that technically owns the property. Therefore, the ownership and control of the property sit outside the entity registered on the register. All that is required is a nominee arrangement, which, at the moment, does not need to be disclosed.

Transparency International has shown me examples of UK lawyers who have spotted this flaw and their websites. I will not name names, but the website of one says:

> "If an overseas entity holds UK property as a nominee, the entity itself will need to register and provide details of its beneficial owners but there is no requirement to disclose the underlying beneficial ownership of the actual property".

It goes on to say:

> "On the face of it, this lacuna would seem to defeat the purpose of the legislation so may be tightened up in the future but, for the time being, using a nominee to hold UK property will continue to provide privacy as far as the ROE is concerned".

This loophole is being advertised by UK lawyers.

Amendment 73 tries to close the lacuna, simply by extending the definition of registrable beneficial owner to include such nominee arrangements. As the amendment is new and we have not had the chance to debate it before, I do not intend to divide the House on it. However, I understand that the Government agree that there is a problem, and I hope that the Minister will be able to reassure us that they are working on a genuine solution.

I welcome the government amendments on trusts and I also strongly support Amendment 89 on trusts from the noble Lord, Lord Agnew—but I will leave him to speak to that.

Lord Agnew of Oulton (Con): My Lords, I shall speak to my Amendment 73A, which I apologise is a late manuscript amendment, with two supporting amendments. This is not in any way a change of the wording of my original Amendment 89, but I apologise to my noble friend the Minister that this was tabled only at around lunchtime today as I was only alerted by the Public Bill Office very late last night.

To remind noble Lords what I am worried about, which this amendment seeks to deal with, the amendment requires Companies House to publish information about trusts obtained in the newly created register of overseas interests that is not available for scrutiny. Nearly half of all trusts now registered with Companies House are shown to own assets anonymously. That is the background, and we heard just now from the noble Lord, Lord Vaux, about the so-called lacuna which is being advertised brazenly by large firms of solicitors—I have seen the same briefing notes and these are not back-street operators. That is the picture today.

My noble friend the Minister has tried very hard to deal with this within the limitations of his department, let alone his own ability to influence what seems to be a very entrenched position across government. But the amendment that he is proposing simply does not cut the mustard because it talks about "may" use a power—not "will", "can" or "does", but "may". The other concern is that it then talks about a consultation, but we know that consultations are the oldest trick in the book, frankly, for kicking cans down the road, so I do not get much reassurance from that.

I also have practical concerns also about how the—albeit improved—access to the register is likely to work in a practical way. We have seen with HMRC how badly it works at the moment, and it is very hard to get information. It seems that, under the new regime, we might be able to get information only one request at a time, which means that it will be impossible to get a full picture of what is going on, so you will not be able to carry out large-scale investigations to uncover wrongdoing.

I do not like to put forward a sour note, because I know how hard my noble friend has worked on this Bill and in his engagement with all noble Lords, particularly me, but I really feel that, as my noble and learned friend Lord Garnier said in Committee, we can register as much as we like, but if we cannot see what is inside then the whole thing is a futile exercise. I ask my noble friend the Minister to reconsider. I am afraid I am minded to divide the House on this, unless I hear something convincing.

Lord Wallace of Saltaire (LD): My Lords, I am neither a lawyer nor a company formation specialist although, in a career as an international policy researcher, I have not only dealt with the Crown dependencies and some of the overseas territories but also spent some time in conferences with senior Swiss bankers, from which I benefited both from learning an enormous amount about their charm and discretion and from eating a number of wonderful meals.

In opening, the Minister said there will be nowhere to hide; the noble Lord, Lord Vaux, has said there will be always somewhere else to hide. At present we are engaged in doing our best to make it more difficult, and as difficult as possible, to hide who owns what, particularly when they are overseas, in the expectation that we will never succeed entirely in catching everyone because the cascade abilities of trusts in one place, partly owned by trusts in somewhere else, will always defeat us in some instances. We on these Benches will support Amendment 72 and Amendment 89 if it is pressed.

The statement that the Government will consult further on how to ensure that these measures can be used to maximise transparency is encouraging, but

[Lord Wallace of Saltaire]
I share the limited scepticism expressed by the noble Lord, Lord Agnew, of how far that will take us when we are involved in this rather important Bill. We are in support of the maximum possible transparency. We know that the purpose of a great many overseas trusts is precisely to conceal, and we wish to extend that transparency as far as possible. Therefore, we on these Benches will support these amendments.

Lord Ponsonby of Shulbrede (Lab): My Lords, we too will support the amendments if they are pressed by both noble Lords in due course.

The government amendments in this group are technical in nature and address the issues to do with overseas trusts, trust transparency and various anti-avoidance mechanisms.

I am glad to hear about the wonderful meals that the noble Lord, Lord Wallace, has had in Switzerland over the years, but I am sure that you learn a lot from those sorts of experiences about the sophistication of the types of arrangements which we are talking about.

As usual, the noble Lord, Lord Vaux, has done the House a favour, and we will support Amendment 72 if he presses it to a vote. He is proposing a practical solution to a current anomaly in the register, which he explained very fully. I know that the noble Lord, Lord Agnew, has been working tirelessly on the issues to which he just spoke, and if he indeed chooses to press his Amendment 73A to a vote, we will support him there as well.

Lord Johnson of Lainston (Con): I thank noble Lords for their input to this important debate and, as always, I thank the noble Lord, Lord Vaux, and my noble friend Lord Agnew.

I will first attend to the matter of information transparency in respect of trusts on the register. It is important to clarify a few points. First, this information is being recorded at Companies House, so at no point are trusts or individuals able to conceal the information from law enforcement authorities or from the registrar, and that is an incredibly important point that noble Lords made. We are not discussing here about not collecting information or about not enforcing the collection of information—the liabilities and penalties that go with non-application of the information. We are talking about the publication of information, and it is important that we make that clear.

Secondly, we have listened carefully to all sides of this House and have introduced an additional amendment to enable interested or relevant parties to access the information held at Companies House on these trusts. This was not initially in the Bill either in the other place or here but, after very sensible discussions with myself—I hope noble Lords will agree that they were sensible—it is absolutely right that there is an opportunity for people to access the register. That is an important point again; I would not like this debate to be one-sided. This is not a situation where a Government are somehow trying to protect people or to allow them to obscure their assets or to commit crimes through opacity. This is about a workable system that allows our economy to function but at the same time provides essential safeguards that no Member of this House would like to see derogated. We have introduced a public interest access amendment, which will enable investigative journalists and other specific entities to access and make inquiries as to the beneficial ownership of trusts.

My noble friend Lord Agnew made an inquiry as to the use of the word "may" in giving permissions. As I understand it, that is simply the legal term that is used in these cases. I am happy to seek further advice around that but I do not think that necessarily changing one word would make the difference that my noble friend seeks. The important point is that we have made this commitment. This is a dramatic change from two months ago, when we started having these conversations. The Government as a whole, and many individuals within that Government, are extremely keen to see transparency brought to bear on this register and to enable people access to trust beneficiaries. There has been a fruitful and deep debate about it.

7 pm

I am sorry that noble Lords believe that a formal consultation is some type of can-kicking exercise. They have become jaded and cynical about the work of Governments in general, and that is a pity; we should remain optimistic about the prospects and power of a formal consultation.

In all seriousness, I must read out a specific statement, so that this can be recorded. The amendments the Government have tabled will further increase the transparency of trust data. Our amendments will mean that we can make information on trusts submitted to the register available on application in certain circumstances. Noble Lords must forgive me; I have covered that point, but I will go further. The Government acknowledge the strong opinions expressed on the topic of trusts. I am therefore pleased to commit today that, in addition to the amendments we have tabled, the Government will consult on how we can improve the transparency of trust information, both by using this new power and by other relevant means. This will allow us to get the views of businesses, operational partners, civil society and others to inform any changes in accessibility and the publishing of trust information. My officials will be pleased to have discussions with interested Peers as the consultation is scoped and drafted.

I have been asked to read out specifically—it is highlighted—that this will be a formal consultation, and that we will publish it this year. I think that is very important, considering the beginning of this debate. We have agreed to allow access to the beneficiaries of the trust under certain circumstances, which is right, and will publish a consultation, not on whether we believe there should be further transparency of the trust but on how we can improve the transparency of trust information, both by using the power of access and other relevant means.

I turn to the reasons why I would be very concerned to allow this amendment to go through without the necessary rigour and checks of a full consultation. Those who are on the trust list have placed themselves on it with a legitimate expectation of confidentiality. While it is perfectly appropriate for us to change those expectations, it would be wrong for this House, without the full debate even of this Bill process, to introduce immediate transparency, when the expectation is for

there to at least be a full consultation for this complicated process which could result in us being open to legal challenge and other obstacles and difficulties.

I also think it is important, and noble Lords will agree, that this is a House of careful consideration and pontification—of the long term. The many hundreds—nearly thousands—of years of this great concept's existence does not lend itself to knee-jerk reactions. I caution the House around our reputation as a stable and predictable Government and legal regime if we were to suddenly introduce, at this late stage, a blanket requirement for transparency, without fundamentally careful and thoughtful consideration. I will come on to my third point as to why this is so dangerous.

My final point is that the reason this is so important is that there are, on the register of the beneficiaries of these trusts, people who are rightly protected. In many instances, they are vulnerable people: children, minors and people who have fled regimes and who rightly want to be assured that their anonymity is protected against the very people who this legislation is designed to prevent using our system to launder their money to persecute the innocent and the faultless. We would be at significant risk of jeopardising the safety and well-being of these individuals if this amendment went through, because there are no safeguards built into it, as far as I can see. It does not allow us to protect minors, children and those who are most at risk from blanket transparency, which could cause huge problems for them as individuals.

If I am allowed, I will reverse to my original point. What have we done? We have allowed access to the register for interested parties, in the appropriate fashion. That is the transparency that we most require. Investigative journalists, and those who need this information, will have it. They will be able to access the information and shine a bright light of honesty and integrity on to the dark accounts of those who are perpetrating fraud.

We have also agreed to a consultation on improving transparency—not to see whether it is viable or necessary. The common agreement in this House from me as a Minister and this Government is that we wish to improve transparency further, to remove opacity from individuals who do not deserve to have their identity discreetly held. We are very aware of this. We have acted on it, and I take it immensely seriously. The noble Lord, Lord Agnew, suggested that the consultation process was not worthwhile because I did not have significant power to make changes in the first place. I am not entirely sure whether he trusts my commitment, but I can assure him that what authority I have in my position as Minister for Investment, which is a very relevant role in relation to this legislation, I will bring to bear to ensure that this consultation truly does try and achieve our objectives, which are, fundamentally, to bring transparency to this key component of the register of trusts without jeopardising those individuals who need to have their identity kept confidential. So I ask the noble Lord kindly to not press that amendment.

I am sorry. I have taken a little too long on that piece. I turn to the other amendment from the noble Lord, Lord Vaux, which relates to the necessity of filing a verification statement on the activity of the trust before a property transaction or within 14 days. Forgive me if I have got the wrong section.

Lord Vaux of Harrowden (CB): It is not trusts.

Lord Johnson of Lainston (Con): My apologies, it is the register of overseas entities. I thank the noble Lord for the correction.

I can see where the noble Lord is coming from here, but I think we have to be quite careful. Perhaps I might be allowed to go through some specific points which may help this House come to a better conclusion, and then the final point is relatively brief.

It remains the case that the Government do not believe that these amendments will achieve their aim without causing additional burdens on both overseas entities and third parties, or without adding a further layer of risk and complexity for third parties transacting with the entity. Again, I stress my significant sympathy with the noble Lord for this amendment and with the people who support this amendment. Personally, I am extremely desirous of making sure that we have timely information that could be presented, but there are specific technical reasons why we would resist this. However, we would be delighted to have further conversations. It is important that the Government get the balance right between ensuring that we know who the beneficial owners of these entities are and continuing to provide a welcoming investment environment. I would not underestimate the need for a simple structure that enables people to use our systems as company structures in order to do business here and in the rest of the world.

In England and Wales, the Land Registry estimates that it receives around 3,000 applications each month affecting titles registered to overseas entities. Around two-thirds of these are registrations of leases, transfers or charges. Each of these transactions would trigger the proposed requirements. This is the point of having to register at each transaction. Even if the update is simply a statement confirming that there are no changes to report, the statement must be verified each time, filed at the right time and repeated if the completion date of the transaction changes. That is important to note, because anyone who has been involved in a property transaction knows that the transaction date can change regularly and I do not think it is necessarily proportionate for these entities, particularly when we have made it very clear—and this is thanks to the interventions of noble Lords on all sides of the House—that we are ensuring that the history of activity in these trusts is properly recorded, so there is, as I believe the noble Lord, Lord Fox, said, nowhere to hide. Also, 14 days is considered to be a challenging timeframe within which to require an update, especially given that it is required to be verified before submission to Companies House. Again, I sympathise with the concept, but the practicalities and mechanics of this are believed to be highly impractical.

As I have mentioned, some overseas entities would have to make many updates each year. Any noble Lords who have bought a property will know that completion dates can change, which can be very frustrating. Every time they change you would be required to provide the register with further information no more than 14 days before the new completion date and have that information verified. This would be burdensome.

[Lord Johnson of Lainston]

My officials have also informed me that, in discussions on this amendment, while the Law Society understood the purpose of the amendment, it also highlighted how onerous it could be in least some situations. It expressed serious concerns about the drafting of the amendment relating to the provision of a statement no more than 14 days before the completion date of a transaction. The Law Society of Scotland, in discussion with my officials, also expressed reservations—so we have the Law Society and the Law Society of Scotland expressing significant reservations. I do not think any noble Lord in this House would want to go against the significant reservations of either the Law Society or the Law Society of Scotland, which have significant concerns about the potential negative impact on the Land Register of Scotland and people transacting with overseas entities.

I believe that this amendment would be disproportionate. We have made significant changes to how activities are reported, so that no one can hide in the accounts of these entities, which previously they could, by selling and buying during the process of the annual update. I ask the noble Lord, Lord Vaux, not to move his amendment.

I thank the noble Lord, Lord Vaux, for tabling Amendment 73. It relates to scenarios in which land is held by an overseas entity under a nominee arrangement. For example, a trust can instruct a law firm to act on its behalf as a nominee and the law firm therefore appears on the register in its capacity as the registered beneficial owner of the overseas entity holding the land. The overseas entity is required to provide information about its beneficial owners to Companies House. However, in this case, because the law firm nominee is not a trustee of the trust that has instructed it, no information about the trust is required to be provided.

We agree that this gap in the requirements should be closed. I thank the noble Lord for his input and, along with Transparency International, for bringing it to our attention. However, the drafting of the amendment is not quite right, so I cannot accept it today. Instead, the Government will undertake to table an amendment to address this gap at Third Reading. I trust this will satisfy the noble Lord. and respectfully ask him not to move his amendment.

Amendment 71 agreed.

Amendment 72

Moved by ***Lord Vaux of Harrowden***

72: After Clause 160, insert the following new Clause—

"Updating the register of overseas entities

(1) The Economic Crime (Transparency and Enforcement) Act 2002 is amended as follows.

(2) In section 7, after subsection (8) insert—

"(8A) A registered overseas entity must, as soon as reasonably possible and in any event within 14 days of becoming aware of any change, deliver to the registrar details of any change to the information that has been previously provided to the registrar in accordance with section 4 or, if information has been previously delivered to the registrar under this section, any change to the latest information provided under this section, including the date such change occurred.

(8B) A registered overseas entity must deliver to the registrar the information required in accordance with subsection (8A), or deliver to the registrar a statement that there has been no change to the information currently held on the register, no more than 14 days prior to the acquisition or disposal of any qualifying estate in the United Kingdom.

(8C) For the purposes of this section, "qualifying estate" has the meaning given by paragraph 1 of Schedule 4A to the Land Registration Act 2002."

(3) In section 8, at the end of subsection (3) omit "(1)"."

Member's explanatory statement

This amendment would require that changes be notified to the registrar within 14 days of becoming aware of such change, bringing the register into line with the rules that apply to Persons with Significant Control under the Companies Act 2006, and adds an obligation to update the register immediately prior to property transactions in order to protect innocent counterparties.

Lord Vaux of Harrowden (CB): My Lords, I thank all noble Lords who have taken part in this short debate. I thank the Minister for engaging on the subject as he has done. He used the words "jaded" and "cynical" earlier, and I hope he does not think they apply. In most cases, our engagement on all this has been extremely constructive, and I thank him, in particular, for what he has just said on Amendment 73. We will wait with interest to see the amendment, but I am glad that the Government recognise that there is a real problem.

In respect of Amendment 72, the Minister made a few points. First, he suggested that it would introduce a further layer of cost and risk. As I said before, I fundamentally disagree with that. The costs are pretty small. All we are asking is that, in the same way the PSC register is updated, it is updated on a timely basis within 14 days of any change, and that it is updated 14 days before a transaction. Yes, there is a small cost there, but, in most cases, because the register is updated regularly anyway, all that would be required is a confirmation that it is up to date. There are lots of papers and documents and things that are brought into a property acquisition—the usual searches, et cetera—and this would just be another one. It would not add a significant cost, in my view. It would actually reduce the risk to the innocent party because the innocent party would now know who they were dealing with. If we do not do this, they will not know that, because it could have changed any time in the last 12 months. To be clear, we are not talking about trusts here; we are talking about overseas entities.

Another comment is that 14 days is too difficult. I do not understand that. It is apparently because it has to be verified. It is exactly the same requirement as it is for persons with significant control, who also will need to be verified. There is no difference. If it is too difficult for this, it must be too difficult for that, or, if it is okay for persons of significant control, it is okay for this. I reject the concept that it is too difficult.

The Minister mentioned significant reservations from the Law Society. I think that was the meeting that I was at. I know first hand that it had significant reservations about my initial drafting of the amendment, which is why, as I explained earlier, the amendment changed to meet those reservations. My understanding when I left that meeting was that, while it did not necessarily like this concept—to be honest, it would

not, would it?—I think it was relatively comfortable that it now worked. We are getting into he-said-she-said territory here.

I did not hear anything that changed my view that we needed to change this anomaly. It is not acceptable that innocent parties can end up accidently enriching a sanctioned individual, for example. I would like to test the opinion of the House.

7.14 pm

Division on Amendment 72

Contents 172; Not-Contents 153.

Amendment 72 agreed.

Division No. 4

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7.25 pm

Amendment 73 not moved.

Clause 162: Material unavailable for public inspection

Amendment 73A

Moved by ***Lord Agnew of Oulton***

73A: Clause 162, page 150, leave out line 34

Lord Agnew of Oulton (Con): My Lords, I am most grateful to the Minister for his response to my opening comments on this amendment. However, I remain very concerned. I shall make four very quick points. I am very conscious that people want to get home; I was told we had to wrap things up by 7.30 pm, and we will not be far off that.

First, we already know how the register is working, as we have had real-life experience over the past year. Just to give noble Lords an idea of it at the moment so we know what needs to be improved, it is already possible to request information from HMRC if a trust is based outside the UK and the EEA. However, HMRC can provide this information only if it relates to very specific types of trust. Astonishingly, an overseas trust that owns an overseas company that holds UK land is not required to register with HMRC's Trust Registration Service, so the information cannot be requested. We know that is happening now.

Then we can move beyond that. We talk about interested parties having access, and the Minister talks about widening that access, but we need to see how it has been working in reality. Transparency International has so far made six requests to HMRC for information under the Trust Registration Service. Every single one has been rejected. The reasons given were: "The trust is not required to register"; "The trust may not have registered"; "The details you have provided did not allow us to match a trust; "The trust may be registered but it is not covered by the data"; "The trust may be registered but is not recorded as having a controlling interest"; and "However we cannot confirm which specific reason or reasons apply". That is how it works at the moment. I cannot see why the Government cannot improve that without a consultation.

I also reject the Minister's comments on confidentiality and his assumption that this is about a completely open register for anybody to get any information. We repeatedly said at Second Reading and in Committee that there are many legitimate people who deserve confidentiality. The example I use is of a female popstar who buys a house. She does not want fans on her doorstep. There are people escaping bad experiences in other countries and so on. What the consultation should be about is transparency but what exceptions would exist for those who are legitimate in seeking them.

Let me sum up why I am so worried about a consultation. I take very seriously the commitments given to me by my noble friend, and I thank my noble friend the Chief Whip who took time to meet me a couple of hours ago and intervened to try to get some strong reassurances in the Bill. However, I say for those who have not been a Minister that the way consultations work in government is that if it is not primary legislation, there is a thing called a write-round. Round it goes to every department, but guess who sits at the top of the top trump game? It is our friends the Treasury. Having been a Treasury Minister for two years, I can offer the House three examples of why I do not think it will—

Noble Lords: No!

Lord Agnew of Oulton (Con): Okay, I will not. I shall give one example, which is golden visas. Golden visas were known for five or more years to be a conduit for bad money into this country. Everybody knew that, but it took the Treasury five years to finally close that loophole. That is why I do not like the idea of a consultation. I would like to test the opinion of the House.

7.29 pm

Division on Amendment 73A

Contents 171; Not-Contents 151.

Amendment 73A agreed.

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Sahota, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Sikka, L.
Smith of Basildon, B.
Smith of Newnham, B.
Snape, L.
Stansgate, V.
Stevens of Birmingham, L.
Stoneham of Droxford, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Symons of Vernham Dean, B.
Taylor of Bolton, B.
Taylor of Stevenage, B.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Thurlow, L.
Thurso, V.
Tope, L.
Touhig, L.
Tunnicliffe, L.
Twycross, B.
Vaux of Harrowden, L.
Verdirame, L.
Wallace of Saltaire, L.
Walmsley, B.
Watkins of Tavistock, B.
Watson of Invergowrie, L.
Watson of Wyre Forest, L.
Watts, L.
Wheatcroft, B.
Wheeler, B. [Teller]
Whitaker, B.
Whitty, L.
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Wilcox of Newport, B.
Willis of Knaresborough, L.
Woodley, L.
Wrigglesworth, L.
Young of Old Scone, B.

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Ahmad of Wimbledon, L.
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Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Ashcombe, L.
Ashton of Hyde, L.
Barran, B.
Bellamy, L.
Bellingham, L.
Berridge, B.
Black of Brentwood, L.
Blackwell, L.
Blackwood of North Oxford, B.
Brady, B.
Bray of Coln, B.
Bridges of Headley, L.
Browning, B.
Caine, L.
Caithness, E.
Callanan, L.
Camrose, V.
Carrington of Fulham, L.
Cathcart, E.
Chadlington, L.
Choudrey, L.
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Courtown, E. [Teller]
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Crathorne, L.
Cruddas, L.
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De Mauley, L.
Deben, L.
Dobbs, L.
Eaton, B.
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Farmer, L.
Fink, L.
Fleet, B.
Fookes, B.
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Foster of Aghadrumsee, B.
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Goschen, V.
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Harlech, L.
Harrington of Watford, L.
Haselhurst, L.
Hayward, L.
Helic, B.
Henley, L.
Herbert of South Downs, L.
Hill of Oareford, L.
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Jenkin of Kennington, B.
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Kirkhope of Harrogate, L.
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Lancaster of Kimbolton, L.
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Lea of Lymm, B.
Leigh of Hurley, L.
Lexden, L.
Lingfield, L.
Lucas, L.
Mancroft, L.
Manzoor, B.
Markham, L.
Marlesford, L.
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Mawson, L.
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Morris of Bolton, B.
Moylan, L.
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Murray of Blidworth, L.
Naseby, L.
Neville-Jones, B.
Nicholson of Winterbourne, B.
Norton of Louth, L.
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Penn, B.
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Robathan, L.
Roberts of Belgravia, L.
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Rock, B.
Sanderson of Welton, B.
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Sarfraz, L.
Scott of Bybrook, B.
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Sharpe of Epsom, L.
Sherbourne of Didsbury, L.
Shinkwin, L.
Smith of Hindhead, L.
Soames of Fletching, L.
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Vere of Norbiton, B.
Verma, B.
Warsi, B.
Waverley, V.
Wei, L.
Weir of Ballyholme, L.
Wharton of Yarm, L.
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Wrottesley, L.
Young of Cookham, L.
Younger of Leckie, V.

7.40 pm

Amendments 74 and 75

Moved by ***Lord Johnson of Lainston***

74: Clause 162, page 150, line 44, at end insert—

"(ba) any application or other document delivered to the registrar under regulations under section 23(1A) (disclosure of protected trusts information);"

Member's explanatory statement

This means that applications or other documents delivered to the registrar under new section 23(1A)(inserted by my other amendment to Clause 162) are not to be made available for public inspection as part of the register of overseas entities.

75: Clause 162, page 151, line 15, leave out "(3) or (4)" and insert "(1) or (2)"

Member's explanatory statement

This is consequential on my amendment to Clause 69, page 64, line 10.

Amendments 74 and 75 agreed.

Amendment 75A not moved.

Amendments 76 to 78

Moved by ***Lord Johnson of Lainston***

76: Clause 162, page 151, line 41, leave out "4(3), 7(3) and (4) and 9(3) and (4)" and insert "4(3)(a), 7(3)(a) and (4)(a) and 9(3)(a) and (4)(a)"

Member's explanatory statement

This is consequential on my amendment to insert a new Schedule before Schedule 6.

77: Clause 162, page 151, line 44, after "by" insert "virtue of section 7(3)(c) or (4)(c) or 9(3)(c) or (4)(c) or"

Member's explanatory statement

This is consequential on my amendment to insert a new Schedule before Schedule 6.

78: Clause 162, page 152, line 16, at end insert ", or

(c) the disclosure is permitted by regulations under subsection (1A).

(1A) The Secretary of State may by regulations make provision requiring the registrar, on application, to disclose relevant protected trusts information to a person (unless required to refrain from doing so by regulations under section 25).

(1B) In subsection (1A) "relevant protected trusts information" means protected trusts information other than information as to—

(a) the day of the month (but not the month or year) on which an individual was born, or

(b) the usual residential address of an individual.

(1C) The regulations may make provision as to—

(a) who may make an application;

(b) the grounds on which an application may be made;

(c) the information to be included in and documents to accompany an application;

(d) the notice to be given of an application and of its outcome;

(e) how an application is to be determined.

(1D) Provision under subsection (1C)(e) may in particular provide for a question to be referred to a person other than the registrar for the purposes of determining the application.

(1E) The regulations may include provision authorising or requiring the registrar to impose conditions subject to which the information is disclosed (including conditions restricting its use or further disclosure).

(1F) The regulations may create offences in relation to failures to comply with conditions imposed by virtue of subsection (1E).

(1G) The regulations must provide for any such offence to be punishable—

(a) on summary conviction in England and Wales, by a fine;

(b) on summary conviction in Scotland, by a fine not exceeding level 5 on the standard scale;

(c) on summary conviction in Northern Ireland, by a fine not exceeding level 5 on the standard scale.

(1H) Regulations under this section may in particular confer a discretion on the registrar.

(1I) Regulations under this section are subject to affirmative resolution procedure."

Member's explanatory statement

This confers a regulation-making power on the Secretary of State to make provision requiring the registrar to disclose protected trusts information where an application is made by a person in accordance with the regulations.

Amendments 76 to 78 agreed.

Amendment 78A not moved.

Amendment 79

Moved by ***Lord Johnson of Lainston***

79: Clause 162, page 152, line 20, at end insert—

"24 Consultation about regulations under section 23

(1) The Secretary of State must consult the Scottish Ministers before making regulations under section 23 that contain provision that would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament.

(2) The Secretary of State must consult the Department of Finance in Northern Ireland before making regulations under section 23 that contain provision that—

(a) would be within the legislative competence of the Northern Ireland Assembly if contained in an Act of that Assembly, and

(b) would not, if contained in a Bill for an Act of the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.""

Member's explanatory statement

This requires the Secretary of State to consult before making regulations about the disclosure of protected trusts information (see my amendment to Clause 162, page 152, line 16) if that provision would be within the legislative competence of the Scottish Parliament or Northern Ireland Assembly.

Amendment 79 agreed.

Clause 163: Protection of information

Amendments 80 and 81

Moved by ***Lord Johnson of Lainston***

80: Clause 163, page 153, leave out line 1

Member's explanatory statement

This amendment is consequential on my amendment to page Clause 163, page 153, line 21.

81: Clause 163, page 153, line 21, at end insert—

"(7A) Regulations under this section may in particular confer a discretion on the registrar."

Member's explanatory statement

This amendment enables any provision made by regulations under new section 25 of the Economic Crime (Transparency and Enforcement) Act 2022 to confer a discretion on the registrar.

Amendments 80 and 81 agreed.

Clause 165: Administrative removal of material from register

Amendment 82

Moved by ***Lord Johnson of Lainston***

82: Clause 165, page 155, line 3, at end insert—

"(4A) Regulations under this section may in particular confer a discretion on the registrar."

Member's explanatory statement

This amendment enables any provision made by regulations under new section 28A of the Economic Crime (Transparency and Enforcement) Act 2022 to confer a discretion on the registrar.

Amendment 82 agreed.

Amendment 83

Moved by ***Lord Johnson of Lainston***

83: After Clause 169, insert the following new Clause—

"Financial penalties: interaction with offences

In section 39 of the Economic Crime (Transparency and Enforcement) Act 2022 (financial penalties), in subsection (4)—

(a) for paragraph (a) (but not the "and" at the end) substitute—

"(a) no financial penalty may be imposed under the regulations on a person in respect of conduct amounting to an offence if—

(i) proceedings have been brought against the person for that offence in respect of that conduct and the proceedings are ongoing, or

(ii) the person has been convicted of that offence in respect of that conduct,";

(b) in paragraph (b), omit "or continued"."

Member's explanatory statement

This amendment provides that regulations must provide that no financial penalty may be imposed on a person in respect of whom criminal proceedings are ongoing; at the moment it is the other way around so that criminal proceedings cannot be continued once a penalty is imposed.

Amendment 83 agreed.

Amendment 84

Moved by ***Lord Johnson of Lainston***

84: Before Schedule 6, insert the following new Schedule—

"SCHEDULE 5A

DUTY TO DELIVER INFORMATION ABOUT CHANGES IN BENEFICIARIES

1_ The Economic Crime (Transparency and Enforcement) Act 2022 is amended as follows.

2_(1) Section 7 (updating duty) is amended as follows.

(2) In subsection (1)(a) and (b), for "statement and information mentioned" substitute "statements and information mentioned".

(3) In subsection (3)—

(a) omit the "and" at the end of paragraph (a);

(b) at the end of paragraph (b) insert ", and

(c) the statement in row 1 of the table set out in subsection (4A), or the statement and information listed in row 2 of that table."

(4) In subsection (4)—

(a) omit the "and" at the end of paragraph (a);

(b) at the end of paragraph (b) insert ", and

(c) in the case where the information provided under subsection (1)(b) includes information that a person who ceased to be a registrable beneficial owner was a trustee, the statement in row 1 of the table set out in subsection (4A), or the statement and information listed in row 2 of that table."

(5) After subsection (4) insert—

"(4A) This is the table referred to in subsections (3)(c) and (4)(c)—

	Statement	Information
1	A statement that the entity has no reasonable cause to believe that anyone became or ceased to be a beneficiary under the trust at a time during the relevant period when the trustee was a registrable beneficial owner of the overseas entity.	
2	A statement that the entity has reasonable cause to believe that at least one person became or ceased to be a beneficiary under the trust at a time during the update period when the trustee was a registrable beneficial owner of the overseas entity.	1. The information specified in paragraph 8(1)(d) of Schedule 1 about each such person, or so much of that information as the entity has been able to obtain. 2. The date on which that person became or ceased to be a beneficiary under the trust, if the entity has been able to obtain that information."

(6) For subsections (6) and (7) substitute—

"(6) Any statements required by subsection (1)(a) or (b) must relate to the state of affairs as at the end of the update period.

(7) Any information—

(a) required by subsection (1)(a) or (b) as a result of a person having become or ceased to be a beneficiary under a trust, or

(b) required by subsection (1)(b) as a result of a person having become or ceased to be a registrable beneficial owner of an overseas entity,

must relate to the time when the person so became or so ceased.

(7A) Any other information required by subsection (1)(a) must relate to the state of affairs as at the end of the update period."

3_(1) Section 9 (application for removal) is amended as follows.

(2) In subsection (1)(b) and (c), for "statement and information mentioned" substitute "statements and information mentioned".

(3) In subsection (3)—

(a) omit the "and" at the end of paragraph (a);

(b) at the end of paragraph (b) insert ", and

(c) the statement in row 1 of the table set out in subsection (4A), or the statement and information listed in row 2 of that table."

(4) In subsection (4)—

(a) omit the "and" at the end of paragraph (a);

(b) at the end of paragraph (b) insert ", and

(c) in the case where the information provided under subsection (1)(c) includes information that a person who ceased to be a registrable beneficial owner was a trustee, the statement in row 1 of the table set out in subsection (4A), or the statement and information listed in row 2 of that table."

(5) After subsection (4) insert—

"(4A) This is the table referred to in subsections (3)(c) and (4)(c)—

	Statement	Information
1	A statement that the entity has no reasonable cause to believe that anyone became or ceased to be a beneficiary under the trust at a time during the relevant period when the trustee was a registrable beneficial owner of the overseas entity.	
2	A statement that the entity has reasonable cause to believe that at least one person became or ceased to be a beneficiary under the trust at a time during the relevant period when the trustee was a registrable beneficial owner of the overseas entity.	1. The information specified in paragraph 8(1)(d) of Schedule 1 about each such person, or so much of that information as the entity has been able to obtain. 2. The date on which that person became or ceased to be a beneficiary under the trust, if the entity has been able to obtain that information."

(6) In subsection (6), for "subsection (2)" substitute "this section".

(7) For subsections (7) and (8) substitute—

"(7) Any statements required by subsection (1)(b) or (c) must relate to the state of affairs as at the time of the application for removal.

(8) Any information—

(a) required by subsection (1)(b) or (c) as a result of a person having become or ceased to be a beneficiary under a trust, or

(b) required by subsection (1)(c) as a result of a person having become or ceased to be a registrable beneficial owner of an overseas entity,

must relate to the time when the person so became or so ceased.

(8A) Any other information required by subsection (1)(b) must relate to the state of affairs as at the time of the application for removal."

4_ For section 12 substitute—

"12 Duty to take steps to obtain information

(1) Before making an application for registration under section 4(1) an overseas entity must take reasonable steps to obtain all of the information that it is required to deliver to the registrar under that section if it is able to obtain it.

(2) Before complying with the updating duty under section 7 an overseas entity must take reasonable steps to obtain all of the information that it is required to deliver to the registrar under that section if it is able to obtain it.

(3) Before making an application for removal under section 9 an overseas entity must take reasonable steps to obtain all of the information that it is required to include in the application if it is able to obtain it.

(4) The steps that an overseas entity must take by virtue of subsection (1), (2) or (3) include giving a notice to any person that it knows, or has reasonable cause to believe, is a registrable beneficial owner in relation to the entity, requiring the person—

(a) to state whether or not they are such a person, and

(b) if they are, to provide or confirm information of the kind mentioned in subsection (1), (2) or (3) so far as relating to the person, or a trust of which they are or were a trustee.

(5) The steps that an overseas entity must take by virtue of subsection (2) or (3) also include giving a notice to any person that it knows, or has reasonable cause to believe, has ceased to be a registrable beneficial owner in relation to the entity during the update period (within the meaning of section 7) or relevant period (within the meaning of section 9), requiring the person—

(a) to state whether or not they are such a person, and

(b) if they are, to provide or confirm information of the kind mentioned in subsection (2) or (3) so far as relating to the person, or a trust of which they are or were a trustee.

(6) A notice under subsection (4) or (5) must require the person to whom it is given to comply with the notice within the period of one month beginning with the day on which it is given.

(7) A person given a notice under subsection (4) or (5) is not required by that notice to disclose any information in respect of which a claim to legal professional privilege or, in Scotland, confidentiality of communications, could be maintained in legal proceedings."

5_ In section 13, at the end insert—

"(6) A reference in this section to a person who is a registrable beneficial owner in relation to an overseas entity includes, in connection with the obtaining of information required by section 7(1)(b), 9(1)(c) or 42(1)(c)(i), a reference to a person who has ceased to be a registrable beneficial owner."

6_ After section 17 insert—

"17A Exceptions to duty to provide change of beneficiary information

(1) The Secretary of State may by regulations provide for exceptions to the requirement to deliver information by virtue of section 7(3)(c) or (4)(c) or 9(3)(c) or (4)(c).

(2) The Secretary of State must consult the Scottish Ministers before making regulations under subsection (1) that contain provision that would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament.

(3) The Secretary of State must consult the Department of Finance in Northern Ireland before making regulations under subsection (1) that contain provision that—

(a) would be within the legislative competence of the Northern Ireland Assembly if contained in an Act of that Assembly, and

(b) would not, if contained in a Bill for an Act of the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.

(4) Regulations under subsection (1) are subject to the negative resolution procedure."

7_ In section 43 (transitional information), after subsection (1) insert—

"(1A) In subsection (1) the reference to section 12 is to that section as it had effect before the amendments made by Schedule (Duty to deliver information about changes in beneficiaries) to the Economic Crime and Corporate Transparency Act 2023 (duty to deliver information about changes in beneficiaries)."

8_ In section 44 (interpretation), omit subsection (2)."

Member's explanatory statement

This requires an overseas entity that has a beneficial owner who is a trustee to provide information about changes in beneficiaries under the trust that take place during an update or other period (rather than just providing a snapshot of the beneficiaries at the end of the period).

Amendment 84 agreed.

Schedule 6: Overseas Entities: further information for transitional cases

Amendments 85 and 86

Moved by ***Lord Johnson of Lainston***

85: Schedule 6, page 220, line 42, at end insert—

"(1A) No regulations may be made under sub-paragraph (1) after the end of the period of two years beginning with the day on which the Economic Crime and Corporate Transparency Act 2023 is passed."

Member's explanatory statement

This provides that the power to make regulations under new paragraph 9 of Schedule 6 to the Economic Crime (Transparency and Enforcement) Act 2022 (exclusion of descriptions of registrable beneficial owner) cannot be used after the end of the period of two years beginning with the day on which the Bill receives royal assent.

86: Schedule 6, page 220, line 42, at end insert—

"(1A) The Secretary of State must consult the Scottish Ministers before making regulations under sub-paragraph (1) that contain provision that would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament."

Member's explanatory statement

This requires the Secretary of State to consult before making regulations under new paragraph 9 of Schedule 6 to the Economic Crime (Transparency and Enforcement) Act 2022 (exclusion of descriptions of registrable beneficial owner) that contain provision that would be within the legislative competence of the Scottish Parliament.

Amendments 85 and 86 agreed.

Clause 170: Meaning of "service address"

Amendment 87

Moved by ***Lord Johnson of Lainston***

87: Clause 170, page 157, line 38, leave out "place, insert—" and insert "places, insert—

""""the Companies Acts" has the meaning given by section 2(1) of the Companies Act 2006;"

Member's explanatory statement

This amendment inserts a definition of "the Companies Acts" into the Economic Crime (Transparency and Enforcement) Act 2022.

Amendment 87 agreed.

Clause 171: Meaning of "registered overseas entity" in land registration legislation

Amendment 88

Moved by ***Lord Johnson of Lainston***

88: Clause 171, page 158, line 17, at end insert—

"(1A) In section 21 of the Land Registration etc. (Scotland) Act 2012 (application for registration of deed), the subsection (5) inserted by the Economic Crime (Transparency and Enforcement) Act 2022 is renumbered subsection (4A)."

Member's explanatory statement

This amendment renumbers a provision to avoid two subsections which were inserted into a section by different Acts at around the same time from having the same subsection number.

Amendment 88 agreed.

Amendment 89 not moved.

Consideration on Report adjourned.

Stop and Search

Statement

The following Statement was made in the House of Commons on Monday 19 June.

"With permission, Mr Speaker, I would like to make a statement on the police's use of stop and search.

It is utterly devastating when someone is killed by a weapon. Passivity is not an option, nor is wishful thinking; this will change only if we act. The police have been crystal clear with me that stop and search is a vital tool—it is literally vital; we cannot hope to get weapons off our streets without it. Of course, it must be used skilfully, responsibly and proportionately, as is true of every power with which we invest the police. But it would be a tragic mistake to conclude that stop and search is too controversial to use extensively or that it cannot be used effectively with sensible safeguards.

Suggestions that stop and search is a means of victimising young black men have it precisely the wrong way around; the facts are that young black men are disproportionately more likely to be victims of violent crimes. They are the ones most in need of protection. This is about saving the lives of young black men. Moreover, being stopped and searched when carrying a weapon can prevent someone, of whatever background, making a terrible mistake that they can never undo. Sometimes we lose sight of that point when debating stop and search.

Black people account for about 3% of our population, yet almost a third of under-25s killed by knives are black. Ninety-nine young people lost their lives to knife crime in England and Wales in the year to March 2022: 31 of them were black; 49 were white; 16 were from other ethnic minority groups; and three victims did not have their ethnicity recorded. It is always bad policy to place unsubstantiated theories ahead of demonstrable fact—in this case, it would be lethal.

Stop and search works. Sir Mark Rowley, the Met Commissioner, has said there are

'countless examples of offenders being discovered to have dangerous weapons'

during stop and searches, as well as

'tools for burglary and drugs'.

Sir Mark cited research from the Oxford journal of policing that showed that stop and search can cut the number of attempted murders by "50% or more" in the worst crime hotspots. Since 2019, more than 40,000 weapons have been taken off our streets and there have been more than 220,000 arrests following a stop and search.

We are starting to trial serious violence reduction orders, which can be given to those with convictions for knife offences. An SVRO means that the police can stop and search that individual at any point, to see if they are carrying a weapon. This will deter those people who repeatedly carry weapons and endanger the public. I saw for myself how well this is working in Merseyside, where there are five live orders already. Superintendent Phil Mullally, Merseyside's lead for serious violence and knife crime, has said:

'These new powers will enable us to continue to drive down knife crime and reoffending'.

I am proud to say that under this Government it has never been easier for the police to make legitimate use of their stop and search powers, and the use of those powers has never been more transparent and accountable. The public are crying out for common-sense policing, such as the use of tried and tested methods to drive down crime. Stop and search is a prime example of such a method.

I am working in lockstep with police forces to get this right. Today, I met Chief Constable Amanda Pearson, who leads on stop and search for the National Police Chiefs' Council, to discuss how best to empower police officers to better use stop and search.

I have written to all chief constables, asking them to provide strategic leadership and direction in the use of stop and search powers; to ensure that every officer is confident in the effective and appropriate use of all stop and search powers, including the use of suspicionless powers; to investigate instances where someone is obstructing or interfering with the use of these powers and, if necessary, make arrests; and to be proactive in publishing body-worn video footage, which will protect officers who conduct themselves properly and instil greater public confidence.

Public confidence is the linchpin of our model of policing by consent. Therefore, I am looking carefully at strengthening local community scrutiny. Transparency is vital; so is community engagement. I want every community to be able to trust in stop and search. I want to present a clear picture of the stop and search landscape that shows the good work being done on the front line.

That is why the Government will amend the Police and Criminal Evidence Act 1984 Code A, to make it clear when the police should communicate when suspicionless powers are used in a public order and Section 60 context. Suspicionless stop and search must be used responsibly, but we cannot do without it.

I am also mandating data collection on stop and search, as part of the annual data requirement for the Government's statistics bulletin, published every year. We already collect more data on stop and search than ever before. That data is posted online, enabling police and crime commissioners and others to hold forces to account for their use of these powers. Disparities in the use of stop and search remain, but they have continued to decrease for the last three years.

My department has trialled a more sophisticated approach to calculating disparity in the Metropolitan Police Service. It has produced an analysis based on actual suspects of violent crime, rather than usual residents of an area, as the denominator for calculating rates of stop and search. This is still experimental but shows that disparity ratios were significantly reduced for black people compared with the traditional method, falling from 3.7 to 1.2.

It is always heartbreaking and distressing to read reports about stabbings and shootings. I am struck by how often mothers of murdered young black men say that stop and search could have saved their sons' lives. We owe it to them to heed their call. The facts are on their side. Stop and search works and is a vital tool in the fight against serious violent crime. I commend the Statement to the House."

7.44 pm

Lord Ponsonby of Shulbrede (Lab): My Lords, I remind the House that I sit as a youth and adult magistrate in London and that I regularly deal with knife-crime cases. In concluding her Statement in the other place, the Home Secretary said:

"It is always heartbreaking and distressing to read reports about stabbings and shootings. I am struck by how often mothers of murdered young black men say that stop and search could have saved their sons' lives. We owe it to them to heed their call".—[*Official Report*, Commons, 19/6/23; col. 570.]

I too have spoken to the mothers of murdered young black men, and I have heard some of them say that stop and search could have saved their son's life. But what I have also heard mothers say, much more forcefully, is that their sons were routinely and repeatedly stopped

by the police, and that this led to a breakdown in trust of the police, so their sons felt that they had nowhere to turn when they felt threatened.

Very often in court, when I have a young man in front of me for a knife-crime incident, he says that he was carrying it for his own protection. This is a deadly cycle of mistrust and escalation, which has led to a 70% increase in knife crime over the last seven years. Knife-enabled rapes and knife-enabled threats to kill are at record highs, with some of the steepest increases in the suburbs, smaller cities, towns and counties.

The Statement says:

"Black people account for about 3% of our population, yet almost a third of under-25s killed by knives are black. Ninety-nine young people lost their lives to knife crime in England and Wales in the year to March 2022: 31 of them were black; 49 were white; 16 were from other ethnic minority groups; and three victims did not have their ethnicity recorded".—[*Official Report*, Commons, 19/6/23; col. 569.]

This is a profound problem, which calls for an integrated and sustained response.

I welcome the references to the introduction of stronger community scrutiny and better data collection. These were first recommended many years ago. Can the Minister explain what is meant by "stronger community scrutiny"? There are different models of community scrutiny in different parts of the country. Indeed, there are different models within London. What do the Government mean by "community scrutiny" in the context of knife crime?

What about other repeated recommendations such as police training on the use of force, training on de-escalation and communication skills and proper data collection on traffic stops? None of these was referred to in the Statement. How many of the 18 recommendations by the Independent Office for Police Conduct last year have been fully implemented? The noble Baroness, Lady Casey, called for "a fundamental reset" of the Met's use of stop and search powers. Is this Statement part of that reset?

Body-worn video cameras should have been a game-changer in the effectiveness of stop and search. They should have been, but have they been? Can the Minister say how many stop and search operations are carried out without body-worn video and why that may be?

I agree that stop and search is a necessary tool as part of a proper strategy, but we need that wider strategy too. Why is the violence reduction unit approach being used by the Home Secretary in only 18 areas, when knife crime is rising in communities across the country? Why has there been no new serious violence strategy for five years? Why is there no comprehensive action on youth mentors and support for early intervention?

Stop and search must be applied judiciously, proportionately and legitimately. It can save lives. At present it comes with the cost of distrust and alienation. It must be applied as part of a wider strategy to rebuild trust and re-energise policing by consent.

Lord German (LD): My Lords, we on these Benches look at this Statement in respect of whether it will produce the outcome the Government are seeking, which is, of course, a reduction in knife crime. Regrettably, I believe this Statement is one which ramps up the rhetoric that strong-arm actions will put an end to knife crime. That rhetoric needs to be tested against the evidence to see whether it works.

Police stop and search is an intrusive power that is used disproportionately against visible minorities. You are seven times more likely to be stopped and searched by the police if you are black than if you are white, if suspicion is required; and 14 more times more likely to be stopped and searched if no suspicion is required. The proposal in the Statement from the Home Secretary is based on suspects of violent crime and talks about the implications for the black community, but there is a danger that these figures can be easily misinterpreted. There is a difference between a few people committing a large number of offences and a large number of black people being involved in violent crime. I suspect that the reality is the former. Perhaps the Minister could confirm that when referring to the figures in the Statement.

More than that, the Government's own research suggests that stop and search is not an effective deterrent in reducing offending. Operation Blunt 2, from 2008 to 2011, demonstrated that ramping up stop and search in order to reduce knife crime has little or no effect, but Operation Trident in the early 2000s demonstrated that where police and the black communities worked together to reduce black-on-black shootings, there was a significant increase in prosecutions and a reduction in the number of offences. Also, the Government's own evidence, which they chose to look at in respect of the use of stop and search, produces at most a static response, but often, it shows that simply increasing the use of that power is unlikely to reduce crime. That was the Government's own evidence in the research they commissioned.

On the one hand, we have the noble Baroness, Lady Casey of Blackstock, pulling in one direction, as mentioned by the noble Lord Ponsonby, in wanting stop and search to be based on collaboration, listening and engagement; and on the other we have this Government pulling in the opposite direction, by increasing the number without that necessary collaboration. So, do the Government believe, against their own evidence, that if stop and search goes up, crime will come down? Have the Government considered the lessons learned from Operation Blunt 2? Secondly, do the Government agree that if a community views police activity as unfair, public trust and police legitimacy are weakened?

Finally, how do the Government intend to ensure, as the Statement says, that "every community" is

"able to trust in stop and search".—[*Official Report*, Commons 19/6/23; col. 570.]?

How is that going to be brought about? How can it be brought about without the necessary collaboration which was part of the Casey report? I would be grateful if the Minister addressed those issues, because without that certainty, it is more likely that the rhetoric will fail and we will not enable the desired outcome which all of us want, which is to achieve a reduction in knife crime.

The Parliamentary Under-Secretary of State, Home Office (Lord Sharpe of Epsom) (Con): My Lords, I thank the noble Lords, Lord Ponsonby and Lord German, for their remarks. I defer to the extensive

[Lord Sharpe of Epsom]
front-line knowledge of this subject of the noble Lord, Lord Ponsonby; I know he does a great deal of work on this. I shall make a few general remarks and then address some of the questions that have been posed.

It is not just my view but the view of the police that stop and search is fundamentally about saving lives and keeping the public safe, and that, where used proportionately and judiciously, as the noble Lord, Lord Ponsonby, said, it works, and I will attempt to provide the statistics that prove that. For example, since 2019 more than 40,000 weapons have been seized through stop and search and 220,000 arrests have been made. The 2021 inspectorate report concluded that the vast majority of stop and search decisions are based on reasonable grounds. That is potentially thousands of lives saved and countless violent incidents prevented.

The noble Lord, Lord German, referred to Operation Blunt 2, which I think he said took place between 2008 and 2011. In 2010, this was written, and I agree with it:

"If serious violence can be prevented, then police officers must be empowered to conduct blanket stop-and search-operations which target the most likely individuals. Yes, it is a draconian power; yes, its use should be limited. But there are circumstances where such powers are absolutely necessary".

That was the noble Lord's colleague, the noble Lord, Lord Paddick, writing in the *Daily Mail* in 2010, and I agree with him.

To those who claim that it is a disproportionate or racist tool, I say that we must be honest about what this means for victims. Black people are four times more likely to be murdered than white people, and they are more likely to be victims of knife crime than young white men—that is the disproportionality that we are focused on stopping. It is important that we look at the matter with a cool head and on the basis of the evidence.

The emerging picture based on London suggests that, when we adjust the data to consider the proportion of suspects in an area and its demographics, rather than considering the data for the country as a whole, the disproportionality of stop and search falls away hugely. My right honourable friend the Home Secretary referred to this as

"a more sophisticated approach to calculating disparity".—[*Official Report*, Commons, 19/6/23; col. 570.]

I urge noble Lords to consider and reflect on those facts, while acknowledging that more work needs to be done on the methodology.

Of course, it is right that the powers are used in a responsible and measured way, which is why engagement with communities has to be respectful, as both noble Lords noted. It is right that the powers are subject to the highest levels of scrutiny. We now see very few complaints about individual stop and searches. Training on legal and procedural justice has improved, and we have seen confidence levels increase.

As outlined in the Statement, the Home Secretary wrote to all chief constables, and one of the things she asked of them was to be "proactive" in publishing body-worn video footage. That will obviously protect officers who conduct themselves properly, but it is also designed to instil greater public confidence, which is the linchpin of our model of policing by consent. The Government are looking carefully at strengthening local community scrutiny.

Transparency is of course vital, as is community engagement. We want every community to be able to trust stop and search, and we want to present a clear picture of the stop and search landscape that shows the good work being done on the front line. The Government will amend the Police and Criminal Evidence Act 1984 Code A to make clear when the police should communicate when suspicionless powers are used in a public order and Section 60 context. Suspicionless stop and search must be used responsibly, but we cannot do without it.

We are also mandating data collection on stop and search, to which I referred, as part of the annual data requirement for the government statistics bulletin that is published every year. We collect more data on stop and search than ever before, and this is posted online, enabling police and crime commissioners and others to hold forces to account for their use. Disparities in the use of stop and search remain, but they have continued to decrease for the last three years.

I said that there will be a more sophisticated approach to calculating disparity in the Metropolitan Police Service, which is where about 40% of stop and searches take place—I note the noble Lord's point about various regional disparities in methods. I do not know the precise answers to his questions about regional engagement, but I will endeavour to find out and report back as soon as I am able.

I do not have the statistics to hand on body-worn video, and in fact I do not know whether the data is collected—I certainly hope it is. I would like to look into that further and report back to the noble Lord, Lord Ponsonby. The fact is that there is broad cross-community support for this in principle, especially for searches for weapons, but we acknowledge and stress that this is contingent and fragile. So, to that end, this transparency is absolutely necessary.

I was asked about the serious violence strategy and the various programmes and what have you that the Government have put in place. The Government made £110 million available this financial year, 2023-24, to tackle serious violence, including murder and knife crime. This includes funding for a network of 20 violence reduction units, delivering early intervention and prevention programmes to divert young people away from a life of crime, and bringing together local partners to tackle the drivers of violence in their areas. VRUs follow a public health approach and have reached over 215,000 vulnerable young people in their third year of funding alone.

There is further investment in our Grip hotspot policing programme, to which I have referred from the Dispatch Box before. It operates in the same 20 areas as VRUs and is helping to drive down serious violence by using data processes to identify the top serious violence hotspots. Those two programmes alone have prevented an estimated 136,000 violent offences in their first three years of operation.

We invested £200 million over 10 years in the Youth Endowment Fund, which provides funding for over 230 organisations that have reached over 117,000 young people since it was set up in 2019.

Finally, we have introduced the serious violence duty, which requires public bodies to work collaboratively, to share data and information, and to put in place plans to prevent and reduce serious violence within their local communities based on a public health approach to tackling the scourge of knife crime. Objectively, it is not right to say that the Government have not updated their serious violence strategies and processes.

I remind the House that serious violence reduction orders are being trialled; they have been since April. For the edification of the House, six SVROs have been issued—five in Merseyside and one in the West Midlands. Four of those are live in the community and two will become live when the offenders are released from prison. Officers will now proactively stop and search those with an order, deterring them from carrying weapons and making it more likely that they will be caught if they persist in doing so. It is obviously too early to assess the success or otherwise of this program but anecdotal evidence so far from the Merseyside Police would suggest that it is proving a very useful tool.

I am proud of this Government's achievements on policing: we have a record number of police officers, more than ever before; 100,000 weapons have been seized since 2019; and crime is falling—in fact, serious violent crime has fallen by 40% since 2010.

As I have said before from the Dispatch Box, percentages are a very dry way of looking at this. We all have to bear in mind the points I made in my opening paragraph of remarks that this is really about individuals. The fact is that the disproportionality around stop and search should be borne very carefully in mind when we look at the proportion of those who are most badly affected and most likely to become victims.

I hope that I have answered the main questions. If I have not, I will come back to them.

8.01 pm

Lord Hayward (Con): My Lords, I live in a street in inner London which is well known to the noble Lord, Lord Kennedy, as he went to school via it. On Thursday night, I chaired the selection of the impressive Festus Akinbusoye, the police and crime commissioner of Bedfordshire. He knows only too well how you can achieve from an ethnic minority in the police community. On Friday, I had seven police cars and ambulances outside my house, dealing with a machete attack in the house next door. The police dealt with the case in an exemplary manner but, as the noble Lord, Lord Ponsonby, identified, there is the risk of alienation. From the pictures I have, not one of the policemen dealing with that case was non-white. Is it really surprising, when it comes to stop and search, that there is alienation among the ethnic communities, when one faces that sort of position? Could my noble friend the Minister identify what efforts are being made to improve the diversity of police forces across the United Kingdom?

Lord Sharpe of Epsom (Con): I thank my noble friend for his question, and I am delighted to hear him describe the police's activities as exemplary. I have three points to make on this subject.

First, the police themselves, in particular the Metropolitan Police, have said that they need to do a good deal more in this regard, and I certainly trust them to do that. The Metropolitan Police, under Sir Mark Rowley, should be given time to make the changes we all want to see.

Secondly, I emphasise again that young black men are disproportionately more likely to be victims of serious and violent crime, but the 2021 report by the inspectorate concluded that the vast majority of searches were conducted on reasonable grounds. It is for the police to make sure that their powers are understood and to explain themselves carefully. The expanding use of body-worn cameras, to which we have referred, will go a long way to help that. As I said earlier, we should all accept and acknowledge that community support is there in principle, although it is contingent and fragile. These measures will go a long way to solidify that while trust is being restored.

Finally, I am pleased that my noble friend has mentioned Festus Akinbusoye. He is an excellent PCC, and I am sure that he will become an excellent MP in due course. He has long been a supporter of mine, and it is a great pleasure to return the favour.

Lord Davies of Brixton (Lab): My Lords, I hope the Minister will agree with me that the all-too-common stereotype of knife crime being simply a black issue is dangerously counterproductive, and that when the Home Office says that stop and search works, it is a statement that is more in search of a headline and, in practice, needs to be heavily qualified. The figures show, I believe, that stop and search on its own is a blunt and ineffective tactic. What we need to do is understand better the root cause of this sort of crime and the reasons why some of our young people feel that they need to carry a knife. There are many causes, of course, but I would suggest that lack of faith in the police is an important one, particularly among those who suffer from this type of crime. In large part, this is driven by what the Independent Office for Police Conduct found to be the "disproportionate impact" of stop and search on black, Asian and minority ethnic communities. When making a Statement about suspicionless stop and search, how can the Minister fail to make any reference to the well-evidenced racist and discriminatory use of it when we know that this leads to less, not more, confidence in policing?

Lord Sharpe of Epsom (Con): My Lords, I am afraid that I disagree with the noble Lord in his assertions. Earlier, I gave statistics on the number of knives that have been removed from the streets and the number of crimes that have been prevented because of stop and search. I will give some more examples. In Manchester, the chief constable, Stephen Watson, has said that a 260% increase in the use of stop and search over a defined period correlated with a 50% reduction in firearms discharges and a fall in the number of complaints. I think that there has been a concerted effort to improve; my right honourable friend the Home Secretary said this the other day in the House of Commons. We need to improve the way in which stop and search is applied but also understood; to the point made by the noble Lord, Lord Ponsonby, it has to be applied judiciously, proportionately and legitimately.

[Lord Sharpe of Epsom]

On the proportionality side, I go back to my original comments. Young black men are disproportionately likely to be the victims of crime. There are disparities in the use of stop and search—they remain and we acknowledge them—but it is positive that they have continued to decrease from nine and a half times in 2017-18 under the 2011 census data to 4.9 times in 2021-22 under the 2021 census data. I also referred to the changing methodology in collecting these statistics, which brings the numbers down even further. However, as I say, that methodology is very much in its initial stages. We will work more on it and will, I am sure, hear more about it.

Lord Teverson (LD): My Lords, was not the exhortation by the Home secretary to chief constables an example of the Executive getting involved in operational matters? It seems to me completely straightforward that it was. Is that not wrong in terms of the way our policing should work?

Lord Sharpe of Epsom (Con): No, I do not think it was. She has written to all chief constables and asked them to provide strategic leadership and direction when it comes to the use of stop and search powers. That is not operational. She asked them to ensure that every officer is confident in the effective and appropriate use of all stop and search powers, including the use of suspicionless powers. That is not operational. Investigating instances where somebody is obstructing or interfering with the use of these powers and, if necessary, making arrests is not operational. As I have also said, she asked them to be proactive in publishing body-worn video footage, which will protect officers who conduct themselves properly and will also lead to instilling greater public confidence.

House adjourned at 8.08 pm.

Grand Committee

Tuesday 20 June 2023

Arrangement of Business

Announcement

3.45 pm

The Deputy Chairman of Committees (Baroness Pitkeathley) (Lab): My Lords, welcome to this Grand Committee. If there is a Division in the Chamber while we are sitting, the Committee will adjourn as soon as the Division Bells ring and resume after 10 minutes.

Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023

Considered in Grand Committee

3.45 pm

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

That the Grand Committee do consider the Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023.

Relevant document: 38th Report from the Secondary Legislation Scrutiny Committee. Special attention drawn to the instrument by the Joint Committee on Statutory Instruments.

The Parliamentary Under-Secretary of State, Department for Levelling Up, Housing & Communities (Baroness Scott of Bybrook) (Con): My Lords, these regulations establish a responsible actors scheme for developers under Sections 126 to 129 of the Building Safety Act 2022, focused on the remediation by developers of historic fire safety defects in residential buildings they have developed in England. Developers that are eligible for the scheme but choose not to join, and developers that join the scheme but then renege on their membership commitments, will be prohibited from carrying out major development or obtaining building control approvals.

Following the Grenfell Tower tragedy, it became evident that thousands of residential buildings over 11 metres had serious fire safety defects. This put resident safety at unacceptable risk while leaving many leaseholders facing potentially life-changing remediation costs. This scheme is one part of the Government's wider response to the building safety issues that came to light following Grenfell. In addition to the scheme, we are protecting residents by investing £5.1 billion in remediating unsafe cladding on 18 metre-plus buildings; securing industry contributions to remediation through introducing a building safety levy; implementing statutory leaseholder protections against unfair costs of remediation; and creating new legal avenues for affected parties to recover remediation costs from those who caused the problem.

This scheme focuses on major private sector developers, which sit at the top of the supply chain and have overall responsibility for their developments. The Government engaged with major developers through a remediation pledge and then a legally binding developer remediation contract. I welcome the action taken by 48 developers that have signed the developer remediation contract; these include the top 10 private sector UK housebuilders. The scheme will create a level playing field whereby eligible developers that commit to remediate are not placed at a competitive disadvantage compared with those that do not.

The regulations set out three descriptions of persons who are eligible to join the scheme. Developers based anywhere may be eligible for the scheme, if they developed relevant buildings in England. First, major housebuilders are eligible where their principal business has been residential property development; they were responsible for the development or refurbishment of one or more 11 metre-plus residential buildings in England in the 30 years ending 4 April 2022; and they meet the profits condition set out in the regulations. Secondly, developers are eligible where they meet the profits condition and they were responsible for the development or refurbishment of at least two buildings that we know are defective because the buildings have been assessed as eligible for a relevant government remediation fund. Thirdly, there is a voluntary eligibility provision. This allows other persons to join, where they were responsible for the development or refurbishment of a building that would require remediation under the developer remediation contract.

The profits condition is focused on typical operating profits averaged across the three years from 2017 to 2019, which were not impacted by the Covid pandemic. Both the profits condition and other aspects of the eligibility provisions make appropriate provision for the complex company group structures used by some developers.

The regulations make clear that registered providers of social housing are not eligible for the scheme. They will not be invited or permitted to join.

The core conditions of membership of the scheme are for developers to commit to identifying and remediating life-critical fire safety defects in residential buildings over 11 metres in height that they developed or refurbished in England in the 30 years ending on 4 April 2022, and to reimburse taxpayers for government-funded remediation of such buildings. To demonstrate their commitment, an eligible developer must enter into a self-remediation contract: a contract containing the terms of the developer remediation contract published by the Secretary of State in March this year. The membership conditions require members to give effect to their remediation and reimbursement commitments in accordance with the contract's terms.

I turn now to the application provisions. The Committee will be aware that the Joint Committee on Statutory Instruments has drawn attention to two technical aspects of the drafting of these regulations, including one relating to the scheme's application provisions. I am grateful to the Joint Committee for its time, its valuable scrutiny and its report, which the Government have carefully considered. We have corresponded with the Joint Committee and provided a memorandum setting out our position, which is printed as an appendix to the Joint Committee's report.

I welcome this opportunity to reaffirm our overall position on the issues raised, as explained in the memorandum. On the application provisions, we consider

[Baroness Scott of Bybrook]
it to be clear in context that, where the Secretary of State identifies that a person is likely to be eligible for the scheme, they will be invited to join it, but the registered providers of social housing will not be invited to join, as they are not eligible under Regulation 6. In light of the Committee's report, we will monitor implementation carefully and consider bringing forward amending regulations in the event that the regulations give rise to a misunderstanding in practice as to who is invited or able to join the scheme. The Government will also issue guidance on aspects of the scheme. However, the issue of developer remediation of unsafe buildings is urgent, and I seek the Committee's approval of these regulations today.

The regulations set out the time period to join the scheme and give developers an opportunity to make representations if they believe that they are not eligible. They also set out how developers can join the scheme in other circumstances, including under the voluntary eligibility provisions.

Membership of the scheme may be revoked for breach of membership conditions or ended without fault where a member has substantially satisfied their obligations. Members will have the opportunity to make representations to the Secretary of State before their membership is revoked. Should an eligible developer decide not to join the scheme by the end of the application period, or should their membership be revoked for failure to comply with the scheme's conditions, they will, in accordance with the regulations, be prohibited from carrying out major development or obtaining building control approvals.

At this point the developer, and known persons controlled by the developer, will be notified and then added to a published prohibitions list, which will be used by local authorities for enforcement. Only a person named on the prohibitions list will be subject to the prohibitions. The regulations also apply the prohibitions to persons controlled by the developer to make sure that developers cannot easily avoid the prohibitions by continuing their development business through other entities they control. Prohibited persons will be subject to a planning prohibition that prevents them carrying out major development in England, except where planning permission is received before these regulations come into effect. Development of land carried out by a prohibited developer in breach of a prohibition will constitute a breach of planning control.

The regulations include provision that developers notify the local planning authority about their status as a prohibited person, or when the prohibitions are lifted. The Joint Committee on Statutory Instruments has reported on the absence of a specific sanction for failure to give notice under these provisions. I would like to reassure the Committee that these regulations are effective without such a sanction. The primary mechanism for identifying prohibited persons will be the prohibitions list published by the Secretary of State, so local planning authorities will have access to all the information they need even if a developer fails to notify them. In addition, any developer that engages in development contrary to the prohibition will as a result be subject to sanctions through planning enforcement.

The regulations also establish a building control prohibition, which prevents prohibited persons gaining initial and final building control approval in respect of any building work that requires such approval. The prohibitions have limited exceptions. The purpose of these exceptions is to mitigate potential impact on innocent third parties such as off-plan buyers, the wider public and certain entities that are not in the building industry.

The building control prohibition is subject to exceptions that seek to protect innocent third-party purchasers of properties from a prohibited developer, including a specific exception to assist those whose deposits could be at risk if a prohibition came into effect after they had exchanged contracts. There are also exceptions to ensure that emergency repairs and other repairs to any occupied building that are necessary for the safety of residents can proceed.

Both prohibitions are subject to exceptions to exclude critical national infrastructure projects and to permit certain entities in developers' corporate groups that are not in the building industry to have the prohibitions disapplied to them where this would not frustrate the purpose of the scheme.

I know the Committee will also be concerned about other industry actors, particularly construction products manufacturers. It is unacceptable that cladding and insulation manufacturers have not yet acknowledged their responsibility for the legacy of unsafe buildings. Most recently, the Secretary of State has written to three industry participants, Kingspan, Arconic and Saint-Gobain, and to their institutional shareholders, to make it clear that those manufacturers must contribute to the cost of remediation or may face severe consequences. The Government will consider all options to ensure that construction products manufacturers contribute their fair share.

These regulations launch an important scheme for developers to remediate unsafe buildings. Given the urgency of this issue, we are bringing forward these regulations for a scheme focused on larger developers at speed. We propose to extend the scheme over time to cover all developers that have built defective buildings over 11 metres and should be paying to fix them. I commend these draft regulations to the Committee.

Lord Naseby (Con): My Lords, I very much welcome the way my noble friend has introduced these important regulations. My dear late father was an architect so I was brought up in that climate, and I do not think anybody in the industry disputes the fact that those responsible for developing unsafe buildings should remedy the defects at their own cost as quickly as possible. That bit seems to be agreed all round.

However, there are some aspects of the scheme that I hope my noble friend will take on board and that should probably result in some changes. The first is the presumption that anyone who has developed a building above 11 metres has to bear the burden of proof that their buildings are not unsafe. That is a pretty costly execution to be done, plus I wonder whether this self-examination is actually the right way forward. What ought to happen is that a regulator should be employed and report accordingly to the Secretary of State.

Secondly—and this is an important dimension—the regulations impose qualifying criteria for membership that appear to bear no rational relationship with the harm identified. Rather than specifying membership criteria by reference to the number of buildings above 11 metres developed, instead the criteria relate to profitability. The result is that a cowboy developer that has built countless buildings of 11 metres and over unprofitably appears to escape the criteria, but for the responsible developer that has built virtually no buildings above 11 metres, profitability is required to join the scheme, with all the obligations that entails.

4 pm

My third overall observation is that membership, as I understand it, involves the requirement to sign up to a binding contract negotiated by the department's lawyers, apparently with some select representatives from the industry. I am not aware, in the time I have been in Parliament—nearly 50 years now—of where we have had a statutory liability subordinated to a contractual document in terms that give some cause for concern.

I will list three key features that came to my mind as I worked my way through these papers. First, there is eligibility. Inclusion is understandably determined with reference to profitability in financial years 2017, 2018 and 2019, together with having developed any residential building over 11 metres in any year since 1992. So you are automatically included, even if you have only one or two buildings a few centimetres over 11 metres and they do not, in the view of the developer, need remediation. They are automatically excluded if they are unprofitable, no matter how many buildings the developer builds of 11 metres and over. Logically, one would have thought that the more buildings that have been developed, the greater the statistical risk to the public. In other words, rather than leaving the burden of proof where it normally lies—on the regulator to show that there had been a breach—in this scheme, instead, it amounts to the Secretary of State saying, "I have decided, in broad terms, that because you all meet these criteria", seemingly selected without consultation, I am told by the industry, "you must prove that you are not in breach".

Secondly, there is obligation. The obligation is to sign a developer remediation contract. As my noble friend rightly says, this contract has already been signed—voluntarily, we are told, but it seems from talking to some of the contractors in the business that it was not entirely voluntary, bearing in mind the sanctions if they do not sign—by 48 companies, thankfully. That is good in itself. It seems to me that it was not, initially at least, intended that those companies with buildings that were not in need of repair should be included. Nor, as I understand it, was it anticipated that people, particularly small and medium-sized contractors, with buildings that were 11.2 or 11.3 metres —and others right at the bottom of the scale—would be included.

Thirdly, and importantly, I come to the sanctions. They are pretty tough. In fact, I am not aware of any such scheme in all the time I have been working in and commenting on this market. Failure to join the RAS means exclusion from the planning and building control systems, hence exclusion from—

The Deputy Chairman of Committees (Baroness Pitkeathley) (Lab): My Lords, there is a Division in the Chamber. The Committee will adjourn for 10 minutes.

4.04 pm

Sitting suspended for a Division in the House.

4.14 pm

The Deputy Chairman of Committees (Baroness Pitkeathley) (Lab): My Lords, as there is another Division immediately, we will not restart the Committee. We will start it again at 4.25 pm, by which time the second Division will have taken place.

4.15 pm

Sitting suspended for a Division in the House.

4.26 pm

Lord Naseby (Con): My Lords, I had finished two of the three key features I wanted to address, which were eligibility and obligations. I now turn to probably the most important of the lot: sanctions. As I understand it, failure to join the RAS means exclusion from the planning and building control systems. In effect, that means exclusion from most commercial and residential development in England for all companies, including non-developer companies—for example, an engineering subsidiary wanting to expand.

These sanctions are automatic. The regulations remove discretion in their use from the Secretary of State. The underlying Act originally contemplated the availability of discretion, but somehow it does not appear to have been carried through to the regulations. There are no mechanisms to determine whether the sanctions are proportionate to the risk or the harm. These coercive penalties would also apply to any further membership conditions applied in future, including compulsory financial contributions for works to buildings to which the scheme member had no connection at all.

I conclude with my reading of the situation. The severity of the penalties and the sanctions, the lack of discretion in their application, the arbitrary nature of inclusion in the scheme and the effect on employees, subcontractors, other stakeholders and shareholders seem to me, and to others outside who I have talked to, to be disproportionate and suggest that—I hope—His Majesty's Government will think again. This industry is absolutely vital to this country; we see that daily in the newspapers.

My noble friend mentioned the material suppliers. In many ways, to any of us who take a real interest in this, they are equally liable. After all, without rotten materials that were highly inflammable, we probably would not have had Grenfell. I am surprised that, if I understand what my noble friend said, so far no single firm in that field has contributed anything or is proposing to join the scheme and contribute.

The other area that my noble friend did not cover was overseas developers. A fair number of projects was undertaken by overseas developers. We have a diplomatic corps in these countries. I hope that our ambassadors or high commissioners in the relevant countries have been given the information to pursue these developers.

[Lord Naseby]
They should be looked upon just as firmly as are our developers. If they do not wish to contribute at all, frankly, in my judgment they should be barred from working in the United Kingdom in future.

Baroness Pinnock (LD): My Lords, it is seven years since the Grenfell Tower fire that killed 72 people and devastated the lives of countless others. We owe it to them, and to all those still living in buildings deemed to be unsafe, to find a route to full remediation that excludes innocent tenants and innocent leaseholders from any of the costs.

As the Minister stated, the Building Safety Act included the measures that the Government intended to take to enforce the cost of remediation on those who developed the buildings. They should also have included a route to impose the costs of remediation on those who used the flammable cladding. I know that the Minister referenced this but to date, seven years on, the Government have not been able to find a route to force the three substantial manufacturers that the Minister named to accept responsibility and accept that they ought to pay towards the costs of remediation.

Then there are the construction companies that omitted fire breaks, relied on false material-testing outcomes and relied on building inspectors contracted by the very same construction company. We Liberal Democrats have said from the very beginning, seven years ago, that whatever legislation is passed to put these wrongs right, leaseholders must not pay a penny.

Through the Building Safety Act and this statutory instrument, the Government have focused entirely on the developers. Of course, that is right, but there are government responsibilities here as well. I am talking about all Governments, not necessarily this one. Thirty years ago, those who privatised the Building Research Establishment and the British Board of Agrément enabled building control inspectors to become independent of the local planning authority. All these policy decisions played a part in enabling the Grenfell disaster. I say that because that has been said in the Grenfell Tower inquiry.

No doubt, when the inquiry publishes its findings, hopefully sometime this year, it will expose these facts and attribute relative responsibilities. Meanwhile, these regulations are draconian; in many cases rightly so. However, there are inevitably some unforeseen consequences. The first of these relates to developers that are brought into the scheme and discover that, following intrusive building inspections, their developments need no further action. The noble Lord, Lord Naseby, and I have obviously had access to the same lobbying material from those in the industry who are concerned about some aspects of these regulations.

The principle is sound; the implementation is leading to some circumstances in which those who are not responsible will be required to fund remediation for which they have no part to play. The issues arise, first, from the criteria the Government have set. As the noble Lord, Lord Naseby, pointed to, these are around profitability—so those developers that were unprofitable but nevertheless built these faulty and dangerous buildings are excluded. I am sure the Government did not intend that to be the case, so I hope the Minister will point to the way in which that will not happen. It does not seem right at all, because we know how companies can evade some of the requirements put on them.

The next area has again been raised by the noble Lord, Lord Naseby, but I want to emphasise some of it. I remember the debates on the Building Safety Act. Initially, it was all about trying to ensure that only those developers and construction companies, and those who knowingly supplied flammable cladding—I am still waiting for that bit; I say "knowingly" as it is in the evidence of the Grenfell Tower inquiry—would be made liable for the remediation cost. That is fair and is absolutely the right thing to do. Those who did these things knowingly must be made to pay for them, but not those who did not. Unfortunately, the great scoop of these regulations will pull in some companies and developers that built blocks of flats of over 11 metres but kept to the rules that existed at the time. That does not seem right.

Another issue with these regulations—I am sure that the Minister will recognise this as an unforeseen outcome of them—is that I could see no way by which developers, once they join the scheme and then assess their buildings, at a considerable cost, are able to leave the scheme if they find that there is no action to be taken. This issue was in the lobbying material as well. Perhaps the Minister will either give me an assurance that they can or point me to where it says that they can leave, because that would be helpful.

There is another issue with these regulations, which are very extensive. Many developers are part of a wider family of companies, some of which will have had no part to play in development. That family of companies is being brought into the scheme and could be sanctioned, even if it is a company that has nothing to do with development. That does not seem right either, and I am sure the Government did not want it to happen. It would be foolish, but the sanctions are automatic.

This is all about the unforeseen outcomes of some draconian regulations, which I support. But we have to try to find a way in which good players are able to escape the scheme, and the sanctions and obligations that are part of it.

I will now raise the consequential impact of these regulations on local planning authorities. I remind the Committee that I am a councillor and a vice-president of the Local Government Association. I notice that there is an impact assessment, and calculations have been made of additional costs, but I am not sure that it has taken into account the differential impacts on local planning authorities across the country. The regulations will have very little impact on some, and a major impact on others. For those on which there will be a major impact, there will be expectations of additional members of staff, either in building inspection or as local planners. That does not seem to have been raised in the impact assessment as a calculation of costs to local planning authorities. I know the Minister agrees with the "new burdens" philosophy—the agreement that any new burdens that the Government impose will be met in full—so will the costs be met in full and, importantly, over the lifetime of these regulations?

Secondly, in her opening remarks—for which I thank her—the Minister emphasised social housing remediation a couple of times. Can she remind us where the costs for essential remediation of social housing—either local authority housing or social housing providers—will come from?

My next point is about the end date for the regulations. It seems that they are designed to respond to a specific set of issues so, once all the remediation work has been done, will the regulations cease? I could not find a sunset clause; should there be one? Otherwise, we will have sets of regulations that are no longer relevant.

Finally, I remind the Minister that these regulations address the safety issues facing only those who live in buildings that are more than 11 metres high. She will know what I am about to say, because I feel very strongly about it: those living in blocks that are 11 metres or lower are being forgotten. The leaseholders who live there still face extortionate insurance costs, for example, and many are still trapped in their flats, unable to sell. My big ask of the Minister is this: will she agree to meet those of us in the House who are concerned about this situation to discuss it and see whether we can find a way forward? It is not going away. The Government have tried; I am not pointing fingers. It is just that this is where we are, and we have to try to find a solution.

In conclusion, I totally support these regulations, with the caveats that I have explained. I want them to succeed, but I want the Minister and the Government to think about the unconsidered consequences. I look forward to what she has to say in response.

Baroness Taylor of Stevenage (Lab): My Lords, I draw attention to my interests in the register as a councillor at both district and county level and as a vice-president of the District Councils' Network, though not the LGA—yet.

I thank the Minister for introducing the regulations, which we welcome. I am sure all noble Lords want every possible step taken to support leaseholders and to speed up the remediation of these unsafe buildings. Perhaps it is my inexperience in this House, but would it not be more appropriate for legislation with 43 clauses to be considered properly, as a Bill, rather than as regulations? We understand how urgent this is, so if the Minister has done it as a matter of expediency, perhaps she could confirm that it could not have been achieved in another way, allowing full scrutiny of all the issues raised by noble Lords this afternoon.

4.45 pm

Some of these issues, including those around eligibility, as raised by the noble Lord, Lord Naseby, and those around housing associations, social housing and other actors, as raised by the Minister, show that further work on this—what amounts to a mini-Bill—might have been helpful. I think there is probably another piece of work to be done on the issues we have heard about construction materials.

We have worked constructively with the Government through the drafting of legislation to improve building and fire safety and will continue to do so. It is unfortunate that here we are now—I am sorry to contradict the noble Baroness, Lady Pinnock—I believe six years on from the dreadful events of Grenfell Tower.

Baroness Pinnock (LD): Oh yes, it is six years.

Baroness Taylor of Stevenage (Lab): It is unfortunate that we are only now starting to make some progress on the essential remediation works that will allow leaseholders to sleep easily in their beds and begin to get their financial plans and aspirations back on track. I appreciate that some well-intentioned developers have done work in the meantime, but the regulatory framework supporting it is only now coming into play.

I pay tribute to the tireless campaigning groups, both those directly associated with Grenfell and others such as the Cladiators group in my area, driven by Sophie Bichener. I know the Minister is very familiar with Sophie's case so I will not reiterate all the details, but the firebreaks referred to by the noble Baroness, Lady Pinnock, are a good example of non-cladding-related building fire safety jeopardy. Without these campaigns, we would almost certainly be no nearer having this leaseholder limbo resolved.

The fact that 48 developers have now signed up to the remediation contract is a significant step forward; there is no doubt about that. However, signing up is one thing and action is another. We hope that things will start to move much more quickly now. What steps is the department taking to ensure that developers move as quickly as possible on the remediation steps, and how will it monitor, challenge and enforce where appropriate?

We hope that the reports of full risk assessments by major developers to determine which defects need resolution and which do not are not simply a further device to delay essential works. Can the Minister tell us whether any deadlines are being set for all such risk assessments to be completed?

We would also like some reassurance about how leaseholders will be kept informed and updated on progress. Does this responsibility fall on the developers? If so, how will the department ensure that it has been carried out?

In his Statement on 14 March 2023, the Secretary of State rightly said:

"Those who are responsible must pay".—[*Official Report*, Commons, 14/3/23; col. 727.]

While we welcome the fact that 48 builders have already signed up, it is extremely disappointing that some have still refused to do so. We are aware that the Secretary of State has rightly been very robust in his language in trying to bring builders that have not yet signed the contracts into line with those that have. We absolutely support this robust approach and hope that it is successful. If not, as the Secretary of State has clearly stated, such developers will be prohibited from further development. We have heard more about that this afternoon.

It would be helpful to know how such a ban will be enforced. The Minister has set out some further information relating to the enforcement process but it would be helpful to know how it will work. Is it to be done by the department or will it be a new burden on local government—as referred to by the noble Baroness, Lady Pinnock—and will that new burden be fully funded?

[Baroness Taylor of Stevenage]

We welcome any action to address the building safety crisis, but the remediation contract and responsible actors scheme are still only a partial fix to the problem—in part, owing to the more limited scope of the definition of a relevant defect used in the remediation contract—compared to the Building Safety Act. Signing the contract will not obligate developers to fix all life-critical fire safety defects as defined by the Building Safety Act 2022. The Government acknowledge this in the Explanatory Memorandum, where they state:

"The developer self-remediation approach, and the RAS, is to be expanded over time to cover other developers who developed or refurbished defective 11m+ residential buildings and should pay to fix them".

Is it intended to extend the contract in future to cover all life-critical fire safety defects? We also have a particular concern regarding the number of buildings covered by the contract. The department itself estimates that only 1,500 buildings will be remediated as a result of the contract, whereas credible estimates put the total number in need of remediation at around 10,000.

The Secondary Legislation Scrutiny Committee comments that

"between 6,220 and 8,890 mid-rise (11 to 18 metres) residential buildings required work to alleviate life-critical fire safety risks due to external wall systems".

How does the Minister envisage this being resolved and what is the timescale? How many of the outstanding buildings beyond the 1,500 are the responsibility of those developers that have refused to sign the contract?

Meanwhile, ACM cladding remains on faulty high-rise buildings, with remediation not having even started on 22 of them. The building safety fund for remediation of non-ACM cladding and other fire safety defects on high-rise buildings is proceeding at a glacial pace, with just 37 buildings having completed remediation out of the 1,225 applications for funding. The building safety fund for non-ACM high-rise remediation was rated as red in the Infrastructure and Projects Authority annual report for 2022, falling from amber the year before, meaning, to quote the report:

"Successful delivery of the project appears to be unachievable. There are major issues with project definition, schedule, budget, quality and/or benefits delivery, which at this stage do not appear to be manageable or resolvable. The project may need re-scoping and/or its overall viability reassessed".

Many leaseholders in unsafe buildings waited patiently for years for building safety fund applications to be processed by the department, only to see them terminated. What guarantees are there that any building covered by the contract will not face additional delays to remediation work? Although we welcome the further action proposed in the regulations, some questions remain outstanding. How will leaseholders in buildings with defects outside the scope of the contract get them remediated?

With reference to developer obligations to identify, assess and remediate unsafe buildings, the contract stipulates that they must be carried out "as soon as reasonably practicable". What assurances can be given to affected leaseholders of their ability to enforce this to ensure that developers are acting within a reasonable timeframe? What is the point of contact in the department and what powers will be used to support them? Why are buildings that are part of national infrastructure exempt? Surely, people working in or living close to such buildings should expect at least as great a level of protection, if not more.

I note the Minister's comments about prohibited persons, but it is difficult to see how the use of new entities will not avoid those prohibitions and, without sanctions on that, where is the incentive not to do so? Can the Minister explain how new developers will be brought into the regulatory framework?

The Minister raised the critical issue of construction products. Will we receive further regulations on this? It seems they may be necessary. There was a Question today in your Lordships' House on the manufacturers of construction products used in schools. Surely the manufacturers of construction products must be responsible for adequate safety testing of materials they produce.

I agree with the noble Baroness, Lady Pinnock, about work for remediation of buildings under 11 metres. What assessment has been done by the department of the extent of those issues in lower-rise buildings?

To reiterate, we welcome the additional regulations and encourage the Minister and the Secretary of State to be as robust as is necessary to bring these long-drawn-out issues to a stage of remediation and resolution. We hope that the department will use every power it has to deal with those who are not looking to do the right thing and live up to their responsibilities. The leaseholders in these buildings have been faced with a living nightmare. We owe it to them to get these issues resolved without any further delay.

Baroness Scott of Bybrook (Con): I thank the noble Lords who have contributed today. I open my remarks and answers to the questions asked by saying that the noble Baroness, Lady Pinnock, is absolutely right: six years ago, 72 people died; that is what we are talking about today and why this is such an important statutory instrument. To the noble Baroness, Lady Taylor of Stevenage, I say that this is secondary legislation to the Building Safety Act 2022; that is how it comes in today.

I move on to answering questions. A number were asked by all three noble Lords, so excuse me if I do not mention each name but I will try to remember them. First, the Government believe that it is fair and reasonable that developers that meet the prescribed eligibility criteria for the responsible actors scheme, including a profit threshold, should be asked to assess whether they have developed relevant buildings that require remediation, and remediate those buildings.

We believe it is appropriate that the Government create a level playing field with consequences for eligible developers that opt not to make these important commitments. The obligations under the scheme and contracts for developers with no buildings to remediate are very modest once they have done the necessary work to check and confirm that they have developed no buildings requiring remediation work. As I said in my speech, an eligible developer that substantially satisfies its obligations under the regulations and the self-remediation terms may be released from the scheme. I think that answers the question from the noble Baroness, Lady Pinnock. We are engaging with a number of developers about the developer remediation contract, and I hope they will respond positively to that engagement.

I move on to the issue of construction product manufacturers. I know that this is a concern of noble Lords and it is an important one. I reiterate that the Secretary of State made clear in a recent letter to the major institutional shareholders in the three companies most involved—Kingspan, Arconic and Saint-Gobain—that, if an appropriate financial package is not agreed, the focus of the department will be trained on them, and the consequences for the relevant construction product manufacturers are likely to be severe. We can do this only one stage at a time, but they are next in line. The Secretary of State made it clear that reputational, legal, commercial or further new tools could all be considered if these firms do not do the right thing.

My noble friend Lord Naseby asked: who says that these buildings are unsafe? The Government believe that it is fair and reasonable that the developers that meet the prescribed eligibility criteria for the RAS, including a profits threshold, should be asked to assess whether they have developed relevant buildings that require remediation. I do not think that is unreasonable.

My noble friend also asked why we were focused on profits. We have used the £10 million average operating profits threshold to make sure that the initial phase of the scheme captures larger, more profitable businesses and those that have developed the majority of the affected buildings.

My noble friend also asked about the application of prohibitions to group companies. An eligible non-member of the scheme will be prohibited along with the entities that they control, so it is not all group companies and an exception is available for entities controlled by an eligible non-member that is not in the building industry. Developers can have quite complex business relationships both here and abroad, and we need to capture those as well.

5 pm

That takes me on to foreign developers. I thought I made it clear that any overseas-based developer that meets the eligibility criteria in the regulations will be eligible for the scheme. The eligibility criteria do not distinguish between overseas-based and UK-based companies. Several developers that have signed the developer remediation contract have overseas parent companies at the moment. Looking beyond the responsible actors scheme, the building safety levy will be tied to the building safety process in England. Qualifying projects will be required to pay the levy regardless of where the developer is based. I hope that answers the question about that.

I think I have answered the question from the noble Baroness, Lady Pinnock. Where members have satisfied the Secretary of State that they have done everything they should, their membership can then cease.

I knew the noble Baroness would bring up the point about buildings under 11 metres. I am sorry that there is nothing more to say, but I will reiterate what I have already said for *Hansard*, because it is important. The scheme and the developer remediation contracts cover residential buildings over 11 metres. That reflects the risk to life from historical fire safety defects, which is much lower in buildings under 11 metres. Therefore, building safety-related remediation works are required in a very small number of buildings under 11 metres. We discussed this at length in the debates on the Bill and I am not sure I can say any more, except that, in very rare cases where remediation work is needed, the responsibility for the costs of fixing the historical building safety defects should—and does—still rest with the building owner. They should not pass these costs on to leaseholders but seek to recover them from those responsible for building unsafe homes in the first place. I am more than happy to meet the noble Baroness and any other noble Lords to discuss this further if she would like to. I will get my office to get in touch with her.

The noble Baroness, Lady Pinnock, also raised social housing remediation. Registered providers are already responsible in law for the safety of their buildings, and the Government are working with the Regulator of Social Housing to strengthen oversight of buildings developed for registered providers by developers covered under the RAS contract. Registered providers can access government remediation schemes for funding. It is covered, but under different legislation.

The noble Baronesses, Lady Pinnock and Lady Taylor of Stevenage, quite rightly asked about new burdens for local planning authorities. We are working closely with local authorities and local planning authorities to ensure a smooth implementation of the scheme. If any disproportional costs for local authorities and local planning authorities are identified, they will be addressed through the new burdens doctrine, as we normally would. Details of implementation of this will be set out in guidance to come.

The noble Baroness, Lady Taylor of Stevenage, also asked about a lot of numbers and timings. If she does not mind, I will get those up-to-date figures and timings and will write a letter, copying it to all noble Lords. I will also ask the team to look at *Hansard* and make sure that anything I have not answered is put in the letter and answered at the same time.

To conclude, these draft regulations establish a responsible actor scheme to secure the safety of people in residential buildings, to protect leaseholders and taxpayers from costs and to ensure a level playing field where any developer eligible for the scheme that does not take responsibility for remediating unsafe residential buildings will face serious consequences. As I have said, there is of course much more to do, and the Government intend to expand the scheme in future, but I hope the Committee will welcome this important step forward.

Motion agreed.

Building Safety Act 2022 (Consequential Amendments etc.) Regulations 2023

Considered in Grand Committee

5.05 pm

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

That the Grand Committee do consider the Building Safety Act 2022 (Consequential Amendments etc.) Regulations 2023.

The Parliamentary Under-Secretary of State, Department for Levelling Up, Housing & Communities (Baroness Scott of Bybrook) (Con): My Lords, these regulations will make technical but important changes to the language used in existing legislation, bringing it into line with the new terminology and processes introduced by the Building Safety Act 2022.

I will start by providing some context for these regulations. After the Grenfell Tower tragedy, the Government recognised the need for an overhaul of our building safety regime. In 2017 we appointed Dame Judith Hackitt to conduct an expert review of the current regime. Her review identified the need for significant cultural and regulatory change, including recommendations focused on the building control process.

Part of the Government's response to these building control recommendations included the introduction of provisions in Section 33 of the Building Safety Act that repeal Section 16 of the Building Act 1984. The Government consulted on these provisions, and they were subject to pre-legislative scrutiny ahead of formal consideration of the Building Safety Act.

Section 16 made provision for the deposit of plans with local authorities before starting building work, as well as the passing or rejection of the plans. The information provided to building control was not always consistent, nor always sufficiently detailed for the work to be carried out.

Section 33 of the Building Safety Act, which has yet to be enacted, repeals Section 16 and provides instead for a new system of applications for building control approval. For higher-risk buildings, this means a more stringent system, with the building safety regulator the sole building control body. Applicants cannot proceed with work without explicit approval from the building safety regulator.

For non-higher-risk buildings, there is no significant change from the existing procedure. Local authorities and approved inspectors will remain responsible for supervising this work, and work can begin before approval is granted. Applicants do so at risk of having to uncover or change work and could face enforcement action. In addition, provisions in the Building Safety Act largely transfer procedures for appeals under the Building Act from the magistrates' court to the specialist First-tier Tribunal.

The purpose of these regulations is to align the Highways Act 1980, the Clean Air Act 1993 and 13 local Acts with the terminology and processes that will be established when Section 33 of the Building Safety Act is enacted. Provisions in the Highways Act that relate to the payment of charges for street works when building control plans are deposited are amended to refer to new systems of applications for building control approval. Section 16 of the Clean Air Act is also amended. This section requires local authorities to check the height of proposed chimneys to ensure that they are tall enough to prevent smoke and particulates becoming prejudicial to health. It is amended to replace references to the deposit of plans with provisions that refer to applications for building control approval.

Similarly, 13 local Acts are also amended to replace definitions of the deposit of plans with provisions that instead refer to the new system of applications for building control approval. Further references to the deposit of plans in these acts are also updated to reflect the new terminology. Of the local Acts, 11 contain provisions relating to appeals to the magistrates' courts. To align these Acts with the new procedure for appeals, the provisions are amended to direct appeals to the First-tier Tribunal. The instrument also contains a transitional provision providing that consequential amendments do not apply to plans for building work deposited before the date on which the regulations come into force.

I wish to reassure noble Lords that they will have the opportunity to scrutinise the specific requirements of the new system of applications for building control approval. These requirements were subject to consultation in 2022 and will be set out in a number of statutory instruments that amend the Building Regulations 2010 and provide for new building control procedures et cetera for higher-risk buildings. The Government will lay these instruments in the coming months.

The Government intend to bring both these consequential amendments regulations and the regulations that create the new building control system into force in the autumn. Without these consequential changes, the provisions of the Highways Act, the Clean Air Act and the 13 local Acts will cease to operate as they do now, as they will no longer have meaning once Section 33 of the Building Safety Act is brought into force. I hope that noble Lords will join me in supporting the draft regulations. I commend them to the Committee.

Lord Stunell (LD): My Lords, I rise to comment on this statutory instrument and thank the Minister for the introduction she has given to it. It goes in partnership with Section 32, which is not yet in force. She has rightly drawn attention to the fact that it does not cover the question of the actual application process, which is going to be dealt with later. So it is rather a small cog in a very big machine to make sure that the system works effectively.

I do not propose to spend a lot of time commenting on the local building Acts, with which I once used to wrestle in a professional capacity. I am sure that rationalising those makes a great deal of sense, regardless of the building safety and high-rise issues driving this change.

I note the frequent references to the building safety regulator in what the Minister put to the Committee a few moments ago. I share her view that the regulator is an absolutely fundamental part of the new machinery and, clearly, will be pivotal to making sure that, ultimately, the machine moves and works. The Minister will know that I have already expressed my concern about proposed amendments that the Government have brought forward in the levelling-up Bill to potentially change who the regulator is, perhaps on a timescale that could very likely interact with the implementation of Section 32 and the bringing into force of a new application process. What consideration has the department given to the potential for this process and the very tightly drawn and carefully designed machinery, of which this is a small part, to continue to function—or, rather, begin to function—smoothly and without effort or distortion when the new system comes into play, as outlined in the levelling-up Bill amendments by the Government?

That is a matter that we will obviously return to at the Report stage of consideration of that Bill—I do not want to enter that debate now—but I hope the Minister will give us what reassurance she can that the machine of which this is a small cog is intended to continue working seamlessly in the event that the Government proceed with completely reshaping the building safety regulator sometime in the next two years.

5.15 pm

Baroness Taylor of Stevenage (Lab): My Lords, I thank the Minister for setting out the proposals in these regulations. Although it could be considered a minor amendment dealing with just consequential matters, in view of the overall context of building safety and the fact that this is one of a number of steps we are seeing to ensure that the very serious issues that have arisen from the Grenfell Tower disaster and others are taken seriously and acted upon, we need to treat all these regulations with a degree of seriousness.

We were very pleased to learn that proposals for new building regulations were consulted on last year and that new regulations will come forward before the Summer Recess for enactment in the autumn. We look forward to hearing about the new process. As we are not able to amend these through the regulation process, I ask the Minister whether we will have the opportunity to see them in draft form before they come through to us.

Two aspects relating to building safety and building control that have emerged in recent years are, first, that the transfer to the private sector—the deregulation—of building control did not anticipate that there would be an impact on the quality or availability of the building control function. Neither did it anticipate the dilution of the independence of the building control function from the development industry.

Secondly, we hope that, as new regulations are developed, attention will be paid to the capacity, resources, recruitment and retention of the building control inspectors to ensure that they are sufficient to deal with what we hope will be tighter regulation for building safety in future.

We note the transfer of the appeals procedure to the First-tier Tribunal. Can we be reassured that the First-tier Tribunal will have sufficient resources to enable it to deal with those new duties? In view of the glacial pace of progress on building safety matters that leaseholders have had to endure, it would be unfortunate in the extreme if the level of appeals resulted in unacceptable backlogs and were not dealt with promptly. It will also be essential that matters such as stop notices are able to be progressed without delay. I hope the resources are there to deal with that.

Baroness Scott of Bybrook (Con): I thank noble Lords for that and for their brevity; I think that was right, considering that these are quite technical matters. It is important that many of the things brought up by both noble Lords will be discussed further when we bring the building control SIs to the Committee later in the year. In particular, the question of whether building control remains as professional and regulated as currently is an important issue. That has to happen, and we will have that debate.

I was also interested in the capacity of tribunals; that is always important. We know that the magistrates' courts are probably where a lot of things are being held up. I quite agree that the First-tier Tribunals must have the capacity to be able to deal with things in a timely manner.

As far as the building safety regulator and the LURB are concerned, I can assure the noble Lord that the Government will work to ensure that all these parts of building safety work together and that there is no black hole between one and the other. That will take some timings; I am sure that we will discuss that further before it happens. If the LURB goes through, there will be SIs to change the regulator and to ensure that everything works in a timely manner and nothing is lost in the meantime. I can assure noble Lords that we will work towards that end. To conclude—

Baroness Taylor of Stevenage (Lab): Before the Minister moves on, it would be really helpful to understand the entire role of the building safety regulator. There has been a lot of heavy lifting as we have gone through the process of the LURB and the Building Safety Act, and it would be really helpful if the entire scope of the building safety regulator could be set out somewhere.

Baroness Scott of Bybrook (Con): I am more than happy to write to the noble Baroness, and copy in the Library, about what we foresee that to be, although that concerns the LURB and not this instrument. I am happy to have a meeting on that, if necessary, before we go into that part of the LURB on Report.

As I said, these regulations will ensure that the Highways Act, the Clean Air Act and the 13 local Acts will continue to function as intended when the new system of applications for building control approval is brought into force. I hope the Committee will join me in supporting these regulations.

Motion agreed.

Environmental Protection (Plastic Plates etc. and Polystyrene Containers etc.) (England) Regulations 2023

Considered in Grand Committee

5.22 pm

Moved by ***Lord Harlech***

That the Grand Committee do consider the Environmental Protection (Plastic Plates etc. and Polystyrene Containers etc.) (England) Regulations 2023.

Relevant document: 43rd Report from the Secondary Legislation Scrutiny Committee

Lord Harlech (Con): My Lords, I declare my farming and land management interests as set out in the register. These regulations were laid before the House on 23 May.

The purpose of this instrument is to restrict the supply of single-use plastic plates, bowls and trays and to ban the supply of single-use plastic cutlery, balloon

[Lord Harlech]
sticks and expanded and extruded polystyrene food and drink containers, including cups. The instrument applies to England only, as environmental protection is a devolved matter. I will cover both the purpose and the impact of the instrument, starting with the former.

It is the Government's ambition to leave the environment in a better state for the next generation. The Government's 25-year environment plan and the resources and waste strategy outline the steps that we will take to eliminate all avoidable plastic waste by 2042. Government measures focus on extracting maximum value from plastic materials by making sure that we keep it in circulation for longer, moving away from a "take, make, throw" model and shifting towards a circular economy. Single-use plastic items are especially problematic, as they are typically littered or discarded to general waste, rather than recycled. This is due to the difficulties involved in segregating, cleaning and processing them.

The instrument will restrict and ban commonly littered single-use plastic items that we so often see polluting our environment and are frequently reported in beach litter surveys. These items can endanger wildlife and damage habitats. As well as causing damage to biodiversity, there are also costs associated with their clean-up. It is estimated that the UK spends more than £15 million a year removing beach litter. This does not include the costs imposed on our tourism and fishing industries, which are also impacted.

As is well understood, plastic eventually breaks down into microplastics, ending up in our soils and seas and eventually permeating our food chains. The full impact of microplastics is still being uncovered, especially the impacts on human health. Therefore, to build on the success of other single-use plastic item bans and our carrier bag charge, further action is needed to curtail the use of problematic single-use plastic items and their release into the environment.

Turning to the impact of the statutory instrument, we acknowledge the ongoing voluntary action being taken by industry to reduce the use of these items, led by the UK Plastics Pact. These new regulations will support that and ensure that all businesses move to more sustainable alternatives.

To inform the regulations, we gathered key stakeholder views by running a public consultation on these measures between November 2021 and February 2022. This showed overwhelming support for the regulations, with more than 80% of respondents supporting their introduction. We also consulted businesses, the NHS and charities to determine the scope of the regulations. To minimise the impact on small businesses, we have given a nine-month lead-time since the announcement of the ban.

It is intended that this instrument will come into force on 1 October this year. From then, it will make it an offence to supply single-use plastic cutlery, balloon sticks and certain types of polystyrene, with no exemptions. The ban on the supply of single-use plastic plates, trays and bowls applies only when supplied to the end user —typically a consumer, who will use them for their intended purpose. Businesses can continue to supply these items to other businesses. This allows single-use plastic plates, trays and bowls to continue to be used for packaging, as defined in Regulation 3 of the Packaging (Essential Requirements) Regulations 2015. This is to avoid confusion with the Government's proposals for extended producer responsibility for packaging, which will give producers responsibility for the costs of their packaging throughout its lifecycle. However, it is important to stress in all cases that we encourage businesses to use reusable alternatives where practical.

We are determined to get this right, and it is vital that businesses and the public are informed about what they can and cannot do. We have recently published guidance for businesses and will publish our guidance for local authorities in advance of this instrument coming into force. The guidance will assist manufacturers, suppliers, retailers and the public in understanding the enforcement and sanctions regime. Defra intends to further raise awareness by meeting local authority representatives to provide further clarity and support on the restrictions and exemptions, and to empower trading standards officers to carry out effective enforcement.

This instrument also makes amendments to the Environmental Protection (Plastic Straws, Cotton Buds and Stirrers) (England) Regulations 2020 and the Environmental Protection (Microbeads) (England) Regulations 2017. These are to amend the civil sanctions provisions in those instruments to provide for fixed monetary penalties, instead of variable monetary penalties. This will ensure consistency with the civil sanctions provisions in this instrument and make enforcement easier for local authorities. The amendments to the 2020 regulations also omit a transitional provision relating to medical devices, which is no longer needed. Finally, I should mention a typographical error in the instrument as laid in draft. The heading preceding Regulation 14, "Part 1—Amendments", should read "Part 6". I confirm that our intention is to have this corrected in the draft instrument before it is made.

To conclude, these new regulations send a strong signal to industry and the public that we need to think carefully about the products we buy and the materials from which they are made. This instrument will bring us a step closer to protecting the environment and reducing the risk of harm to human health and marine life. I commend the draft regulations to the House.

Baroness McIntosh of Pickering (Con): My Lords, I thank my noble friend and welcome him to a speaking role on the Government Bench this afternoon.

I broadly welcome the regulations before us—I just have some queries, which I shall address. In so far as it goes, the ban is very welcome. We are told that the instrument

"bans the supply of single-use of plastic cutlery and balloon sticks and EPS/XPS food and drink containers in England".

But at paragraph 7.4, the Explanatory Memorandum goes on to say that the,

"ban does not apply to the supply of a single-use plastic plate, tray, or bowl that is packaging as defined in regulation 3 of the Packaging (Essential Requirements) Regulations 2015".

Apparently, that is to do with extended producer responsibility. Would it not have been better if it had been absorbed in these regulations? From the point of view of producers and users, it would be clearer what is being banned under the instrument and what is not.

5.30 pm

The Explanatory Memorandum goes on, at paragraph 7.7, to state that

"there are exemptions to the restriction on the supply to the end user of single-use plastic stemmed cotton buds and single-use plastic straws for single-use plastic-stemmed buds and single-use plastic straws".

Are they totally exempt? My concern, particularly with single-use plastic buds, is that people often do not know how to dispose of them and regrettably put them down the loo. They then end up in rivers, seas and places that they should not, which is why they get washed up on the beach. Unless they are specifically for medical purposes, as paragraph 7.7 says, I would be interested to know what categories are exempt.

I am struggling to understand what has happened with wet wipes. Have we already banned them? If not, why not? I remember that a lot was said about that during the passage of the Environment Act. The reason I ask about it is because I was with someone from the National Infrastructure Commission yesterday who seemed to think that they had not been banned. I am not completely up to date on that, and I would be interested to know.

The cost of the instrument is not insignificant. We are told that in 2019 prices, 2020 present value, the net cost to business per year will be £10.2 million. How has that figure been reached? It is quite sizable.

The Green Alliance has expressed concerns in its very helpful briefing, which it shared with me in preparation for this afternoon. It asks for reassurance from the Government that the regulations will not simply lead to switching from one use of an unnecessary single-use item to other unnecessary uses of non-plastic items that might be equally difficult to dispose of. It begs the question as to whether the Government or the department are going to give any advice as to which alternative materials to plastic might be used, and what assessment they have made, whether they are made from wood or alternatives—possibly compacted paper, I do not know—of the impact they might have on the environment.

My noble friend said at the outset that this is a devolved matter. It is interesting to see that Wales, Scotland and parts of the EU such as France have gone further. France, I understand, is banning disposable cutlery altogether, and the EU is considering targets for the reuse and reduction of some materials. Given the Government's commitment, which my noble friend stated at the outset, to leaving the environment in a good or better state, should we not be going as far as we possibly can? I understand also that Wales, in line with the EU, is intending to ban highly damaging oxo-degradable plastics; apparently the Government are not minded to do that at the moment.

If we are going to go for wooden cutlery and wooden materials, we should be very conscious of the fact that many of these materials come from third countries such as Brazil. In the Amazon area, there is a deforestation programme with which I think the Government themselves are very unhappy. Where will these alternative wooden materials be sourced from to ensure that we are indeed leaving the environment in a better state? With those few remarks, overall I applaud and welcome the regulations.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I thank the Minister for his introduction to this statutory instrument. Having been around for the previous SI on the banning of microbeads in washable products and plastic straws and stirrers, there are familiar elements. Although single-use plastic straws are already banned, reusable plastic straws are readily available in some bigger supermarkets. Having bought a packet of these for my granddaughter, I can see that they are not reusable due to the difficulty in cleaning them, and that they have a very limited shelf life.

I regret to say that I found the Explanatory Memorandum contradictory and confusing. I am afraid that the Minister has already read paragraph 2.1 out, but I am going to do so again. It says:

"This instrument is being made to restrict the supply of single-use plastic plates, bowls, and trays and ban the supply of single-use plastic cutlery and balloon sticks and expanded and foamed extruded polystyrene … food and drink containers, including cups".

That is quite clear and understandable. However, if we move to paragraph 6.5, the EM states that

"the market access principles of the UKIM Act will only apply to this instrument in respect of the restriction it introduces to the supply of single-use plastic bowls and trays".

That may not be contradictory to those who wrote this SI, but I fear it certainly is to me. It also seems that paragraphs 6.4 and 6.5 are something of a "get out of jail free" option. The issue about clarity is one I will return to later.

Single-use plastic bowls and trays, although banned in England, can still be produced in Scotland, Wales and Northern Ireland. Since there is no border between the devolved Administrations, these items will be brought into England. As the supply of all the items listed in paragraph 2.1 to the end-user are banned, this will cause some confusion.

However, it does not apply to single-use plastic bowls and trays if they are used as containers for food at the point of sale in a takeaway. One of the most pernicious forms of litter containing plastic is that which not only occurs around fast-food outlets such as McDonald's, Kentucky Fried Chicken and Burger King but is strewn around the countryside, where it has been thrown out of car windows or left littering roadside lay-bys. I am struggling to see why these exemptions are being allowed. Can the Minister explain why this is to be permitted into the future? Are the Government relying solely on the extended producer responsibility legislation to sort this issue out?

I turn to the consultation which Defra conducted; the Minister has referred to this. From 20 November 2021 to 12 February 2022, an extensive consultation took place. A good response from all sides was received, with 95% of the public and non-governmental organisations supporting all the bans. However, businesses were less enthusiastic, with 20% opposing any kind of a ban on single-use plastic. On 16 January this year, a further consultation took place by way of a notice in the *London Gazette*, plus a weblink to the GOV.UK website and Defra's "relevant" stakeholders, as the department put it. The timeframe for response was 15 days; not surprisingly, there was a small response. Can the Minister say just how small that response was?

[Baroness Bakewell of Hardington Mandeville]

I was interested to see that the Association of Chief Trading Standards Officers responded on the enforcement issues; I should declare my interest as a vice-president of the LGA. It is generally accepted that trading standards officers are under enormous pressure already. They are now being asked to enforce this SI and collect the fixed penalty fines, in accordance with the future published guidance.

The regulations will come into force on the 24th day after they have been made. We are debating them today, 20 June; they will doubtless be on the Order Paper tomorrow, 21 June, for agreement in the Chamber. This means that they will come into force on 15 July. Can the Minister assure us that the guidance will be published before 15 July so that trading standards officers know exactly what they are expected to do and how to execute their functions successfully?

Small businesses employing up to 50 people will have over nine months' grace in which to implement these regulations from the date of the consultation. Can the Minister say whether this is the consultation which ended in February 2022 or the one from January this year, which was somewhat limited?

I turn now to the penalty, or fine. This is fixed at £200 and is a one-off, no matter how many offences there are. It can be reduced to £100 if it is paid within 28 days—a bit like a parking fine. Having looked at the SI—I may have missed it—I cannot see who exactly will be charged with the penalty. Is it the manufacturer, the retailer or the end-user? The level of fine appears to indicate that it is the end-user who will pay. Can the Minister provide clarification, please?

The extensive section in the SI on non-compliance gives the opposite impression. Here the inference is that the manufacturer will be liable for up to 100% of the cost of the compliance notice if they do not comply. As I said earlier, this SI is not transparent but confusing and contradictory.

Nor does the SI go far enough, and I am concerned about the plastics that it does not cover. Oxo-degradable plastics are designed to fragment in the presence of oxygen, but will not break down at all, or only extremely slowly, in environments with relatively low concentrations of oxygen, such as marine environments, or if covered by soil or buried in a compost bin. Wales, which has an international reputation for recycling and waste management, has banned the use of oxo-degradable plastics as they are regarded as one of the most pernicious types of plastic and a source of damaging microplastics. The EU has also banned them. Do the Government have any plans to ban the use of oxo-degradable plastics in England?

There is also the issue of substitution, as referred to by the noble Baroness, Lady McIntosh of Pickering. If single-use plastics are banned, what other unnecessary non-plastic single-use materials are likely to be used as a replacement? The Environment Act 2021 gives powers to implement charges for single-use items, which have so far not been used. What plans do the Government have to begin charging for non-plastic single-use items?

Lastly, the UK internal market is referred to in the SI. What plans do the Government have to conduct a post-implementation review of the 2020 Act? The Act has implications for the Government's environmental ambitions to leave the environment in a better state than they found it, to which the Minister referred in his opening remarks. I am not convinced that the SI moves us much closer to the Government's goal.

Baroness Anderson of Stoke-on-Trent (Lab): My Lords, I fear that I will shortly be interrupted by a Division. I, too, welcome the noble Lord, Lord Harlech, to his place. As Defra will be a recurring theme in his diary, I look forward to working with him in the months ahead.

I am a proud resident of the Potteries, which means that I am not sure why anybody would want to eat or drink from anything other than Stoke-on-Trent-made ceramic plates and mugs—the most sustainable containers from which to eat and drink—yet we find ourselves here to discuss far less sustainable alternatives. It should therefore come as no surprise to the Minister that His Majesty's Opposition will support this SI. The Labour Party is committed to removing single-use plastics as quickly as possible and moving on to sustainable and, I hope, ceramic alternatives.

However, I am sure it will not surprise the Minister, especially following the interventions so far, that I have a few questions on the detail of the SI and the consultation, implementation and next steps. As the noble Baroness, Lady Bakewell, highlighted, does the Minister really think that 15 days was an appropriate timescale to consult business, local authorities and key stakeholders on the implementation plan and detail of this significant change in regulation and permissible products that are used extensively in nearly every community in the country?

Paragraph 10.8 of the Explanatory Memorandum notes that His Majesty's Government notified the World Trade Organization of the draft instrument on 21 March 2023 and that:

"No objections have been made pursuant to notification".

Given that WTO processes are incredibly slow, would we have expected objections within that timeframe? Were any representations made by the WTO which stopped short of being formal objections?

Paragraphs 6.4 and 6.5 of the EM outline the exemption under the United Kingdom Internal Market Act that means that single-use bowls and trays legally produced in or imported into other parts of the UK can be sold in England, irrespective of this ban. Can the Minister inform the Committee whether Defra has done any modelling on how many items are likely to make use of this exemption? What are the process and timescale for conducting the post-implementation review of the United Kingdom Internal Market Act 2020, in which the implications for the environmental ambition of the UK Government should be considered?

5.45 pm

Paragraph 11.1 confirms that the policy will be enforced by local authorities and their trading standards officers. There has been a 56% reduction in the collective budgets for trading standards since 2009. Given the direct impact that these austerity cuts have had on the capacity of trading standards teams, what assessment, if any, have His Majesty's Government undertaken of

their ability to take on this additional task? These cuts have not been universal in their application, so what efforts is the Minister making to mitigate potential differentiation of enforcement across local authority areas, and how is this being kept under review?

Paragraph 12.2 talks about potential extra costs for consumers, with 60% of the total costs for retailers likely to be passed on. Given that the current rate of food inflation is running at 16.5% as of today and that we are living through an associated cost of living crisis, what discussions is Defra having with retailers to mitigate the costs being passed on?

I think we all prefer to eat off a ceramic plate—or at least we all should—but sometimes convenience wins out and disposal alternatives are necessary. In those instances, we have a responsibility to make sure that convenience is delivered with the least harm to our natural environment.

Lord Harlech (Con): I am grateful to all noble Lords for their important contributions to this debate. These measures do not seek to solve the problem of single-use plastic in one go. However, they are an important part of a wider strategy to tackle plastic pollution and serve as an important marker that our reliance on single-use plastics must be reduced. I will address some of the points raised in the debate.

All Peers raised the consultation period. A public consultation around the policy area was carried out from November 2021 to February 2022. I understand that the consultation period on the SI itself was shorter. However, given the correlation between the two themes, it is our view that the public consultation period was long enough to address this SI. Responses from members of the public and non-governmental organisations demonstrated overwhelming support for our proposals, with 95% in favour of all bans. However, responses from businesses were varied, understandably, with approximately 20% opposing all bans, while others were supportive of the proposals but highlighted areas for further consideration to make sure that bans do not have unintended consequences.

We also engaged with relevant sectors, such as the NHS and disability charities, to determine whether any exemptions were needed. Our determination was that no medical exemptions were needed for these bans. We conducted an impact assessment, which covered banning the supply of single-use food and beverage containers made from expanded or extruded polystyrene, or EPS, in England, and banning the supply of single-use plastic plates and cutlery to the end-user in England. A de minimis assessment was carried out for the ban on single-use plastic balloon sticks in line with better regulation guidance, as the annual net direct cost to businesses was estimated to be less than £5 million. All received green ratings from the Regulatory Policy Committee.

The noble Baroness, Lady Anderson of Stoke-on-Trent, talked about costs to businesses and consumers. This is very much about reducing the cost to the environment, so this one SI is not meant to tackle all costs in society.

Baroness Anderson of Stoke-on-Trent (Lab): My Lords, I was asking about additional costs on food-related products during a cost of living crisis, especially given evidence today suggesting that more people are having to use microwaves rather than ovens. This would potentially be covered by this SI, meaning that there will be an additional cost to the consumer. I asked specifically what debate and discussions the Minister and the department are having with retailers to mitigate the costs being passed on at this time.

Lord Harlech (Con): I absolutely take the point and I am not downplaying it; I am just saying that this SI is focused on single-use plastics. However, I would like to reassure the noble Baroness that we remain in constant conversation with food retailers and food service providers to make sure that excessive costs are not being put on consumers at this very difficult time.

The noble Baroness, Lady Bakewell of Hardington Mandeville, raised the important issue of who will pay the charge. The supplier of the product will pay, not the end-user; I hope that provides some clarity. She also spoke about Scotland and Wales, the devolved nations. I think we are having a Division.

The Deputy Chairman of Committees (Baroness McIntosh of Hudnall) (Lab): My Lords, there is indeed now a Division in the Chamber. The Committee will need to adjourn for 10 minutes. Does the Minister have much more to say? If not, we might be able to clear this instrument and start fresh after the Division with a new one. Otherwise, we will adjourn and pick up with him later.

Lord Harlech (Con): I was asked a great many questions and I would like the opportunity to answer.

The Deputy Chairman of Committees (Baroness McIntosh of Hudnall) (Lab): My Lords, in that case we will adjourn the Committee for 10 minutes and return to the Minister afterwards.

5.51 pm

Sitting suspended for a Division in the House.

6 pm

Lord Harlech (Con): My Lords, we were getting on to the topic of how some of the devolved nations are dealing with plastics and recycling. The Government's view is that plastic pollution is a global challenge and, as such, we welcome ambitious actions from all Governments. All nations across the UK are making good progress on tackling these challenges. However, where areas are devolved, nations are able to act in ways that reflect their circumstances. For instance, the Government moved to introduce restrictions to the supply of single-use plastic straws, stirrers and cotton buds in October 2022, ahead of the Scottish Government. We delayed those restrictions from earlier in 2020 to avoid additional burdens being faced by businesses on top of the challenges already posed by the impact of the coronavirus pandemic. We have to move at pace, but we also think it is right that each of the nations has the flexibility to address its most pressing problems in the timescale it wants.

[Lord Harlech]

The noble Baroness, Lady Bakewell of Hardington Mandeville, mentioned how the ban will be affected by the UK internal market Act. The United Kingdom Internal Market Act 2020 (Exclusions from Market Access Principles: Single-Use Plastics) Regulations 2022 created an exclusion from the market access principles in Part 1 of that Act for legislation, so far as it prohibits the sale of single-use plastic plates, straws, drinks stirrers, stemmed cotton buds, cutlery, chopsticks and balloon sticks, and expanded and extruded polystyrene food and drinks containers, including cups. This follows an agreement reached under the then provisional resources and waste common framework. This exclusion does not encompass single-use plastic bowls and trays. Therefore, the market access principles of the UK internal market Act will apply to this legislation in respect of those items.

My noble friend Lady McIntosh of Pickering asked why there are no exemptions, as with plastic straws. Throughout our consultation and post-consultation engagement, we were able to determine that no exemptions were needed in any potential settings. This will give the SI the greatest positive environmental impact.

My noble friend and the noble Baroness, Lady Bakewell of Hardington Mandeville, also mentioned oxo-degradable plastics. We have prioritised work on introducing restrictions on single-use plastic plates, cutlery and balloon sticks and polystyrene food and drinks containers because, at this moment in time, that will have the greater impact on reducing plastic pollution. However, we are aware of oxo-degradable plastics.

I turn to the issue that my noble friend raised about wet wipes. In the *Plan for Water* published in April 2023, the Government announced their intention to ban wet wipes containing plastic, subject to a public consultation, which will be published in due course. Some 96% of respondents to our 2021 call for evidence supported a ban on wet wipes containing plastics. Therefore, we are keen to deliver this at pace, just not in this particular SI. More information on the proposed timings of any ban will be announced following the consultation.

We are working with local authorities and trading standards to ensure that any breaches of legislation are being enforced. If breaches are identified, it will be the responsibility of local authorities as regulators of the legislation to enforce it and tackle the pollution appropriately.

Baroness Anderson of Stoke-on-Trent (Lab): Just to clarify, on the trading standards point—we have seen something like 170 fewer trading standards officers in the past 12 years. They are spread in different areas; some local authorities now spend only 50p per resident, while others spend £4.50 per resident on their trading standards function. Can the Minister let me know either now or in writing how we are ensuring that this is being applied equally across all local authorities in the UK, given the varying regulatory framework that will exist and given the enforcement action—as in, the number of people that can enforce?

Lord Harlech (Con): That is a fair question, although it is slightly out of Defra's remit, so I think that the best thing to do would be to write to the noble Baroness in response to her question about trading standards officers.

To avoid duplication or confusion with our proposals for our extended producer responsibility scheme, bowls, plates and trays used as packaging by businesses will not be included in the ban. However, we strongly encourage businesses to explore how they can reduce the use of single-use items and move to reusable alternatives instead.

My noble friend Lady McIntosh of Pickering rightly brought up the potential impact on businesses through the introduction of this SI. The largest cost is due to capital investment costs incurred by producers for adapting their production processes. Producers may also incur a loss of profits. Another large cost is due to wholesale prices of wooden cutlery and paper, and food and beverage containers, usually being larger than their plastic equivalents. Businesses will also incur familiarisation costs, additional waste management costs and additional fuel costs. On the question about single-use plastic cotton buds used for medical purposes, there are exemptions for use for forensic and scientific purposes—otherwise, they are totally banned.

If I have neglected to answer any questions, I shall consult *Hansard*, and do my best to write with an answer. Not wishing to detain the Grand Committee further, I conclude by thanking noble Lords for their contributions.

Baroness McIntosh of Pickering (Con): If my noble friend is unable to answer today, can he write to us on substituting wood for plastics and the knock-on effect that that would have on the environment and deforestation? I understand that that might be the responsibility of a different part of the department, but the noble Baroness, Lady Bakewell of Hardington Mandeville, and I both asked about that. I understand that it is quite technical, so he could write to us.

Lord Harlech (Con): I think that I just said that I shall answer in writing any questions that I have not answered now.

Motion agreed.

Electricity and Gas (Energy Company Obligation) Order 2023

Considered in Grand Committee

6.09 pm

Moved by ***Lord Callanan***

That the Grand Committee do consider the Electricity and Gas (Energy Company Obligation) Order 2023.

Relevant document: 43rd Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Energy Security and Net Zero (Lord Callanan) (Con): My Lords, I beg to move that the draft order, which was laid before the House on 24 May, be approved. Since it was introduced in 2013, the energy company obligation—ECO—scheme has ensured that around 2.4 million predominantly low-income households have received much-needed support to improve the energy efficiency of their homes. The Government committed in the *Growth Plan 2022* and the energy security plan to place a new obligation on energy suppliers to deliver vital energy efficiency upgrades, helping hundreds of thousands more households to take action to reduce their energy bills by making their homes cheaper to heat.

The order delivers on these commitments by introducing a new energy company obligation, the Great British insulation scheme, to run until March 2026. Alongside establishing the GBI scheme, the order introduces some small additions to the existing ECO4 scheme, providing heating support for certain households which are not currently eligible for these measures.

I turn to the detail of the order. The order establishes the GBI scheme in law as a complement to the existing ECO scheme—ECO4—in Great Britain. Its main provisions are: an additional energy company obligation to run from 2023 to 2026, boosting previously planned energy-efficiency investments by another £1 billion across this period; a focus on the rapid installation of the most cost-effective, single insulation measures; and the extension of support through the ECO schemes to a much wider group of households living in the least energy-efficient homes in the lower council tax bands, who are also now challenged by higher energy bills.

The Great British insulation scheme will boost further the support already available through ECO4 that targets low-income and vulnerable households, those most at risk of being in fuel poverty. Energy suppliers must deliver at least 20% of the new help available through the scheme to these households. This low-income group will include those on means-tested benefits as well as households in the least energy-efficient social housing. Fuel-poor homes in the private rented sector will also benefit, building on the provisions of existing regulations.

Working alongside this low-income minimum, the scheme's flexible eligibility provisions will offer additional routes to reach those on low incomes or in other ways vulnerable, such as through ill health, but where households may not be in receipt of benefits. These flexible eligibility provisions will enable local authorities, energy suppliers, Citizens Advice and the NHS to work together to help those most vulnerable to the effects of living in a cold home.

As with previous ECO schemes, the obligation will be set based on annual bill savings. This incentivises energy suppliers to target those homes where the savings from energy-efficient measures will be greatest, also installing those measures that will have greatest impact. The scoring approach for this will mirror that used for ECO4, minimising complexity and any bureaucracy for industry.

Installation quality will be governed and assured under TrustMark's compliance and certification framework. The quality of installations, alongside a whole assessment of the property, will continue to rely on independent industry standards—in this case, the publicly available specifications PAS 2030 and PAS 2035. The order also adds to the circumstances in which some heating measures, particularly solar PV and electric heating, can be available for households within the existing ECO4 scheme.

As a direct result of the boost provided by the GBI scheme, we estimate that around 376,000 measures will be installed in around an additional 315,000 homes. This is expected to save households, on average, £300 to £400 per year. To help to insulate as many homes as possible before next winter, the order permits measures installed since 30 March to count towards the suppliers' obligation target. This provision was signalled to energy suppliers in the Government's response to their earlier consultation on scheme design, which was published on that date.

I turn for a moment to that earlier government consultation, which was conducted towards the end of 2022. The scheme design encapsulated in the order we are now considering takes forward the main provisions set out within that consultation. The majority of consultation responses supported the proposals, including as central features the extension of energy efficiency help to the wider household group and a focus on the most cost-effective, single-insulation measures.

6.15 pm

The Government are therefore proceeding with the main proposals, with some key changes considering the responses received and the final impact assessment. We have expanded the eligible council tax bands in Wales from A to C to A to E, better aligning with the proportion of eligible households in England and Scotland. We are requiring all measures to be installed under the PAS2035 requirements due to the complexities of defining low-risk measures which could use any alternative standards.

We have removed the new scheme's eligibility requirement for suppliers to evidence that low-income households cannot meet the ECO4 scheme minimum requirements to simplify administration. We have ensured that households supported under the GBIS will not be excluded from receiving future help under the ECO4 scheme, when the eligibility criteria for that scheme are, again, met.

We will uplift scores on measures delivered to low-income, rural off-gas households in Scotland and Wales, given the additional challenges these households are likely to face. Equivalent households in England will be supported via the home upgrade grant. Recognising the value of innovation, those innovative products offering the greatest improvements delivered to the low-income group will be eligible for both a 25% and 45% uplift, subject to a cap.

In conclusion, the GBIS will continue building on the successful ECO approach that has been delivering energy efficiency measures to millions of households now for the past decade. The scheme will extend help to hundreds of thousands more households previously ineligible for government energy efficiency scheme support. It will build momentum towards the Government's ambition to reduce the total UK energy demand by

[Lord Callanan]
15% from 2021 levels by 2030. It is estimated that it will save more than 5 million tons of CO_2 emissions over the lifetime of the measures installed. Finally, it will empower thousands more to insulate their homes, protecting the pounds in their pockets and, of course, helping to support jobs across the country. With that, I commend this order to the Committee.

Baroness McIntosh of Pickering (Con): My Lords, I thank my noble friend for introducing the order this afternoon, which I warmly welcome. I declare my interest as honorary president of National Energy Action, based in the north-east, an organisation with which I think my noble friend is very familiar. It welcomes the scheme but has one or two issues that it would like to understand better.

I ask my noble friend about the background to how the scheme has been introduced, because it could lead to unfairness in how the money is distributed. In particular, a potential flaw is that the targeting of the scheme is quite loose: it is not tight enough sufficiently to help fuel-poor households, which he said is the purpose of the order. For the majority of the scheme, households are assumed to make a financial contribution to the cost of the measures, which may effectively make a large proportion of the scheme inaccessible to the lowest-income households, which cannot afford to make such contributions. The way in which the policy is funded is therefore potentially unfair. Coupled with the rather loose targeting, this means that low-income households may effectively subsidise higher-income householders' home upgrade.

I give my noble friend an illustration. The UK Government are assuming that £80 million will be provided in customer contributions over three years to support funding of the scheme. That is based on the assumption that uptake is not disproportionately affected by the level of contribution required. The assumption apparently originated from research based on a survey of 1,000 owner occupiers who fell within the general eligibility criteria. I put it to my noble friend that that may not be representative of low-income households, which I understood was the purpose we are trying to achieve with the order before us.

Similarly, research quoted in the impact assessment assumes that three-quarters of home owners will be willing to contribute towards insulation measures, with almost half willing to contribute £500 or more. Once again, I put it to my noble friend that it is extremely likely that households unwilling or unable to contribute fall into the category of the most financially vulnerable, and therefore in most need of the support given by the scheme.

Those two examples point to the potential for this not being what the Government intended. On vulnerable households, I think my noble friend described the purpose as extending support to households in the least energy-efficient and lowest income bands. I would like to query my understanding. Could the targeting have been better and could we have directed the funding more clearly to those in that bracket?

I warmly welcome the fact that support is being extended to off-grid rural households in Scotland and Wales. Can my noble friend assure me that the grant to English homes in that bracket for the home upgrade funding that he referred to will be as high as for those in Scotland and Wales?

Lord Lennie (Lab): My Lords, this has nothing to do with the instrument, but I begin by congratulating the noble Lord, Lord Callanan, on his efforts to recruit Sadio Mané to play for Newcastle United when he was recently in Senegal. As a fellow Newcastle United season ticket holder, I can pass on the warm thanks of all fans of Newcastle United. I suppose more unites us than divides us when it comes to being "Howay the lads" fans.

The draft order proposes a Great British insulation scheme, which would require licensed gas and electricity suppliers to promote the installation of energy-efficiency measures, such as loft or cavity wall insulation, across Great Britain. The Department for Energy Security and Net Zero explains that while ECO4 aims to deliver full-house retrofits for low-income and vulnerable households, the new scheme seeks to encourage rapid installation of the most cost-effective, mainly single insulation, measures and to extend support to a much wider group of households in the least efficient and lower council tax banded homes. These are worthy aims.

The department expects the scheme, as the Minister said, to provide around 376,000 insulation measures in 315,000 homes by the end of March 2026, which coincides with the ECO4 scheme's end date. The department also says that Ofgem, which will administer the scheme, will be required to submit monthly reports on progress to the Secretary of State on suppliers' performance. What will the Government do if performance is not on target overall? Are there any plans to push beyond the initial target, if performance suggests that this could be possible? Will Ofgem report on the income distribution of household delivery?

Those suppliers required to participate in the ECO4 scheme are also required to participate in the Great British insulation scheme, so the same domestic gas and electricity supply data is being used as under the ECO4 scheme. Were there any issues with the use of this data? If so, have they been addressed and overcome?

Unlike the ECO4 scheme, a minimum level of delivery of the obligation will be set for each of the three phases of the Great British insulation scheme. It requires each obligated supplier to achieve at least 90% of its home heating cost reduction obligation and low-income minimum requirement for phases A and B through measures completed before the end of each phase, with the total obligation required to be met by 31 March 2026. Suppliers will have performance requirements across each phase of the scheme—a new development from ECO4. This is of course a good thing, but how will the performance in each phase be monitored and enforced?

The instrument also sets a low-income minimum requirement. This will ensure a minimum level of support through the scheme for those on the lowest incomes and the most vulnerable—the low-income group, as it is known—while allowing the remaining support to be targeted at a much larger pool of people now challenged by higher energy bills, in other words the general group. There is no upper limit on the amount

of a supplier's home heating cost reduction obligation that can be met through the measures delivered to the low-income group.

The low-income minimum requirement is defined by the instrument as 20% of the overall obligation, and that 20% must be delivered using the standard low-income eligibility criteria. Assuming the distribution is equal, 20% of 315,000 homes is 63,000 low-income households. Given that this scheme will be paid for by all customers but that the much larger benefits will be felt only by benefiting households, does a 20% minimum not feel somewhat low? I appreciate that it is only a minimum, but is there any incentive for the participants to deliver above this 20%? How was this amount reached? Do the Government have an estimate for where they expect this to fall across the whole scheme?

The home-heating cost reduction target is set at a level that assumes that households in the general group —as in Article 12 of the order—will collectively contribute £80 million, as the Minister said, towards the cost of installing the insulation measures, which is equivalent to 10% of the £800 million scheme budget earmarked for this group. This reflects that households in the group will generally have higher incomes and be able to contribute. Any contributions will in practice be a matter for agreement between the customer and the installer, reflecting the measure's type and property issues.

For the purpose of the home-heating cost reduction target, should a participant elect to go beyond the minimum 20% for the low-income group, would the general group be significantly more burdened by the total contribution required? For example, if, across all providers, the general group averages only 40% of the overall makeup, which I understand is unlikely but a possibility, is it correct that this group would then be required to double their joint contribution to the £80 million home-heating cost reduction target, compared to if it made up the maximum of 80%?

Domestic premises cannot receive more than one insulation measure under the Great British insulation scheme. As long as it is installed on the same day as, or after, the insulation measure is completed, owner-occupied premises in the low-income group can also receive heating control measures under the scheme. The heating control measures must be completed within three months of the insulation measure.

The majority of responses to the consultation addressed the fact that private rented sector households are ineligible for heating control measures, or for cavity or loft insulation, if they are in the general group. These measures are excluded as landlords have responsibilities to maintain and improve their housing. Is that a good enough reason? Why is it acceptable for lower-income households to have to choose between unaffordable bills or a lack of heat because they are renting, if their landlord is not adequately improving their property? For clarity, if a participant offers a combination of an insulation measure and heating control measures to either a household in the general group or a non-owner-occupied household in the low-income group, would the cost be expected to be apportioned between the scheme and the payer or would that not be a feasible option?

Another aspect of the instrument is targeted encouragement to support the development of innovative products and installation techniques. This is of course welcome. Has any assessment been made of the potential impact of this encouragement? What counts as an innovative product or installation technique? Perhaps the Minister can enlighten us on that.

The 2021 *Sustainable Warmth* strategy announced plans for the expansion of ECO to run from 2022 to 2026, with an increase in value from £640 million to £1 billion per year. This obligation is expressed in terms of outcomes, not expenditure. The obligation is for notional annual bill savings of £224 million to be achieved by 31 March 2026. Part 10 of the instrument amends the 2022 order. Most of the changes are made to enable heating measures that are of benefit to ECO4 households in achieving annual cost savings, and reducing their overall energy bill, to be installed in a wider range of circumstances.

Labour's warm homes plan would upgrade the energy efficiency of about 2 million homes per year. It would upgrade all 19 million homes that need it and help families to save up to £500 on their energy bills. The target of 315,000 homes under this scheme does not really compare. Do the Government accept that this is a drop in the ocean of what is needed? As part of the Labour green prosperity plan, the warm homes plan would give families the grants and loans they need to upgrade the energy efficiency of their homes, cutting their energy bills and emissions. Labour's national plan would save households £500 a year, cut national gas imports by up to 15% and create over 206,000 full-time equivalent jobs in retrofitting industries.

6.30 pm

Lord Callanan (Con): First, I thank the noble Baroness, Lady McIntosh, and the noble Lord, Lord Lennie, for their contributions. I thank the noble Lord for complimenting my efforts to recruit Sadio Mané—who is a lovely guy, by the way. It is an interesting correlation, thinking about the priorities of most of the population, that if I tweet something on energy efficiency or that I have met someone to do with hydrogen schemes or whatever, I am lucky if I get 700, 1,000 or 2,000 views, but if I bump into a footballer in a hotel and tweet a picture, I get 85,000 views all across Europe. What we need to do is link famous footballers with energy efficiency and then perhaps we will get the message through.

Anyway, I turn now to the subject of the day. Improving the energy efficiency of our homes is the best long-term solution to reducing energy bills—I do not think anybody disagrees with that—and the corollary of tackling fuel poverty. That is why the Government have set a new and ambitious target to reduce our final energy demand from buildings and industry by 15% by 2030. The Energy Efficiency Taskforce is meeting at the moment to try to put some policies behind that. We are also committed to making sure that homes are warmer and cheaper to heat by investing £12 billion in various Help to Heat schemes, such as the home upgrade grant and social housing decarbonisation fund.

[Lord Callanan]

The Government remain committed to helping low-income and vulnerable households to reduce their fuel bills and heat their homes, with the new Great British insulation scheme being a crucial element of that help for this winter and for years to come.

I start with the contribution from the noble Baroness, Lady McIntosh, who asked a question on the targeting of the scheme and consumer contributions. This scheme mirrors the eligibility of the ECO4 scheme; there is in fact no limit on how many low-income consumers can be treated through the scheme. There is no mandatory requirement for contributions, and we do not assume any contributions for low-income consumers as we recognise that they are most in need.

The new general group is designed to capture a broader pool of households. I am sure that even the noble Baroness will accept that not everyone in fuel poverty is necessarily on benefits. We have a number of other schemes targeting those on lower incomes. This is the first scheme we have done for a while that allows those in the so-called able to pay grouping in the lower council tax band to also be eligible for support. That is the new general group; it is designed to capture a broader pool of households which are more likely to be able to contribute. Encouraging contributions through the scheme makes the scheme more cost-effective and ultimately enables more homes to be treated and more measures to be delivered. I am sure that is something the noble Baroness would support.

Suppliers are encouraged to leverage higher contributions from wealthier households and for more expensive measures, which would possibly be in bigger homes, ensuring that low-income and vulnerable households receive the support they need. As a market-led scheme, it is ultimately down to the installer to negotiate any contribution that the consumer is willing and able to pay, taking account of any property issues and of the measures to be installed.

The noble Lord, Lord Lennie, asked a question about monitoring. As with the existing scheme, Ofgem will work with energy suppliers to monitor progress and ensure compliance—including, if necessary, considering enforcement action should that be judged appropriate. As the independent regulator, it is ultimately a matter for Ofgem to judge the form and extent of any compliance action appropriate to the circumstances; it is only right and proper that it should do that.

Annual targets will initially be tracked using notified measures alongside other information. For the benefit of noble Lords, all measures that are installed are notified and lodged with TrustMark. Once the Ofgem digital system is in place to support it, this is intended to minimise any additional costs and bureaucracy from annual targets while still managing to drive momentum.

We have allowed flexibility through the analysis to allow industry to decide how to gather contributions. There is no firm requirement on how suppliers must do that. To reiterate—I made this point to the noble Baroness, Lady McIntosh—there are no limits on the number of low-income homes that can be treated through the scheme. We have several schemes currently in operation, as I mentioned, which support low-income households. Of course, the original ECO scheme, ECO4—its latest iteration—the home upgrade grant and the social housing decarbonisation fund are all targeted at those on lower incomes. That is why we wanted this scheme to be open to a wider pool of households that are currently ineligible for any government support through existing schemes. As I said to the noble Baroness, suppliers are encouraged to leverage higher contributions from wealthier households for more expensive measures. Additionally, of course, there is no requirement for consumers to contribute, or to contribute a set amount through the scheme. It is market-led, and it is down to the installer to negotiate a contribution that the consumer is able and willing to pay.

For ease and pace of delivery, the GBIS aims to mirror as much of ECO4 as possible, keeping the same eligibility criteria for the low-income group that industry is currently very familiar with. That will help to ensure that the GBIS is able to deliver energy efficiency measures to those households as quickly as possible and provides energy suppliers with an incentive to deliver to that group, which they are already very familiar with.

The noble Lord, Lord Lennie, asked about innovation. We have a technical panel to determine and approve products as innovative through the scheme to ensure that consumers continue to be protected.

Once again, I thank both noble Lords for their contributions and the points they made during the debate. I also recognise the broad agreement that the scheme should continue at this time and should help to provide the critical support to an even greater pool of households that are currently challenged by higher energy bills. I commend this draft order to the Committee.

Motion agreed.

Committee adjourned at 6.37 pm.