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PARLIAMENTARY DEBATES
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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

Wednesday 29 January 2025

3 pm

Prayers—read by the Lord Bishop of Gloucester.

Thames, Yorkshire and Northumbrian Water: Ofwat Proposed Fines

Question

3.06 pm

Asked by ***Lord Sikka***

To ask His Majesty's Government how many of the £168 million fines proposed by Ofwat on 6 August 2024 against Thames Water, Yorkshire Water, and Northumbrian Water have been collected.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Baroness Hayman of Ullock) (Lab): My Lords, it is important to make clear when answering this Question that we are talking about proposed fines, and legislation specifies the process that Ofwat must follow before it can impose the fines or an enforcement order. Ofwat has the option of accepting regulatory settlement in lieu of imposing an enforcement order and/or fine. If Ofwat decides to impose a fine, it will issue a notice to the company specifying the date of payment. This must be after 42 days from the date that notice is served on the company.

Lord Sikka (Lab): My Lords, I thank the Minister for that reply. We seem now to have a category of fines which are not really fines. A £168 million fine for past sewage dumping was announced nearly six months ago but has still not been agreed and collected. The normal practice is that habitual criminals are not permitted to negotiate the extent and timing of fines with judges or anybody else. These three water companies between them have over 400 criminal convictions, but they are being allowed to negotiate the amount and timing of their fines. Why does the Minister think that this is a good and moral practice?

Baroness Hayman of Ullock (Lab): It is important to be clear that Ofwat has to act within existing legislation. It is also important to point out that the Government are absolutely clear in wanting to clean up the water industry, which is why we have set up the commission. Since 2015, the Environment Agency has concluded 66 prosecutions against water companies, which has secured record fines of over £150 million. Meanwhile, in the last five years, Ofwat has secured a total of around £38 million in rebates to customers, in addition to another £150 million in other undertakings, as a result of its enforcement action.

Baroness McIntosh of Pickering (Con): My Lords, the noble Baroness will be aware that a number of applications were attracted for the Water Restoration Fund, including by a number of farmers from Yorkshire, in July last year, since when they have heard nothing. When does the noble Baroness think these applications will be successful?

Baroness Hayman of Ullock (Lab): Defra is evaluating how water company fines and penalties can best be reinvested into improvements to the water environment, which includes looking at the Water Restoration Fund. We hope to make a final decision on that some time this year.

Lord Tyrie (Non-Afl): By any standards, Ofwat's performance has been shocking, and over a good number of years—in fact, the worst regulatory failure we have had since the regulators who supervised banking throughout the banking crisis. Jon Cunliffe was asked to investigate this last October, and we are told that he will take at least a year to report, but he has only just started to take evidence. Can we at least have an interim report to get some early progress on reform of the water industry and better performance out of Ofwat?

Baroness Hayman of Ullock (Lab): The advisory board that is going to be working with Sir Jon Cunliffe has been appointed and set up, and my understanding is that the intention is that there will be a first report in the spring of this year.

Lord Woodley (Lab): In December 2024, Ofwat announced that it would fine Thames Water £18 million for paying unjustified dividends of nearly £38 million; that has now risen to £158 million, according to Ofwat. Can the Minister explain whether the penalty is being enforced and how much of the fine has actually been paid? Does she agree that this is indeed the unacceptable face of capitalism?

Baroness Hayman of Ullock (Lab): On 19 December last year, Ofwat published its consultation notice, which set out the provisional decision to impose the financial penalty on Thames Water, as my noble friend laid out. As I explained earlier, there is a legal process that Ofwat has to go through. That consultation closed on 16 January—so, very recently—and Ofwat is now looking at those responses.

The Earl of Effingham (Con): My Lords, at Report stage of the Water (Special Measures) Bill, my noble friend Lord Cromwell successfully secured the overwhelming support of your Lordships' House for his amendment on financial reporting by water companies. Given that many water companies are overleveraged, it is crucial that we have a laser focus on managing debt in the water sector, and the Government have indeed recognised the importance of water companies' financial resilience. Can the Minister therefore please explain why the Government have removed my noble friend's amendment from the Bill in the other place?

Baroness Hayman of Ullock (Lab): The noble Earl is correct that tackling financial leverage and debt in water companies is important, and it is a priority for this Government. We are currently in discussions with the noble Lord, Lord Cromwell, regarding his amendment.

Baroness Pinnock (LD): My Lords, the annual water bill is about £473, although some people, especially in households with disabled people, may pay £700 a year, so support and help for those families is really important. What can Ofwat and the Government do together to provide major support—not just social tariffs, but other major help—for families such as those in paying for the essential service these water companies provide?

Baroness Hayman of Ullock (Lab): Clearly, it is really important that we support all vulnerable customers regarding their bills and their ability to pay them. During the passage of the Water (Special Measures) Bill in the other place, the Government passed an amendment on how we need to support vulnerable customers. That will of course come back, and I will be talking about that when we get to ping-pong next week.

Baroness Meacher (CB): My Lords, I greatly respect the Minister, but I just wondered whether she would consider replacing the leaders of the water companies.

Baroness Hayman of Ullock (Lab): My Lords, that needs to be part of the review that Jon Cunliffe is undertaking with the water companies. One of the purposes of that commission is to see if the way the water companies are operating and are regulated is fit for purpose.

Baroness Blower (Lab): My Lords, during the passage of the Water (Special Measures) Bill, the Secretary of State said that the Government will ban bonuses if company executives fail to meet high standards. Good. Last week, Thames Water said that it will circumvent any such ban by increasing basic executive pay. Speaking as a Thames Water customer, I ask my noble friend: what is the Government's response to that, and how do we imagine the ban can be enforced?

Baroness Hayman of Ullock (Lab): The Government have been clear that we urgently need to restore public trust in the water sector, and the bonuses issue is an important part of that. We have been completely clear that, where company performance is poor, executives should not be receiving large bonuses, which is why we are giving Ofwat the power to prohibit bonuses where performance is poor. Like my noble friend and other noble Lords, I have read the reports that Thames Water is saying that it would put up executive pay if this came to pass. We are bitterly disappointed that a water company would react like that. It should be taking responsibility for its behaviour and the standard it sets, so we will be taking this extremely seriously and looking at how we can manage such situations.

Lord Cromwell (CB): My Lords, I am even gladder than usual that I came in, only to find my previous amendment being debated without any advance notice to me. I say to those who have raised it that I am in fruitful discussions with the Minister, but I am certainly not ruling out bringing that amendment back again, when the House will have its chance to express its views.

Baroness Hayman of Ullock (Lab): I thank the noble Lord for that clarification.

Lord Hodgson of Astley Abbotts (Con): Is the Minster aware that limited liability is a privilege, not a right? If the ordinary shareholders of the water companies are choosing to overleverage the companies with a view to making a profit out of their ordinary shares, because interest is deductible and dividends are not, would it not be a good idea to consider whether limited liability is the right form for shareholders of these companies?

Baroness Hayman of Ullock (Lab): There are some good points being made around the financial management of water companies at the moment, and I hope that, as we get further into the commission being led by Sir Jon Cunliffe, we can really dig down into this area. The fact that he was part of the Bank of England should help in looking at how we tackle these financial mismanagements.

Syrian Asylum Applications

Question

3.16 pm

Asked by ***Baroness Hamwee***

To ask His Majesty's Government what plans they have to process the outstanding asylum applications of Syrians in the UK.

The Minister of State, Home Office (Lord Hanson of Flint) (Lab): Following the fall of the Assad regime, the Home Office has withdrawn the country policy and information notes guidance for Syria and temporarily paused interviews and decisions on Syrian asylum claims. This was and remains a necessary step which several other European countries have also taken. The pause is under constant review. When there is a clear basis on which to make decisions, we will resume.

Baroness Hamwee (LD): My Lords, the Minister will understand that, for asylum seekers and refugees, uncertainty exacerbates the problems that they have in any event. Will the Home Office consider processing claims that are not based on persecution from the Assad regime? Can the Minister give the House any information on whether the pause applies to Syrians applying for settlement, having been here for five years, and with their initial leave expiring?

Lord Hanson of Flint (Lab): On the latter question, everything is paused at the moment for the simple reason that we do not yet understand what has happened in Syria on a permanent basis or know how stable Syria is as a whole. For those who have applied and for those who have had their leave to remain agreed, those issues are paused. As for the first part of the noble Baroness's question, although there is a strong case to say that those who came here prior to the fall of the Assad regime were fleeing the Assad regime, we still have to examine all the circumstances pending the resolution of what happened in Syria prior to Christmas.

Viscount Hailsham (Con): My Lords, the Minister will recall that, on the collapse of the Soviet Union, we, in concert with others, introduced a Know-How Fund to try to improve governance and the economy within the former Soviet Union. Is there not a case, in concert with the European Union and other interested countries, most notably in the Middle East, to contemplate introducing a Know-How Fund for Syria? That might reduce the flow of migrants in the future.

Lord Hanson of Flint (Lab): The noble Viscount tempts me into areas which are not my direct responsibility, but I take his point that stability in Syria and its reconstruction are extremely important international global objectives to ensure that the region remains safe and stable, stemming the flow of refugees and asylum seekers to the United Kingdom. I will refer his comments to the appropriate Minister, but I share his objective for stability in the region, and whatever the UK Government can do to achieve that is something that we should consider.

Lord Laming (CB): My Lords, I was somewhat surprised to read that one in five of the children who entered care in this country in 2023-24 were unaccompanied asylum-seeking children. Will the Minister tell the House what special arrangements are made for these children who are particularly vulnerable?

Lord Hanson of Flint (Lab): I am grateful to the noble Lord for that question. He makes a valid point. Unaccompanied asylum-seeking children, including those from Syria, will continue to be supported by local authorities in England, Scotland and Wales and by health and social care trusts in Northern Ireland, where appropriate, in line with the statutory duties of those authorities. We are trying to ensure that, if unaccompanied children are here now, that level of safeguarding is in place, for the reasons that I know the noble Lord is committed to and which previous safeguarding measures have somewhat failed.

Lord Kirkhope of Harrogate (Con): My Lords, granting asylum is a very precious thing, and this country's reputation with regard to that is something about which we ought to be very proud. Will the Minister comment on the basis of granting asylum? Are the Government still committed, as I believe is right, to the two main principles of the 1951 refugee convention, and are they implementing them strictly and properly in the granting of asylum applications?

Lord Hanson of Flint (Lab): I say to the noble Lord yes, and I hope so. I can only be as open and fair to him as that. For the simple reason that we know what has happened in Syria, there is an assessment to be made of whether individuals wish to return to Syria or to seek asylum, and for those individuals who may seek asylum, what their status is. It is a very complex, moving situation. Therefore, in the Syrian context, the Government, along with their European partners and others, have to have a pause. I will take the points that he has made, and I hope I have answered them to his satisfaction.

Lord Davies of Gower (Con): How are the Government ensuring that those granted asylum are effectively integrated into British society? In respect of applicants, what steps are the Government taking to ensure that thorough security checks are conducted before asylum applications are approved, particularly given concerns about individuals potentially exploiting the system?

Lord Hanson of Flint (Lab): In the context of Syria, there is a pause, as I have already said to the House. In the event of individuals applying from Syria after any lifting of the pause, rigorous checks will be undertaken. One of the areas of refusal could well be if there are criminal tendencies among individuals who are applying for asylum. Those rigorous tests are in place. The noble Lord raises integration. It is important that we have integration and that people respect our cultural differences, because a lack of integration leads to potential conflict, and neither he nor I wish to see that. At the moment, in relation to this Question, for the 5,500 or so Syrian refugees who have currently applied for asylum, that decision will have to wait; no further applications will be processed, although they can be accepted, until we review that pause.

Lord Anderson of Swansea (Lab): My Lords, Syria has a turbulent past, and no one can see but darkly the future of Syria. If the promises of the new regime are honoured over a period of time, surely it will be very difficult for many to find a plausible case for asylum.

Lord Hanson of Flint (Lab): It is not for me to determine or judge whether an individual wishes to apply for asylum from their country of origin to the United Kingdom or any other country. Our job is to assess such claims against the criteria that we have about persecution and the need for refugee status to be granted. There may be individuals who, in a future Syria, feel that they need to seek asylum from that regime—I do not know. That would be for those individuals to determine and apply, and for this Government to adjudicate accordingly.

Lord Purvis of Tweed (LD): My Lords, the Government of Syria are a proscribed terrorist organisation under British law. The Minister suggested, if I heard him correctly, that the pause will be in place until there is clarity about a permanent, stable Government of Syria, which may not be for a considerable time. Given that we have already seen instances of the persecution of women in Syria in certain geographical regions, I hope that the Home Office is not making a decision now that Syria is a permanently safe country.

Lord Hanson of Flint (Lab): I assure the noble Lord that people can still apply for asylum from Syria; what they cannot do is have a decision. There is nothing to stop people applying, but they cannot have a decision. That is because we need to review the situation in Syria, partly for the reasons the noble Lord has mentioned and partly because we need to look at the long-term situation in Syria. There may be individuals who currently have applications and who wish to return, and there is

[Lord Hanson of Flint]
a mechanism for them to apply for support from the UK Government to cease their applications and return. There may be other individuals who wish to leave Syria for a range of reasons. This is not a unilateral action by the UK Government; it is one that is supported by Austria, Belgium, France and other European countries, and the pause has the support of the United Nations Refugee Agency. It is a serious assessment of the situation, and I hope the noble Lord will bear with us until we can resolve that.

Baroness Manzoor (Con): My Lords, if I may, I will build on the question asked by the noble Baroness, Lady Hamwee, regarding asylum-seeking children. Of course there is protection, but I really want to better understand the number of children who have gone missing from our institutions and what the Government are putting in place to safeguard them.

Lord Hanson of Flint (Lab): I do not wish to, and am not trying to, make a political point, but when we came in on 4 July last year we discovered that there were approximately 90 unaccompanied children still missing. One of the first priorities of the Government is to try to find out what has happened to those 90 children who we were told, on 4 July, had gone missing. We are trying to track down those unaccompanied children. To go back to the point made by the noble Lord, Lord Laming, we are trying to beef up the arrangements to ensure that local authorities and health trusts, and indeed the Government, know about unaccompanied children, be they from Syria, in the context of this Question, or not, so that the safeguarding process can be put in place.

Future Homes Standard

Question

3.26 pm

Asked by ***Baroness Hayman***

To ask His Majesty's Government what plans they have to introduce the Future Homes Standard to ensure that new homes are energy efficient.

Baroness Hayman (CB): My Lords, I beg leave to ask the Question standing in my name on the Order Paper and I declare my interest as chair of Peers for the Planet.

The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government (Baroness Taylor of Stevenage) (Lab): I thank the noble Baroness for her Question and for all the work that she does on environmental issues. The Future Homes Standard consultation, setting out proposals for new energy efficiency standards, closed last year. We received over 2,000 responses and we are carefully considering the feedback received. I do understand that the space caused by the election has caused more delay than we had hoped for, and the frustration and the need for creating some certainty here about what we are going to do going ahead. But we will publish our government response to the consultation and lay the associated legislation later this year. Those new standards will effectively preclude the use of gas boilers in future new-build homes and ensure they become zero carbon as the electricity grid fully decarbonises, without the need for any retrofitting.

Baroness Hayman (CB): I am grateful to the Minister for that response. The bit I picked out was "later this year". We are in January and, as she acknowledged, we have been waiting a long time for this. So I encourage her to have a government response to the consultation as soon as possible. Does she agree that the abandoning of energy efficiency standards that took place a decade ago has caused great damage to many people and has caused great costs to householders, and indeed to the Treasury for the support it had to give during the energy crisis? When the Government do respond to the consultation, will they ensure that the standards set are aimed at providing the lowest possible bills for householders and will avoid their need, to which she referred, for retrofitting?

Baroness Taylor of Stevenage (Lab): I agree that we need to move on as quickly as possible with all of this, for three key reasons. We need to make sure that bills are kept as low as possible, particularly for those in fuel poverty who we are very conscious of, and the move to clean energy will help us with that. We also need to think about our energy security and we need to continue the drive towards net zero. I appreciate the frustration in delivering this, and when I say "later this year", I want to reassure the noble Baroness that we are working with our colleagues in DESNZ as quickly as possible to deliver this, to set homes and buildings on a path away from the use of fossil fuels and to future-proof homes with low-carbon heating and high levels of building fabric standards, ensuring that they do not require any retrofitting to become zero carbon. We are working very hard on that and it is my mission to deliver that as quickly as possible.

Lord Geddes (Con): My Lords, this is not the first time that I have asked this question: could the Minister advise why it is not mandatory for new-build homes to have at least solar or photovoltaic panels on their roofs?

Baroness Taylor of Stevenage (Lab): I just want to say that we do understand the effectiveness of solar panels in providing a direct and sustainable way to harness renewable energy and to allow homes to generate their own electricity, as well as offering the significant savings that will help with fuel bills. It is my absolute intention that the new building regulation standards that will be introduced this year will encourage the use of rooftop solar panels. I am working very fast with my honourable friend Minister Fahnbulleh to drive this forward as quickly as possible. We need to confirm the technical detail of the standards and we will share more details of them as soon as we are able.

Baroness Ritchie of Downpatrick (Lab): My Lords, does my noble friend the Minister agree that, by being ambitious here, we have the opportunity to drive

growth in renewable sectors such as the heat pump sector while also delivering homes that will be fit for the future, both for the cold that we expect and the excessively warmer temperatures that are now becoming more normal?

Baroness Taylor of Stevenage (Lab): My noble friend is quite right that, as we set out in our *Plan for Change*, our growth agenda and our drive towards net zero are not exclusive: there is no conflict between them. I see three major opportunities for us here: great jobs, training, skills and apprenticeships for our young people, both in construction and in retrofitting; manufacturing capability for technology such as heat pumps, solar and maybe many new aspects of that; and building on our country's fantastic reputation for innovation as we develop the green technologies of the future. These things are totally compatible with our growth agenda.

The Lord Bishop of Manchester: My Lords, I declare my interest as chair of a housing association. Housing associations are a key provider of homes for those who can least afford high energy bills. What support will there be for housing associations when they are bidding for grants to subsidise the properties they are building? It does cost that bit extra, maybe £5,000 or £6,000 per home, to build to the standards that we need to.

Baroness Taylor of Stevenage (Lab): I understand the issue; in fact, I met the National Housing Federation just last week to discuss these issues. We want to drive forward the delivery of affordable housing, particularly social housing, and we recognise the costs that will make. We will be considering, once we have set the standard, what that cost might be and what further support we might offer.

Lord Foster of Bath (LD): My Lords—

Lord Deben (Con): My Lords—

Captain of the Honourable Corps of Gentlemen-at-Arms and Chief Whip (Lord Kennedy of Southwark) (Lab Co-op): Let us hear from the Lib Dem Benches first—then we will hear from the noble Lord.

Lord Foster of Bath (LD): My Lords, high energy efficiency in new homes is clearly vital, but so is improving the home energy efficiency of existing homes, particularly the 2.6 million substandard homes in the privately rented sector. While the promised consultation is welcome, what plans do the Government have to speed up the retrofit programme to meet the target for 2030? In particular, what plans do they have to improve the situation whereby we have very few people currently available to do the necessary work?

Baroness Taylor of Stevenage (Lab): There were two clear points there. One is about the training, apprenticeships and skills that we need to deliver in order to meet the retrofitting programme. We are working with colleagues in the Department for Education on that. We know there is a big challenge across the construction sector, first, to deliver 1.5 million new homes but also, secondly, in the retrofitting area. We are determined to meet that challenge and offer the new jobs that I spoke about earlier.

The noble Lord spoke about the private rented sector. Next week we will be introducing the renters' rights Bill. There are significant new powers in that Bill for tenants to challenge their landlords when they feel that the improvements their homes need are not being dealt with as quickly as they should be. We continue to monitor that situation, because it is important that people can have homes that are fit for purpose and are warm, decent and comfortable.

Lord Deben (Con): My Lords, when we finally get the new homes standard, will the Minister ensure that it comes into operation immediately and does not take about five years to roll out, as the previous ones have? Will she also take up with the companies which build houses that, since 2017, they have built 1.5 million houses that are not fit for the future, taken the profits and left the people who have bought those houses to meet the costs of retrofitting? Is it not a scandal? Should there not be a fund which they give to that can repay the people who have bought these houses, so that they can do what needs to be done to them?

Baroness Taylor of Stevenage (Lab): The noble Lord makes some very important points. I have a lot of sympathy with what he says about how we take this forward. I think I was very clear in what I said: the intention of our Government is to make sure that there will be no further retrofitting needed when new homes are built. They will be built to the standard we set as soon as that standard comes into being. The discussions I have had with the construction industry lead me to believe that it is waiting for that standard and will be ready for it as soon as we are able to set it. I hope that will be the case. I will take the other ideas the noble Lord put forward back to my department.

Baroness Scott of Bybrook (Con): My Lords, it was my understanding that this Government had said that rented properties must achieve at least an EPC rating of C by 2030, but I thank the Minister for correcting me on this. However, many listed properties cannot achieve this without substantial investment, which many private landlords simply cannot afford. This will only push more landlords to sell up, further restricting an already strained rental market. What assessment have His Majesty's Government made on the impact of these new requirements and the impact they will have on the number of rental properties available?

Baroness Taylor of Stevenage (Lab): Just to clarify, we are in consultation at the moment on the new EPC framework, which will require all properties to have an EPC registration of C. I will report to the House later on that issue. In relation to historic buildings, I have met the Historic Houses association and visited at least one historic property to try to discover for myself what the real issues are. There is further work to be done on that, but I am aware of all the issues related to the retrofitting of historic properties.

Embassy of China: Proposed New Site

Question

3.37 pm

Asked by ***Lord Jackson of Peterborough***

To ask His Majesty's Government why Ministers have reportedly intervened to support the proposal to convert the former Royal Mint building into a new site for the embassy of China.

The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office (Baroness Chapman of Darlington) (Lab): My Lords, national security is the first duty of government and it has been our core priority throughout this process. That is why the Foreign Secretary and the Home Secretary submitted a letter to the Planning Inspectorate on 14 January. That letter is clear that we have considered the breadth of national security issues and that, for China to be permitted to build the new embassy, we want to see the implementation of suitable national security mitigations.

Lord Jackson of Peterborough (Con): My Lords, the Metropolitan Police and Tower Hamlets Council quite properly both objected to the former Royal Mint being developed into a new site for the Chinese embassy—the largest in Europe. As the Minister will know, the planning application is due to be heard at a public inquiry after a call-in next month. However, these objections were conveniently withdrawn after senior Ministers, including the Prime Minister, met senior members of the Chinese politburo at the end of last year. Can the Minister tell the House which Ministers directly intervened prior to the sending of the letter to the statutory consultees, why they did that and when? What purpose had they to intervene in this local planning issue?

Baroness Chapman of Darlington (Lab): I am slightly surprised that the noble Lord takes that view. I know that he has a background in local government and in planning, but he also has a background in strongly supporting the former Foreign Secretary and Prime Minister, Boris Johnson. It was Boris Johnson who wrote to the Government of China: "Consent is hereby given for the Royal Mint Court London to be deemed as diplomatic premises for the use as the chancery of the embassy of the People's Republic of China in London".

Lord Purvis of Tweed (LD): My Lords, the scale of the application is surely relevant, given the national security considerations the Minister announced. This Government have announced two elements of our relationship with China: the China audit, and the live consideration as to whether China should be designated for enhancement under the national security legislation because of political interference. Can the Minister reassure me that no planning decisions will be made in advance of these two pieces of work—the China audit and the consideration of China's status under our national security legislation—being presented to Parliament?

Baroness Chapman of Darlington (Lab): As many noble Lords who have experience of the planning process will understand, this is a quasi-judicial process. It is right that the Home Secretary and the Foreign Secretary have submitted letters outlining their thoughts on this. These will be considered in the usual way by the inspectorate. This is an open process; other noble Lords and interested parties will be able to make representations.

Lord Hayward (Con): My Lords, the Minister responded by not answering the question put to her as to why Cabinet Ministers wrote the letter that they did without noting the submission from the Metropolitan Police, let alone the one from Tower Hamlets Council. Can the Minister clarify why Cabinet Ministers wrote as they did, disregarding the advice from the Metropolitan Police?

Baroness Chapman of Darlington (Lab): That is not correct. The Home Secretary and the Foreign Secretary wrote expressing their consideration of national security issues, which they would like to be taken into account by the Planning Inspectorate. The Met withdrew its concerns of its own accord. I understand that the officers at Tower Hamlets Council recommended approval but the elected members decided that they did not wish to approve the application, as they had every right to do.

Lord McDonald of Salford (CB): My Lords, as the noble Lord, Lord Jackson, pointed out, the proposed new embassy would be the biggest Chinese embassy in Europe. Are His Majesty's Government persuaded that China needs such a very large embassy in the United Kingdom?

Baroness Chapman of Darlington (Lab): Noble Lords might be interested to understand that the Government of China have seven different locations around London although, of course, they have only one embassy. In the future, these sites could well be in one place, which would make it a very large embassy but China is a considerably large country with considerable interests. We want to develop our relationship with China. We want to co-operate, compete and challenge as appropriate but, more than that, to be consistent in our approach. We think that is the best way to raise the issues we have diplomatically and to tackle the growth challenge, as well as the climate challenge that we wish to see addressed.

Lord Hannan of Kingsclere (Con): My Lords, when the Chancellor of the Exchequer came back from her recent visit to China, she boasted about having got £600 million of investment over 10 years. This is about what our bloated government spends every 12.5 hours. If that is all that the Chinese are ponying up, why do they need such a big embassy?

Baroness Chapman of Darlington (Lab): It is not for me to say how much real estate another Government might wish to have as their presence in London. As I just pointed out, at the moment they have seven locations here. Some consolidation is clearly desirable, as I think we can all appreciate.

Lord Spellar (Lab): My Lords, is it not a fact that diplomatic relations are about the conduct of our international relations with countries and do not imply approval or disapproval one way or the other? Right around the world, big countries have big embassies. China is a big country. That is just a fact.

Baroness Chapman of Darlington (Lab): I have so many jokes about size in my head at the moment—I am not going to go there. I note what my noble friend says. I do not think it is any surprise that China would want to have a substantial presence in London.

Baroness Foster of Aghadrumsee (Non-Afl): Will the Minister confirm that if planning conditions are put on this new embassy, compliance with them will be sought? In Belfast, we had breaches of planning regulations with the Chinese consulate, yet they claimed diplomatic immunity and did not comply with those planning regulations.

Baroness Chapman of Darlington (Lab): It is very important that any conditions that might be imposed are complied with. The noble Baroness is absolutely right to make that point.

Lord Stirrup (CB): My Lords, the Minister said that the Government want a consistent approach to China. China certainly has a consistent approach, which is that the strategic intentions of the Chinese Communist Party trump everything. Will the Minister reassure the House that, in seeking to co-operate with China, as she said, the Government will bear in mind that everything the Chinese do—including in terms of trade, economic links and all the rest of it—is essentially underpinned by the Chinese Communist Party's intention to rewrite the rules of the international order in its own interests?

Baroness Chapman of Darlington (Lab): The noble and gallant Lord is right that I said we want to co-operate with China, but we will also challenge China where we need to. We disagree on several issues, not least the treatment of the Uighur people and the imprisonment of Jimmy Lai, to name just two. We think that by having a straightforward diplomatic relationship with China, we are better able to raise those issues about which we disagree.

Lord Callanan (Con): My Lords, what consultations took place with the local community and relevant stakeholders regarding the security, logistical and cultural implications of this proposed development before they decided to intervene?

Baroness Chapman of Darlington (Lab): A calling-in is a normal part of the planning process, as many noble Lords will understand because they, like me, have served in local government. There is always an opportunity for the local community to make its views known. That is encouraged and it is right that it happens; it has also happened in this case.

Lord Sahota (Lab): My Lords, it is a well-known fact that foreign embassies' workers do not pay their parking fines. Are all the Chinese diplomats paying their fines in London?

Baroness Chapman of Darlington (Lab): This is a long-standing issue. I remember seeing the noble Lord, Lord Ahmad, do 10 minutes on this very topic, during which he said not very much at all. We know that it is an issue and we raise it as appropriate. I expect that we will continue to raise it in the months to come.

Lord Kirkhope of Harrogate (Con): My Lords, regardless of the point about the embassy and its location, today is the Chinese New Year—the Year of the Snake. Would the Minister therefore join us in congratulating Chinese citizens, but also all those in this country of Chinese extraction, on a happy new year?

Baroness Chapman of Darlington (Lab): That is a very good suggestion. I am happy to join the noble Lord and others in wishing everyone a happy Chinese New Year and Year of the Snake.

Ministry for Poverty Prevention Bill [HL]

First Reading

3.49 pm

A Bill to make provision for establishing a new government Ministry, the Ministry for Poverty Prevention; to make provision for the objectives and powers of that Ministry; to make provision that the Ministry can only be abolished or combined with another department by an Act of Parliament; to make provision for reporting requirements on the Ministry's work; to make provision for a power to create binding poverty reduction targets; to make provision for a reporting system for all government spending in relation to poverty; and for connected purposes.

Lord Bird (CB): My Lords, I draw Members' attention to the register. I work in what is called the poverty industry.

The Bill was introduced by Lord Bird, read a first time and ordered to be printed.

Royal Albert Hall Bill [HL]

Third Reading

3.50 pm

Amendment

Moved by ***Lord Hodgson of Astley Abbotts***

After Clause 4, insert the following new Clause—

"Restrictions on powers to exclude members

(1) No power exercisable under section 4 has effect unless—

(a) it is approved by a sub-committee of the council of which the independent members of the council will form a majority; and

(b) an undertaking has been given by all members who are trustees that any tickets for seats received from the exercise of the power to alter the number of events from which seat holders are excluded must only be sold by the trustee or relatives of the trustee through a ticket return scheme operated or approved by the Corporation.

(2) In this section "relative" means in relation to any person any of the following—

(a) that person's spouse;

(b) that person's civil partner;

(c) any brother, sister, aunt or uncle of that person or of that person's spouse or civil partner;

(d) any lineal descendant of that person or of a person mentioned in paragraphs (a) to (c).

(3) In this section "trustee" means a member of the Council of the Corporation of the Hall of Arts and Sciences."

Member's explanatory statement

This is to ensure that any power to exclude members from the Hall can only be exercised when approved by a sub-committee of which the independent members of the council form a majority and that any tickets for seats received as a result of the changes proposed in the Bill may only be sold through a ticket return scheme. This is because of the potential conflict of interest of the charity's trustees. In the absence of this provision those seat holders, who are also trustees and so control the Hall, are able to resell tickets made available to them through third party websites at above the face value of the tickets.

Lord Hodgson of Astley Abbotts (Con): My Lords, I am very grateful to the noble and learned Lord, Lord Etherton, the noble Lord, Lord Bassam of Brighton, and the noble Baroness, Lady Barker, for putting their names to this amendment, as well as to a number of other noble Lords from across the House who signed the circular distributed to all Members of the House explaining the background to it. It will not have escaped the attention of your Lordships' House that each of the signatories is from a different party grouping. I want to make it clear at the outset that there is no party-political angle to this issue. The amendment is about compliance with charity law.

Before I go any further, I need to clear up one extraneous matter of a personal nature, which I expected would be raised by the promoters, who have done so in a carefully worded paragraph XVI of the additional briefing that they have circulated. The opening sentence reads:

"The Hall expresses regret that the amendment is aligned with an agenda pursued by a disaffected President of some 14 years ago … He has waged a campaign against the Hall".

The disaffected president is called Richard Lyttelton, and it has been a long-standing objective of some of the defenders of the status quo at the Royal Albert Hall to attempt to discredit and undermine my work by alleging that I am a close friend of the Lyttelton family and merely a mouthpiece for Richard Lyttelton.

The facts are these: over 50 years ago—not 15, 50—I was a friend of Richard Lyttelton's elder brother, Johnny. Johnny was six or seven years older than Richard—a significant gap when you are in your 20s—and I had no dealings with him then. My friendship with Johnny regrettably came to an end when, as a result of ill health, he went to live permanently in Spain and died early, in his 60s, sadly. Forty years passed without my having any contact with the Lyttelton family. It was only about a dozen years ago, when I undertook the official review of the Charities Act for the Government and learned about the interplay between the Attorney-General and the Charity Commission, and, subsequently, its implications for the Royal Albert Hall, that I came across Richard Lyttelton again.

Do I agree with some of what Richard Lyttelton says? Yes, I do. Do I agree with everything he says? I do not. Am I his mouthpiece? Do not be ridiculous. If I were, is it really likely that I could persuade my three co-signatories—three eminent and experienced Members of your Lordships' House—to join me on a personal crusade? I am afraid this is an example of how the hall is quick to kick up any amount of sand—personal sand, if necessary—when it becomes worried that the daylight may be let in on its governance structure.

Before I leave the point, I want to make it clear, as I am sitting beside my noble friend Lord Harrington, that I am sure he played no part in the drafting of that paragraph. I absolve him of any responsibility for it. He has no part in what I regard as a rather shabby exercise.

With that, to horse. There are two important features. I make it clear that this is not—I repeat, not—an attack on the hall. The hall is an iconic institution, home to many celebrated moments in our national cultural calendar. Further, it does not seek to change the entitlements of seat-holders who are not members of the hall's governing body. It seeks to take a small step to partially address the fundamental conflict of interest that lies at the heart of the governance of the hall. I will briefly explain.

The construction of the Royal Albert Hall in Victorian times was funded by public subscription. In return for funds, individuals were allocated seats on, in effect, a freehold basis—a 999-year lease coterminous with the lease of the hall itself. They were free to make use of the seats as they wished. About 1,250, one-quarter of the 5,000 seats in the hall, were allocated in this way. They included some of the best seats in the house. The hall is governed by a 24-person council, of whom 19 must be seat-holders and one of whom must be the chairman. So some 80% of the body that controls the hall are seat-holders.

This was a purely commercial arrangement and continued as such for a century. But three decisions changed the terms of trade completely. First, and most importantly, in 1967 the hall applied to become, and became, a registered charity. This altered its fundamental position. Charitable status brings benefits. It brings relief from VAT, gift aid on donations and the advantage of a registered charity number. But it also imposes obligations. Notably, it imposes a public benefit objective and, importantly, a requirement that trustees of registered charities must not take decisions in their role as trustee that benefit them personally.

The second important development took place at around the same time. As the number of commercial lettings increased, it became clear that seat-holders would not want to attend every concert. The hall established what has become known as the ticket return scheme—TRS—so that seat-holders who did not wish to use their tickets for an event could pass them back to the hall box office and they would be sold at face value less a handling charge.

The third and final change came about with the dawn of the internet. Some seat-holders decided it would be much more profitable to sell the seats they did not want to use, not via the TRS to the hall box office, but on the open market via such websites as Ticketmaster and viagogo. Members of the House can go and check on the websites this afternoon what seats are available from the Royal Albert Hall. If Members of your Lordships' House were seeking to go to the Last Night of the Proms, for at least the last three years they would have paid between £1,000 and £1,200 for each £100 ticket.

For pop concerts, the numbers have been much larger and reached a high point with an Ed Sheeran concert, where a £200 concert ticket was offered at £5,000. Ed Sheeran's management team wrote to the Albert Hall asking it to circulate a note to all seat-holders deploring this practice and explaining how it made it impossible for an ordinary Ed Sheeran fan to attend his concerts. How much money the seat-holders make each year, as noble Lords would imagine, is a carefully guarded secret. But we do know—this is a public matter—that in a recent sale a box of 10 seats was offered for £3 million. That is £300,000 per seat. Remember, this is a charity.

For a little detail, not all seats for all concerts are available to seat-holders. Promoters of events will wish to exclude seat-holders so that the promoter receives the revenue resulting from the sale of that quarter of the seats owned by seat-holders, which otherwise would accrue to the seat-holder personally—not the promoter or the hall itself. By contrast, seat-holders will want to maximise the number of concerts for which they will be included, particularly where the event in question may be commercially high-profile and therefore any resale of seats would potentially be highly profitable.

4 pm

It will not escape the notice of your Lordships' House that it is the council, 80% of whose members are seat-holders, that ultimately decides the split between inclusive and exclusive lettings. At present, that split is governed by Section 14 of the Royal Albert Hall Act 1966. It is admittedly complex, and the promoters of this Bill wish to give the council more freedom. Clause 4 of the Bill before us achieves this by allowing the council, or not fewer than 20 members, to propose changes. These changes have, in turn, to be approved at a meeting of seat-holders by three-quarters of those present or voting by proxy. It is, as put in the explanatory notes circulated by the hall, a permissive amendment.

My amendment would insert a new clause in the Bill. It does not in any way impact the rights of seat-holders generally. However, if you are a seat-holder and a trustee—a member of council—you are in a special position because of your ultimate decision-making power. If the council decides that it needs more freedom in setting the balance between inclusive and exclusive lets, so be it, but the use of this power needs to pass two further tests. First, any changes proposed under the new provisions need to be approved by a sub-committee of the board of which independent members form a majority. This is provided for in proposed subsection (1)(a). Secondly, as regards seat-holding trustees or council members—or their families—any tickets resulting from the use of the power can be sold back only through the hall box office via the TRS. They cannot be sold in the open market. The trustee will then get back the face value of the ticket but will not be able to make potentially super-profits—super-profits which will have arisen as a result of the decisions for which they were ultimately responsible. That is the purpose of proposed subsection (1)(b).

Finally, private Bills undergo a special procedure involving outside examination. First, the Attorney-General in the last Conservative Government—this Bill began its proceedings before the general election—whose letter of 18 April has been circulated, said:

> "It is widely acknowledged that the constitution of the Corporation … gives rise to a potential conflict of interest between the private interests of seat-holding trustees and the corporation's charitable objects … I therefore regard the bill as a missed opportunity to effect meaningful change".

Secondly, the report of the cross-party group of Peers, Members of your Lordships' House, chaired in this case by the noble and learned Baroness, Lady Hale of Richmond, concluded in paragraph 12:

> "The Royal Albert Hall plays an iconic part in the life of the nation and there is a strong public interest in ensuring that its governance arrangements are consistent with its charitable status".

Finally, and most importantly, the chief executive of the Charity Commission, the sector regulator, wrote to me on 10 January—that letter has also been circulated—stating:

> "I am supportive of the principle underlying the proposed amendment—to address the potential conflicts of interest insofar as they relate to the exercise of the new power in Clause 4".

To conclude, there is nothing sinister in what is proposed in this amendment. It does not attack the hall itself; it does not attack the rights of seat-holders; it does not even prevent seat-holding trustees receiving the face value of their tickets via the TRS. It merely begins a process or bringing the governance of the hall into line with modern charity law. I beg to move.

Lord Etherton (CB): My Lords, I rise to support this amendment, to which I have added my name. There are four fundamental legal principles which show the need for this amendment and why it should be supported by the Members of the House. Section 1 of the Charities Act 2011 states:

> "For the purposes … of England and Wales, 'charity' means an institution which … is established for charitable purposes only"—

the emphasis there is "only". Before that well-established proposition of law was incorporated in statute, lawyers would refer to the need for the institution, if it is to be a charity, to be wholly and exclusively charitable.

Secondly, Section 2 of the Charities Act 2011 says that a charitable purpose is a purpose which is "for the public benefit". Sadly, the present position does not satisfy these two fundamental requirements, because the management structure of the Royal Albert Hall enables a sizeable group of seat-holders, which as we have just heard amount to the owners of some 25% of the seats in the hall—and they are the best seats—to potentially earn huge private profits for themselves from the performance of the charitable objects of the hall.

[LORD ETHERTON]

We all wish the Royal Albert Hall to be a thriving charity, enjoying all the fiscal benefits of charitable status. To maintain that status, however, requires, for the reasons I have briefly summarised, a radical change in the management of the hall so that it becomes, to all intents and purposes, a corporation wholly and exclusively charitable, operating solely for the public benefit. That is enough to warrant the amendment now being considered, but the matter goes further and concerns the legality of the role of the seat-holder council members.

The members of the Albert Hall council are charity trustees because they have

"the general control and management of the administration"

of the hall. That is the test laid down in Section 177 of the Charities Act 2011. As charity trustees, they are in the same fiduciary position as any other trustees: they must exercise their powers in good faith and as would most likely further the purposes of the hall. Their powers must be exercised for the purpose of advancing, directly or indirectly, the public benefit.

Furthermore, in accordance with the ordinary principles relating to fiduciaries, each member of the council, as a charity trustee, is not permitted to put themselves in a position where their interests and their duty conflict or may conflict. The majority of the council members of the hall are seat-holders, who face an obvious actual or potential conflict of interest and duty in exercising their powers under Clause 4. These are the reasons why the amendment introducing a committee, the majority of whose members are not seat-holders, to state whether it approves or disapproves of decisions by the council under Clause 4 is not only desirable but essential for maintaining the charitable status of the hall and the observance by the council member seat-holders of their legal duties.

Lord Bassam of Brighton (Lab): My Lords, I am more than happy to be a co-signatory to this amendment. In agreeing with it, I want to make it plain that I bear the Royal Albert Hall, an iconic national and international institution, no malice or ill will. Who among us has not been to the Royal Albert Hall to enjoy its performances? I think I first went there at the age of 17, when I watched a rock band where the principal singer and flautist stood on one leg. They were called Jethro Tull; some noble Lords may have seen them. My family's link with the Royal Albert Hall is not just that; my mother must have attended some 20 remembrance services on the trot, as a proud servant of the Royal British Legion, in her finery and uniform.

This amendment gets to the heart of the issue. It deals directly with the conflict of interest which the noble Lord, Lord Hodgson of Astley Abbotts, has so expertly outlined. To his great credit, he has fought this fight for a very long time and has brought a group of us together in support of his position. It is a scam and an outrage that the current situation persists. So far as I am concerned, I might describe it, indelicately, as an operation which involves ticket touting for posh people—certainly, very rich people.

We need to sort this out because it is wrong. It excludes ordinary members of the public from enjoying the benefits and delights of the Royal Albert Hall, because the tickets that then go on sale from the box owners are at a premium price. The noble Lord has given one very good example concerning Ed Sheeran. That is not right. Those tickets should be returned to the institution itself and go on sale to the general public, so that they can enjoy the pleasures the hall provides.

The other point is simply this: the Royal Albert Hall itself derives no benefit from those ticket sales, and that cannot be right. That hall, like any other, requires upkeep, maintenance and conservation, and it is a very expensive venue to preserve. I would like to think that, at the end of this process, ticket sales will make a direct contribution to the preservation of what is a fine institution. With those few comments, I am more than happy to support the amendment.

The noble Lord has clearly outlined the Charity Commission's and the former Attorney-General's position on this issue. We have also been given the benefit of advice from the House of Lords Special Committee. So I invite others to join the noble Lord, Lord Hodgson of Astley Abbotts, in the Division Lobby to vote "Content" and support his amendment.

Baroness Barker (LD): My Lords, I apologise for being momentarily late, and point out that I have to chair the Grand Committee at 5.15 pm, so I hope that our deliberations will have concluded by then. I also declare my interests as set out in the register: I own a management consultancy that specialises in advising charities about governance, management and strategy.

This debate has taken me back to two weeks in my life when I enabled groups of trustees to set up trading companies at a moment's notice, because the Inland Revenue had suddenly discovered that various Age Concern shops were selling balls of wool to pensioners for the grand profit of a penny a ball. We probably made a total of about £20,000 over the whole country, but it got the guys at the Inland Revenue very excited at the time, and we had to change our approach.

I say that because every charity in the land, bar this one, that has a formal relationship with a company has to declare it. If it is a sufficiently close and significant relationship, it has to produce group accounts. The whole purpose of that is to show the interactions and the transfer of assets between the charity and the company, in order that members of the public can be sure that charitable assets are not being abused for private gain—every other charity but this one.

What we have heard already in the speeches so far, which I will not repeat, is that, because of historical accident, this charity is now at risk of being abused for private gain. A few years ago, the Charity Commission attempted to head off that situation by proposing a governance structure that would address the conflicts of interest as set out by the noble and learned Lord, Lord Etherton. The Royal Albert Hall's response has been not just to ignore that, but to compound in the Bill it has introduced the very problem that has been drawn to its attention. Therefore, we would be wrong to pass the Bill without this amendment, which seeks in a very modest way simply to do what other charities have to do as a matter of law.

The then Attorney-General's decision not to back the Charity Commission in its attempt to bring the Royal Albert Hall into line with the rest of the charitable

sector was wrong. Along with a number of other noble Lords, I happen to be a member of the Select Committee that looked a few years ago at the updating of charity law. We noted that the position of the Attorney-General on charity law was under some question, partly because of this case but also because of others. That is quite a serious thing. It is a very arcane part of law—but that is one of the things this House does rather well. We should be prepared to return to the question of the role of the Attorney-General in charity law.

4.15 pm

Finally, we should not only pass this very moderate amendment but keep the operation of the Royal Albert Hall under scrutiny. If it continues to display the rather contemptuous stance it has shown so far, we should be prepared to back the Charity Commission in any further action it deems appropriate in order to uphold charity law for everybody.

Baroness Stowell of Beeston (Con): My Lords, before I turn to the amendment moved by my noble friend Lord Hodgson, which I support—and I commend him for the comprehensive way in which he introduced it—I want to make a few brief remarks about public expectations of the charity sector more generally.

When I became chair of the Charity Commission in 2018, public trust in charities was at an all-time low. Here, I should reassure the House that I am no longer the chair of the Charity Commission and have not been for the last four years. At that time, we carried out extensive research and learnt that public distrust in the sector more broadly was driven by some very serious scandals in the preceding years among some of the higher-profile large charities.

We also discovered that, for many people, charities had become another group of institutions that disappointed them, because they no longer reflected in their behaviour or operation what people expected of or associated with charitable endeavour, or indeed what it meant to be on the register as a charity. This was serious, because it was having a detrimental effect on donations; and, in turn, when donations go down, charities' capacity to deliver public benefit is understandably affected.

It also became apparent from our work that to remedy the situation, the emphasis for the charity sector—particularly among the high-profile charities with which we are all familiar—was on demonstrating that how they fulfilled their charitable purposes was in line with people's expectations of charitable endeavour. If they did that, it would benefit the charity sector as a whole; it is a bit like collective responsibility for the "brand" that the sector relies on and that gives people confidence. Of course, different charities might have responded in different ways to that kind of effort, but I am just putting that out there by way of context.

For some 15 years—long before my arrival at the commission—the Royal Albert Hall and the Charity Commission had been in discussions to resolve the anomaly of its governance that my noble friend described, which allows its trustees potentially to gain personally while they are members of the charity board. The amendment put forward by my noble friend is very limited and as he said—it is important to emphasise this—it does not in any way fetter any seat-holder's property rights. It simply brings the Royal Albert Hall trustee board in line with other charity trustee boards.

I will not rehearse the history of the ongoing discussion between the hall and the commission, because I did that at Second Reading, but I will repeat my point that it was surprising to me—and takes some audacity from the hall's trustees—that they brought forward a private Bill to change some of its governance without addressing the issue which is so important and has remained unresolved for so long. In today's modern world, the public rightly expect transparency and accountability from public institutions that exist in their name and enjoy tax breaks and reliefs at their expense. If those same institutions resist meeting the public's expectations, they put their own standing in jeopardy and, in the case of charities, risk damaging the sector as a whole.

The Royal Albert Hall is a fantastic venue with a proud history. It is associated with so many national moments and lots of personal memories too. Accepting this amendment will not harm the institution; it will be to its benefit and to the credit of its trustees.

Baroness Hale of Richmond (CB): My Lords, I am grateful to the noble Lord, Lord Hodgson, for moving this amendment and for having had the skill to devise an amendment within the scope of the Bill.

I would be failing in my duty if I did not draw your Lordships' attention to the special report that was, very unusually, produced by the Select Committee on the Bill, on which served the noble Baronesses, Lady Fairhead and Lady Hayter of Kentish Town, and the noble Lords, Lord German and Lord Naseby, and which I had the honour of chairing, as the noble Lord, Lord Hodgson, has already referred to. We were all deeply shocked by the impasse which had been reached in relation to the governance of the hall. As we know, the hall is a charity, yet its governance is largely in the hands of the seat-holders, who have a direct financial interest in the running of the hall. This, as we have heard, is wrong in principle, but the hall is understandably fiercely resistant, as we have also heard, to any changes which would risk jeopardising the relationship that seat-holders have with the hall.

The Charity Commission, as we have heard, wished to impose a scheme upon the hall, and proposed to make a reference to the charity tribunal. It comes as something of a surprise that such references require the consent of the Attorney-General. Under the previous Administration, two Attorneys-General refused that consent. Nevertheless, a third Attorney-General, in her report to our committee, expressed her disappointment that the Bill was a missed opportunity to effect meaningful change to the governance of the hall.

Of course, there was nothing the committee could do; we could deal only with what was in front of us, and this House can make only amendments which fall within the scope of whatever Bill the hall chooses to promote. That is why I have congratulated the noble Lord, Lord Hodgson, on his ingenuity in devising something which, however limited, is within scope. It is noteworthy that the promoters of the Bill removed another clause which would have brought the governance of the hall into even more prominence.

[Baroness Hale of Richmond]

I hope that the House will take note of the report, regret the impasse which has been reached, and perhaps express the hope that the Charity Commission will try again and that, this time, the current Attorney-General—for whom I have the greatest of respect—will not stand in its way. None of this, of course, is a reason to deny either the Third Reading or the amendment which the noble Lord has proposed.

Baroness Fraser of Craigmaddie (Con): My Lords, I add my support to the work of my noble friend Lord Hodgson and add my name to the list of the hall's fervent supporters. As others have said, it has been a beacon for over 150 years, and we all want to see it flourish for another 150. I believe we all agree that the hall needs a Bill. It currently relies on operating practices, memoranda and guidelines that may or may not have a legal basis. As the briefing circulated to some of my colleagues by the noble Lord, Lord Moynihan of Chelsea, states, the Bill's primary purpose is to address these risks by putting current practice on to a clear and proper legal footing.

The amendment we are debating in the name of my noble friend—which, I note, is widely supported across the House—is not a wrecking amendment. It does not interfere with any of this, inserting, as it would, a new clause after Clause 4. I too pay tribute to my noble friend for getting an amendment that is within the scope of the Bill and proportionate. It simply addresses a potential conflict of interest—nobody is saying that terrible practices are happening, but there is a potential conflict, which troubles us—of charity trustees and members of the council who are able to gain financially from the decisions they take as to the running of the charity. It does not affect the rights of seat-holders who are not council members—who can still sell their Ed Sheeran tickets for many thousands of pounds if they are not a member of the council—and it does not prevent seat-holders being members of the council. It simply addresses the perceived conflict of interest issue that has, frankly, plagued the governance of the hall for far too long.

As other noble Lords have pointed out, in 1967 the hall chose to become a charity, yet it remains an outlier in charity governance and good practice. Such a conflict of interest would simply not be acceptable in any other charity. As we have heard, this is a matter of concern for the Charity Commission but, because of the peculiar nature of the hall, the Charity Commission has been unable to address it. It is very disappointing that members of the council do not seem to wish to address it in the Bill or at any other opportunity.

Being a charity trustee—I declare an interest as I run a charity and have sat on the board of the Scottish Charity Regulator—comes with clear expectations. It is a bit like it is for all of us, as public servants, with the Nolan principles: it is not good enough just to have integrity; you must be seen to have integrity. The Charity Commission has clear published guidance on conflicts of interest for trustees: you have to declare the conflict; consider removing it; and, if you cannot remove it, you must manage it, and you must record it. The commission considers conflicts to be serious where a majority of trustees have a conflict and/or when decisions involve significant money or risk and there is a conflict. As a charity, the governance of the Hall, with its majority of trustees or members of the council being seat-holders, is firmly in this space. This is what my noble friend's amendment is trying to address within the scope of the Bill.

I apologise, as I will now get a bit technical. Although ownership of seats initially provided access to all events at the hall, the charity's constitution, as amended in the 1966 Act, says that it can exclude seat-holders for up to 75 days per year for events other than a concert, recital or boxing or wrestling event, for 12 further days for any event, and for one-third of a series of six or more events which are consecutive and substantially the same. In giving evidence to the noble Baroness's Select Committee on the Bill, the president of the council confirmed that the latest exclusion list stood at more than 100 days and 120 events, which, as he said, helped the charity to attract

"high-end artists who might not otherwise come to the Hall".

The Council of the Royal Albert Hall decides which events will give seat-holders the right to receive tickets, which can then be resold on the open market, potentially at a significantly higher price than the face value. The trustees bring that proposal on which events to exclude to the AGM, and the proposal is voted on by members and passes with a simple 50% majority. This amendment aims to ensure that those council members who take the decisions each year, and any connected persons, must ensure that any tickets they do not use are sold through the ticket return scheme or suchlike—a scheme from which, I point out, they are still not losing out financially from, as all seat-holders are compensated for the excluded events.

However—this is really technical—I have one fear. In my noble friend's amendment, proposed new subsection (1)(b) refers to

"the power to alter the number of events from which seat holders are excluded".

My question is, "to alter from what"? If it is the number of events laid down in the 1966 Act, which is being altered each year in practice according to the proposal laid down by the trustees at the AGM, is there a danger that we are not in practice going to achieve our aims of ensuring that those with financial control over the charity are excluded from gaining from the decisions they make? By this wording, would the requirement for trustees to sell through the ticket returns scheme be triggered only if they varied the number of excluded events from that which is laid down in the 1966 Act? If so, is this a loophole that we can close?

4.30 pm

I absolutely support the proposal that the decisions on which events will and will not be excluded are taken by a sub-committee, and that any tickets received as a result of changes proposed in the Bill may only be sold through a ticket return scheme perhaps does not go far enough, but I understand that we are constrained by the scope. What we are all trying to achieve is a solution where any seat-holder who is also a trustee is required to sell any seats they do not wish to use exclusively through the hall's scheme while they are also a member of the council and a charity trustee.

Only through such a provision would we clarify the currently murky situation where trustees of a charity should not obtain financial benefit.

This is a live and very key issue to resolve. I have mentioned the challenges my noble friend and colleagues had in tabling the amendment. I think it was finally tabled on 9 January. In *Third Sector* news on 13 January, it was reported that three seat-holders had filed a claim at the High Court for an injunction that would prevent the hall denying them access to their seats for longer than is permitted in its constitution. These seat-holders are also claiming damages plus interest and costs.

That these issues remain so convoluted and unresolved is damaging the ability of the charity to attract philanthropic support. As I know well, the fundraising climate for all charities is absolutely brutal. There is too little funding and too few philanthropists, trusts and foundations for too many good causes. Therefore, having even one iota of suspicion that your governance practices are not up to standard, or a whiff of an accusation that trustees could personally make money from the activities of the charity, will deter funders.

I support this amendment wholeheartedly, as it is seeking to address this. I worry that the Bill fails to clarify the situation sufficiently and that inadvertently we might revert to the provisions of the 1966 Act. But, if the Albert Hall chooses and wishes to remain a charity, it must act like one. This amendment is a very small step on the road to reforming the governing practices of the organisation so that it is line with what is expected from the 170,000-plus registered charities in England and Wales. The Royal Albert Hall cannot be allowed to remain an exception to the rules.

Lord Carrington of Fulham (Con): My Lords—

Noble Lords: Front Bench!

Lord Carrington of Fulham (Con): If noble Lords will forgive me, I am probably a fairly isolated member of your Lordships' House in opposing this amendment. If the Front Benches will forgive me, I think somebody at least ought to speak on the other side of the debate that has happened so far.

I do not have a registered interest in the Albert Hall. I do not own a seat. I am not a member of any body involved in the Albert Hall. My own interest in it is purely that I live very close to the Albert Hall—as do many other local residents in that part of Westminster. My real interest is to ensure that the Albert Hall is run properly: that the building is maintained properly, that the security around the building is properly assessed and implemented and that crowd control is put in place in such a way so as not to harm the residents round about.

All of those things happen at the moment. The Albert Hall is very well maintained. As we have heard, it has a wide range of very successful events: pop concerts, classical concerts, sporting events, charitable events and private events such as the degree-giving ceremonies for universities. It is a very well-run body.

It is unquestionably true that, as a Parliament, we would not have set up the Acts which govern the Royal Albert Hall in the way that they were set up in 1867. It is a very odd and possibly unique institution in the way it is set up by an Act of Parliament, subsequently amended by further Acts of Parliament down the ages to reflect progress, time and changes in custom. We have to remember that it was set up at a time when those who are of a literary bent will know that Anthony Trollope was writing a very good book on corruption in the City of London called *The Way We Live Now*. Well, you can draw parallels to the Act that set up the Royal Albert Hall in the way it was done.

The way it was done was very straightforward. They decided to build the Albert Hall on the back of the Great Exhibition. Their ambition went way beyond their financial resources and the hall was in the process of going bust, so they decided that the only way to cope with this, because Mr Gladstone was certainly not prepared to put money in to bail it out, was to sell seats in perpetuity for 999 years from around 1867 to 1870. And that is where we are. The seats do not belong to the Royal Albert Hall, they belong to the seat-holders. We would change that; we would consider that to be the wrong way of doing it, but that is the way the Acts of Parliament are worded, and if that is going to be changed, we need a proper piece of legislation to change it.

That brings me on to my noble friend's amendment, which I think is trying to address an issue that is more theoretical than it is practical. I say that because the Albert Hall, while it is a charity—and it gets financial benefits from being a charity, as we have heard, on rates and VAT and so on—is a commercial operation of an entertainment venue and it has to make a profit. The way it makes a profit is by getting people to come and use the hall to put on events, which it does extremely successfully. It makes a profit; it washes its face; it does not get any money from the taxpayer; it runs a commercial entity.

We can all object, perhaps, to the way that some parts of it are run, but it is run well and there are internal procedures in place to ensure that the perceived interests of the seat-holders on the council cannot influence who is going to book the hall. But it is not just internal procedures that stop it; it is the commercial reality. I have the figures. Some 1,268 seats out of 5,272 in the hall are owned by seat-holders. If you are trying to fill 5,000 seats in the hall, you have to get commercial sponsors of entertainment who are going to put on very large events to attract very large audiences. It is much bigger than most other venues in London. The way to do it, if you are running an event like that, is to maximise seat sales and sell every seat in the venue.

What happens at the Albert Hall is that to attract major concerts—the rock concerts that the noble Lord, Lord Bassam, attended in the past—it has to make sure that seat-holders, who, as I say, represent 24% of the seats but 46% of the high-priced seats, have no right to attend that concert. It happens at the moment because it could not attract the promoters of the major pop concerts unless it did.

I think my noble friend's amendment is unnecessary at this stage. I think it also runs into the problem that unquestionably the Royal Albert Hall would withdraw this Bill if that amendment was passed. As we have heard, this Bill is to try to increase the number of

[Lord Carrington of Fulham]
events that it can put on without seat-holders having the right to attend. It is also designed to stop some seat-holders taking the Royal Albert Hall to court because it is currently acting outside its existing legislation.

I hope that we do not accept this amendment. I hope that we pass the Bill because I am very keen to ensure that the Albert Hall carries on running as it does now, regardless of whether in the future we come back to review the whole structure and ownership of seats of the Albert Hall, but that would take primary legislation in this House to do, and it should not be done by a, frankly, cobbled-together amendment to the Bill. My interest is purely to ensure that the Albert Hall is run properly and profitably, is not a burden on the taxpayer and, above everything else, is a pleasant neighbour to people such as me who live close to it.

Lord Moynihan of Chelsea (Con): My Lords, I support the Bill but oppose the amendment, which would undermine the Royal Albert Hall, its finances and, indeed, its future. I declare my conflict of interest as a seat-holder at the Royal Albert Hall and as having previously worked unpaid on its council for seven years, for four of them as president of the hall. Noble Lords trust each other to behave impeccably with regard to such conflicts, and I hope they will trust me similarly. In the case of the conflict of interest at the Royal Albert Hall's council that the amendment seeks to address, it is again precisely of a type that we deal with every day in this House, and it is dealt with there, just as this House deals with its own conflicts. When president, I instituted a conflict of interest committee whose members are non-conflicted trustees. They meet after every council meeting at the hall to ensure that there has been full compliance with the hall's ethics code. Noble Lords will understand that that is a more rigorous process than our own House sees necessary to apply to itself. That conflict committee has not once expressed concern about how council members have behaved at any meeting.

The entire governance set-up, including this inherent conflict of interest, was approved by Queen Victoria herself, who stated that she believed that the recently deceased Prince Albert, after whom the hall is named, would have approved of it. It was initially presided over by the then Prince of Wales. When he resigned as president, his successor was the then Duke of Edinburgh. The governance structure then and since is precisely what has led to the hall's great success. Had Simon Rattle attempted to build a modern concert hall in London under the same structure, it is likely he would have succeeded and we would have another great concert hall in this capital city of ours, but he sought government funding instead and has now abandoned the attempt.

Misunderstanding was created and repeated at Second Reading and again now, originating from a petition that misread the purpose of the Bill. The misinformation about the hall I have heard today would take me far longer to correct than your Lordships' patience would ever allow. For example, the petition asserted that the petitioner resigned from the hall's presidency

"because he had serious concerns about the way the Hall was being run".

That is not so. He left because he was asked to leave by his own council after a no-confidence vote, due to his rudeness both to them and to seat-holders. There is talk of "sustained public criticism" of the administration of the hall, but that criticism sprang mostly from that one individual. It is hard to see how the allegations can have force when opinion polls show the hall to be Britain's, and the world's, best-loved concert venue.

4.45 pm

The hall did not reach that position by accident. It did not randomly become the only major such venue in London free of needing a £20 million annual top-up from the Arts Council. The five other top venues in London are chewing up a total of £100 million a year—money that could, for example, be spent on the arts in the regions instead. The hall reached its enviable position precisely because of its governance structure. It is odd that an amendment should be put before this House to try to undermine that governance, away from the current successful model towards the kind of governance model that, on extensive evidence, would seem incapable of making a modern, large concert venue financially successful or so universally popular.

In a document he circulated, my noble friend Lord Hodgson talked about throwing up sand; he seems to be an expert on this. He entirely misrepresents the role of seat-holders at the hall. Is he saying that Lord Bamford and Sir Jim Ratcliffe, the two most recent purchasers of the large boxes that he mentions, are in there to profiteer? No—it is a trophy asset, which you may or may not like, but people certainly do not buy them to make money. Nowhere did my noble friend even suggest that those Ed Sheeran tickets were anything to do with a seat-holder, he just said they were for sale. The numerous errors could have been corrected by the hall, had my noble friend checked with it.

The hall asked my noble friend for a list of who the document had been sent to—many of your Lordships will have received it—so that it could send the other side of the argument. My noble friend Lord Hodgson unhelpfully—in fact, bafflingly—replied that he had no record of who he had emailed his document to, so there will be noble Lords sitting here today who have seen only one side of the argument. Noble Lords giving the other side of the argument could have had a different understanding.

The noble and learned Baroness, Lady Hale, equally seems to have been uninterested in hearing both sides in the Bill Committee. She allowed—

Noble Lords: Shame!

Lord Moynihan of Chelsea (Con): If noble Lords will hear the end of my sentence, they might understand why I caught that impression. The Bill Committee allowed someone with no locus standi to address the committee for half an hour, and then refused to allow the hall's representative to present the other side—

Baroness in Waiting/Government Whip (Baroness Anderson of Stoke-on-Trent) (Lab): My Lords, I remind all Members of your Lordships' House that we are to be comradely—

although that is probably not the appropriate language. The use of language and how we refer to each other is very important, especially when it comes to being accurate.

Baroness Hayter of Kentish Town (Lab): My Lords, I was not going to speak because the noble and learned Baroness, Lady Hale, did much better than I could in explaining what we did on the committee. But I have to note that on the night before we met, having prepared for this for some weeks beforehand, the Royal Albert Hall tried to get me to recuse myself on the allegation of something that had happened 10 years ago: that somebody had praised me on a website. The night before, the hall thought I should stand down from the committee. That is how the Albert Hall dealt with us as a committee. We did not hear from the people whom we then decided did not have locus standi. Therefore, I hope the noble Lord will withdraw what he just said about our committee.

Lord Moynihan of Chelsea (Con): I express my regret to the noble Baroness for any inadvertent inappropriate language, but I repeat that an individual who it was agreed had no locus standi was allowed to speak for half an hour before the Bill Committee, and then the Royal Albert Hall was refused permission to put its own side of the story.

Baroness Hayter of Kentish Town (Lab): I am really sorry, but I do not think we can allow that to be said. Maybe it would be better for the chair of the Committee to say this, but I do not think an allegation like that, which is so inaccurate, can be made.

Baroness Hale of Richmond (CB): My Lords, I did not expect to have to answer that sort of accusation. The Select Committee was formed because there was a petition against the Bill from three people. The hall objected to the locus standi of the petitioners, and we heard both sides of that. That was when we heard from the petitioner. He was allowed to make his case for having locus standi. The hall was allowed to make its case that he did not have locus standi and nor did the others, and we determined that they did not have locus standi. Nevertheless, the hall went on at enormous length to address us on the virtue of its current arrangements. Because of what we learned as a result, we decided that the situation—the impasse—was sufficiently troubling to draw to the attention of the House. That is all. We certainly heard both sides of the story. I have to say, having spent decades of my life as a serving judge whose job it was to hear both sides of the story, I have been particularly upset by the noble Lord's accusation.

Lord Moynihan of Chelsea (Con): I regret any upset that I may have caused the noble and learned Baroness. Recollections may vary.

I have not completed my speech. As we have heard from my noble friend Lady Stowell, the Charity Commission also wishes to hijack this Bill. However, the commission has the power to intervene directly if it believes there is a problem but has declined to do so. The Bill is straightforward and simple, seeking to regularise an informal arrangement, already prevalent for many years, whereby seat-holders voluntarily vacate their seats for scores of shows each year. The hall's executives—not, as has been alleged, the seat-holders—choose which shows they vacate.

The charity benefits by millions of pounds a year from this and other voluntary benefits ceded by seat-holders. The hall's financial success has happened precisely during the recent period in which the disaffected individual has waged his campaign against it, but the new money allows the charity at last to spend the needed up to £10 million a year to upgrade its vast Victorian grade 1 listed building.

The hall has now spent 10 years trying to get this Bill passed, eight of them in persuading the Charity Commission to give permission to proceed. It is now essential that the Bill be passed, precisely because of those disaffected three seat-holders that the noble Baroness, Lady Fraser, mentioned, who are taking the hall to the High Court in a bid to ban the transfer of benefit from seat-holders to the charity. If the High Court agrees with them, the charity will lose millions from its annual surplus. I am cutting out most of the rest of my speech and am about to finish.

Baroness Anderson of Stoke-on-Trent (Lab): My Lords, I ask the noble Lord to bring his speech to an end. Because of the length of the interventions I tried to give additional leeway, but we are now exceeding our time and I would be grateful if he could bring his speech to an end.

Lord Moynihan of Chelsea (Con): I will do my best; I have just a little bit left. As president of the Royal Albert Hall, I think the House deserves to hear from me, as against the many who did not know.

I and so many current seat-holders have, over many years, put our hearts into making the hall and the charity a renowned success. It has been anguishing for all the hall's members to watch misunderstanding and misinformation about the hall and its governance gain currency in this noble House. I have made an overall loss in income—not a profit—over the 30 years I have owned my seats. I made a profit for the very first time last year, partly because I spent so many evenings in this House, and I paid tax on it, of course. Many other seat-holders are the same. I feel sad that seat-holders and trustees are being so misrepresented and traduced.

I beseech noble Lords to reject this unworkable, impractical, misconceived, unreasonable, wrecking amendment and to pass the Bill unamended. Unless that is done, the Royal Albert Hall could end up badly damaged—something that this House has in its hands to prevent.

The Earl of Effingham (Con): My Lords, I thank my noble friend Lord Harrington of Watford for sponsoring this Bill on behalf of the Corporation of the Hall of Arts and Sciences. He has done a tremendous job during the passage of the Bill as it worked its way through the various stages in your Lordships' House. I also thank other noble Lords who have been involved with the Bill, notably my noble friend Lord Hodgson of Astley Abbotts, the noble and learned Lord, Lord Etherton, the noble Lord, Lord Bassam of Brighton, and the noble Baroness, Lady Barker, who have all put their name to the amendment that has been tabled.

[The Earl of Effingham]

The Royal Albert Hall is a great British institution. It has hosted the world's most celebrated and famous musicians, performers and speakers since it opened on 29 March 1871. It has seen monumental figures such as Winston Churchill, cultural icons such as Dame Shirley Bassey, and sporting events such as Britain's first indoor marathon. It is not just the historical significance of the hall that makes it so special. To this very day, it continues to highlight the best talent from across the world. Only this week, it has hosted events ranging from classical coffee mornings to late night jazz and even "Barbie The Movie: in Concert".

As we have just heard, all noble Lords understand and appreciate this but it is apparent that there are differences of opinion regarding the governance and ownership arrangements of the hall. When this Bill came before your Lordships' House for Second Reading, the government response was given by my noble friend Lord Parkinson of Whitley Bay, who sends his apologies for not being in his place. He set out then that the Government do not customarily take a position on private Bills. Of course, the roles are now reversed: we are on this side of your Lordships' House as His Majesty's Official Opposition and the responsibility for responding on behalf of the Government is taken by the Minister. Although we no longer respond on behalf of His Majesty's Government, we do not believe that it is our place to take a firm stance one way or the other.

Many important points have been raised by noble Lords and other parties on both sides of this debate. We note that some noble Lords, such as my noble friend Lord Hodgson of Astley Abbotts, have concerns regarding the potential for a conflict of interest for the trustees of the corporation, owning, as they do, seats in the hall as their private property. It is an understandable objection that this arrangement conflicts with modern charity law, as has been noted by the Charity Commission and noble Lords. These concerns are reflected in the amendment to the Bill in my noble friend's name and I am pleased that noble Lords have had the opportunity to discuss this in further detail.

We also understand the position of the corporation and the trustees. They face the unenviable situation of having to come to Parliament with a Bill whenever they wish to alter their administrative and managerial affairs. This is, of course, due to the corporation's unfortunate entanglement with Parliament by virtue of its foundation by an Act of Parliament. I believe that my noble friend Lord Harrington of Watford will address both sides of the debate, and I am confident that we will be able to resolve the matters at hand in, I hope, a constructive and collaborative fashion that will be for the benefit of both the hall and all those people who enjoy its contributions to our national cultural life.

5 pm

The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport (Baroness Twycross) (Lab): My Lords, I thank all noble Lords who have taken part in the debate. In particular, I thank the noble Lord, Lord Hodgson of Astley Abbotts, the noble and learned Lord, Lord Etherton, the noble Baroness, Lady Barker, and my noble friend Lord Bassam of Brighton for the debate which their amendment has generated. I also thank the noble Lord, Lord Harrington, in advance. As the government-appointed trustee at the Royal Albert Hall, he has the task of bringing this matter before us today. We look forward to hearing from the noble Lord. I also thank other noble Lords, including the noble and learned Baroness, Lady Hale, for leading the work of the Select Committee.

As somebody who has been the head of governance for a national charity, I have a geekish interest in all things to do with charity law, so I have found doing the prep work for this debate absolutely fascinating. As the noble Lord, Lord Hodgson, and pretty much every other noble Lord who has spoken has made clear, it is important to note that the Royal Albert Hall is an iconic building. As the noble Baroness, Lady Stowell of Beeston, made clear, it has hosted many national moments. It hosts some of the world's leading artists from many different genres, as well being the home of the BBC Proms, which have been held there every summer since 1941. It truly is an iconic venue, both nationally and internationally, and one that holds a place in all our hearts. Noble Lords can be united on that point, even if there were differences of opinion on other points in the debate.

The hall is still used for a range of events. While I have never seen Jethro Tull, either in the Royal Albert Hall or elsewhere, my own experience of the Royal Albert Hall has been as diverse as seeing my niece and goddaughter play at various events for schools, which give children and young people the opportunity to play in an incredible venue, as well as attending classical concerts and watching the remarkable Cirque du Soleil.

I will make one point before coming to a rapid conclusion. The noble Lord, Lord Hodgson, mentioned seats being sold at inflated prices. Noble Lords will be clear that this is an issue of concern to the Government. At the moment, as part of our live event ticket resale consultation, we are consulting on a range of measures, including introducing a price cap on the resale of tickets for live events. The consultation invites views on the most suitable level for a price cap on ticket resales, ranging from the original price to an uplift of up to 30% on that price to cover admin costs.

In relation to whether this consultation could fix the perceived conflict of interest, the measure proposed in the consultation would clamp down on unfair practices in ticketing, making tickets easier to buy and cheaper on the secondary market. It is not aimed primarily at addressing wider issues relating to charitable law.

The Government recognise that a number of your Lordships tabled this amendment due to concerns about the potential conflict between the private interests of seat-holding trustees and the hall's charitable objectives. This point was clearly made by the noble Lords, Lord Hodgson, the noble and learned Lord, Lord Etherton, my noble friend Lord Bassam, the noble Baronesses, Lady Barker, Lady Stowell of Beeston and Lady Fraser of Craigmaddie, and the noble and learned Baroness, Lady Hale.

It is important to note the speeches against the amendment made by the noble Lords, Lord Carrington of Fulham and Lord Moynihan of Chelsea. In the

Government's view, it is regrettable that these matters relating to the conflict of interest inherent in the hall's governance model have not been resolved prior to the introduction of this Bill. However, as the noble Earl, Lord Effingham, made clear, the Government do not generally take a position on Private Bills unless they contain measures which would contravene public policy. The same can be said of amendments to Private Bills. In our view, the Royal Albert Hall Bill does not contain any provision that contravenes public policy, and neither does this amendment. Therefore, respecting the tradition of Private Bills that come before this House, the Government will remain neutral on the amendment.

Lord Harrington of Watford (Non-Afl): My Lords, I do not know quite what to say. I will try to keep my comments brief, because I do not want to incur the wrath of the noble Baroness, Lady Anderson, telling me to keep quiet. I shall try to be as brief as I can, but this is a serious matter to me.

I am here because I am a trustee of the Royal Albert Hall. As the noble Baroness, Lady Twycross, said, I was appointed to that job by DCMS. I am not a seat-holder. I have put in my registered interests that I am a trustee of the Royal Albert Hall, and am very proud to be one. When I took on that job, I was very cynical about the governance of the hall. I would like to think that I am an experienced trustee of charities—not in a professional sense, but I have been on the board of quite a few—and am fully aware of fiduciary duties and the responsibilities of a charitable trustee.

I have changed my mind about this because of my experience of what actually happens at the hall. If noble Lords will bear with me, I will explain why I have reached the conclusion that the measures which my noble friend Lord Hodgson and others have outlined in the amendment are not really necessary. I should also thank the noble Lords, Lord Carrington and Lord Moynihan of Chelsea, for speaking on behalf of the substantive Bill and opposing the amendment. For the sake of time—and the noble Baroness, Lady Anderson —I will not repeat those arguments.

I think most Members of the House are aware that the reason this Bill has come forward is not to do with governance: the aim is to regularise what is happening on an annual basis, where a significant number of seats are given by the trustees to the benefit of the hall through an arrangement on exclusives, which has been challenged, as my noble friend Lord Carrington mentioned in his speech. It has also been mentioned that there is a High Court action at the moment by three members who are trying to stop this. So the intentions of the Bill, I think it is generally agreed, are correct. It seems absurd that, in an organisation such as the Royal Albert Hall, this has to be done by an Act of Parliament, but that is because of its history and I thank noble Lords for their patience with that.

The members have the ability to sell their tickets as they wish, because they effectively own a property. For historical reasons, they own it and are entitled to do what they like with it. This is not a question of reselling tickets for profit, because I think it is mutually agreed that, as property owners, they are entitled to do this. So, first, what do they do to contribute to the charity? They pay what is known as a seat rate annually. I suppose it is akin to a service charge in a block of flats or something like that. Secondly, they forgo the right to attend many events, so their tickets are available for public sale. This is done annually by a vote, as mentioned during this debate, but it is open to legal challenge, hence we have the Bill.

The scope of the Bill does not include reform of the hall's governance. It is a Private Bill and, basically, Private Bills have to be founded by a promoter who proves the need for this measure. This does it, and as the promoter—I have never been called a promoter in my life before, but for this purpose I am representing one—I say that we do not believe there is a need for a constitutional review, and, if there is, this is not the place to do it.

I would like to thank the noble and learned Baroness, Lady Hale, for the work that her committee did. Having read it carefully, I feel that everybody was given a fair hearing and would like to put that on the record. I listened to my noble friend Lord Hodgson—I use the words correctly in this case—very carefully and I would like your Lordships to consider the amendment in three ways.

First, what merit does it claim to have? Merit is important in these things. Everyone, not least the hall's trustees themselves, understands that there is, without any question, a conflict of interest for some of the trustees who own seats themselves. No one is in denial about that. The question is not whether they are allowed, with their private interest as a trustee, to do what they want with their own property, but whether this impinges on their duties and performance as a trustee.

My noble friend was very gracious, as was everybody else, in saying that the hall is a great national institution, but his argument was, basically, that it is a great national institution in spite of the trustees. I would say it is a great national institution because of their dedication to the cause of the charity and the financial sacrifice they are prepared to make for the benefit of charities.

Conflicts are accepted. The question is: how are those conflicts dealt with? With transparency, is the answer. Obviously, there are several trustees, including me, who are not conflicted in any way, but there is a conflicts policy and a committee to scrutinise conflicts that is made up of non-conflicting trustees, which I am part of. There is no denial that there are conflicts, but they are dealt with effectively by a committee of independent trustees, and it works in practice. I have seen no examples of abuse. I have never been asked about this by my noble friend or by anybody else and I have never been given specific cases—other than the fact that some trustees are able to sell their tickets—or told that they have done anything to skew their decisions as a trustee in their own personal favour. If, for example, I had heard trustees lobby to keep their tickets for the most expensive concerts and not put them in for the common good, that would be clearly incorrect. I state on the record that I have experienced no possible example of that. I would say so if I had.

Secondly, does a Bill such as this, as drafted, achieve its intended purpose? The answer becomes quite technical. The amendment is founded on the belief that a resolution by the hall's members to award the exclusives to the hall amounts to them doing something for themselves. Noble Lords have argued that Clause 4 will allow members

[Lord Harrington of Watford]
and trustees to manipulate for their own benefit, but the hall does not award anything to the members; the members would give tickets over for charitable benefits. They cannot sell them through the ticket return scheme, as these are not resale tickets—they own them.

Finally, what impact will this amendment have if it is passed? I would argue that, if it is passed, and if the hall does not continue with the Bill, the hall will be between a rock and a hard place and in difficulty either way. At the moment, all seat-holders give up about 25% of their tickets, which they will not have to. The chief executive has calculated that the benefit of that to the hall is about £1.5 million per year. That makes a material difference to the quality of the events, the programme, and everything that can be put on, because the promoters of those events want, as has been mentioned by the noble Lord, Lord Moynihan of Chelsea, them to be available for the common good, and they need all 5,000 tickets.

All we are really doing in the Bill is ensuring that what is currently done is put into a legal capacity, so that it cannot be challenged by members. I would sum it up with the cliché: if it ain't broke, don't mend it. You could use that argument for this House—if you started with a blank sheet of paper, it would probably not be designed quite in the way it is today. I am sure it would be the same if Prince Albert was able to say in those days that the Government had the money to build such a wonderful institution, but they did not, and so the hall has evolved. The hall is an extremely successful institution and it seems to work very well—I say that as an independent trustee. The conflicts are open and they are dealt with.

I do not support this amendment. I oppose it somewhat reluctantly because of my respect for my noble friend Lord Hodgson and others. It is incorrect for this Bill, which is a narrow Bill, and I implore Members not to vote for the amendment on this occasion.

5.15 pm

Lord Hodgson of Astley Abbotts (Con): My Lords, I know the House is anxious to get on, so I will be pretty quick. It is normally good manners to namecheck your supporters. I hope that those who have spoken in support of this will accept a group thank you for speaking up and supporting the amendment. I do that not because I do not value the support or to show bad manners, but because I sense that the House wants to move forward.

I will spend one minute on the speeches made opposing the amendment, because that is important. My noble friend Lady Fraser of Craigmaddie raised the question of a loophole. There may be a loophole but, assuming we pass this today, we will send it down to the House of Commons and there will be another chance to have a look at it there to see whether it achieves what the noble and learned Lord, Lord Etherton, and I have set out in the drafting.

Much of what my noble friend Lord Carrington said was not relevant to the Bill. This will not affect the running of the hall or the policing around his flat. I was grateful for the history lesson but, as is often the case, it forgot the fact that the hall became a charity. If it had gone on as it had started, we would be in a different place, but the hall chose to become a charity, and that took it into a different area of the law. You simply cannot run with the hare and hunt with the hounds. You cannot say that you want to be a commercial organisation here but a charity there and think that you can get away with it, in the year of our Lord 2025. My noble friend and, I am afraid, my noble friend Lord Harrington, have a familiar phrase: "If you don't do it, we will withdraw the Bill". That is what happens when you talk to the hall; it has always said that nothing needs doing now and, if there is something that needs doing, it will be done later. And so we go round and round on that point.

Finally, my noble friend Lord Moynihan of Chelsea made a number of assertions. He said—this is more sand in the eyes—that I had not helped in getting to the hall the names of the people to whom I had circulated the amendment. I thought this might happen, so I brought the letter with me. It is addressed to Ian McCulloch, the current chairman, and reads: "Dear Ian, thank you for this prompt follow up. I have read your briefing with interest. As regards the names of those Peers to whom I sent the briefing, I am afraid I do not have a list. Probably best if you want to ensure that no stone gets left unturned you send your briefing to every Peer". What is unhelpful about that? I am told that I was being unhelpful in sending that. That email was sent on 27 January.

I think my noble friend Lord Harrington is
The boy stood on the burning deck
Whence all but he had fled.

He has worked very hard on this, and I have enjoyed working with him on it, but he too misunderstands. We agree with the intentions of this Bill, but we say that we need some more hurdles. The hurdles are in the amendment that we have tabled, and we have been round those already. My noble friend believes that the Bill will be withdrawn, so back we go again, with no progress ever made to deal with the fundamental position that there is a conflict. We have been round and round this, year after year. I believe it is time now for the House to make up its mind, decide what it wants to do and decide whether there is a conflict. I beg leave to test the opinion of the House.

5.18 pm

Division on Lord Hodgson of Astley Abbotts's amendment.

Contents 207; Not-Contents 45.

Amendment agreed.

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The Division result was inititally reported as Contents 206; Not Contents 45. Baroness Hodgson of Abinger was initially recorded as a Teller for the Contents; this has now been corrected to Lord Hodgson of Astley Abbotts, whose name had been omitted from the list of Members who voted Content.

5.30 pm

Bill passed and sent to the Commons.

Devon and Torbay Combined County Authority Regulations 2024

Hull and East Yorkshire Combined Authority Order 2025

Greater Lincolnshire Combined County Authority Regulations 2025

Lancashire Combined County Authority Regulations 2024

Motions to Approve

5.31 pm

Moved by ***Baroness Taylor of Stevenage***

That the draft Regulations and Order laid before the House on 26 November and 4 and 11 December 2024 be approved.

Considered in Grand Committee on 27 January.

Motions agreed.

Extremism Review

Commons Urgent Question

The following Answer to an Urgent Question was given on Tuesday 28 January.

"In our manifesto, the Government set out our commitment to redoubling efforts to counter extremism, including online, to stop people being radicalised and drawn towards hateful ideologies. A number of strands of activity have been established to progress this work, which, among other things, have led to the appointment of an interim Prevent commissioner, Lord Anderson, to drive improvements. We have published plans to introduce youth diversion orders to tackle young people at risk of terrorism.

Many documents produced across government as part of commissioned work are not implemented and do not constitute government policy. This work did not recommend an expansion of the definition of extremism, and there are not and have never been any plans to do so. To be clear, the leaked documents were not current or new government policy.

As we have said repeatedly, Islamist extremism followed by far-right extremism are the biggest threats we face. Last week, the Home Secretary set out our plans to carry out an end-to-end review of Prevent thresholds on Islamist extremism, because we are concerned that the number of referrals is too low. Ideology, particularly Islamist extremism, followed by far-right extremism, continues to be at the heart of our approach to countering extremism and terrorism.

But, as the horrific Southport attack shows, we also need more action on those drawn towards mixed ideologies and violence-obsessed young people. As the Home Secretary set out in the House last week, there has been a troubling rise in the number of cases involving teenagers drawn into extremism, including Islamist extremism, far-right extremism, mixed and confused ideologies, and obsession with violence. This includes a threefold increase in under-18s investigated for involvement in terrorism. Some 162 people were referred to Prevent last year for concerns relating to school massacres. Our Five Eyes counterterror partners have also warned about the growing radicalisation of teenagers and young people.

We will continue to drive work to counter the most significant extremist threats in the weeks and months ahead, as the Home Secretary and the Prime Minister have already set out".

5.31 pm

Lord Davies of Gower (Con): My Lords, we must, of course, remain resolute in protecting our democratic values and the security of our nation. As the horrific attack in Southport has shown, the evolving nature of threats requires us to remain vigilant. However, I urge caution against diluting the focus of counterterrorism efforts. Islamists and far-right extremism remain the most pressing dangers; shifting attention to behaviours devoid of clear ideological intent risks overstretching our already pressured security services. Will the Minister commit to retaining the changes to non-crime hate incidents made by the last Government? Does he agree that the police should not be looking into matters or recording personal data where there is no imminent risk of criminality? To do so would waste police time and infringe freedom of speech.

The Minister of State, Home Office (Lord Hanson of Flint) (Lab): This Answer arises because of the leak of a document. I just want to place on record what was said in the Answer by my right honourable friend the Home Secretary and my honourable friend the Minister of State for Security. The leaked documents were not current or new government policy.

With regard to the incidents of hate crime that the noble Lord, Lord Davies of Gower, mentioned, I say to him again that if he thinks back, I am sure he will remember that this Government have said, on a number of occasions to date, that there was a review of non-recordable hate crime incidents where we have now asked the National Police Chiefs' Council to look at those incidents to try to ensure that we reduce the use of non-crime hate incidents and focus on what should be the case in relation to the original intention of non-crime hate incidents.

The noble Lord also mentioned the focus of the Answer and policy as being extremism in relation to Islamist extremism and extreme right-wing neo-Nazi extremism. I can assure him that that is the case. That is the Government's main focus. However, we have asked the interim Prevent commissioner, the noble Lord, Lord Anderson of Ipswich, to review where we are with Prevent legislation in the light of the incident—terrible that it was—in Southport. There is also a request on the table for the independent reviewer of terrorism legislation to look at whether terrorism legislation needs to be reviewed in the light of not just the recent incident but others as a whole.

I reassure the noble Lord that any changes in policy brought forward by the Government will be presented in this House in a way in which they can be understood, debated and accepted by both Houses of Parliament.

I reiterate that this was a leaked document. We do not normally comment on leaks, except in this case to say that it is not government policy.

Lord Scriven (LD): My Lords, it is very pleasing to hear the Minister's answers. Clearly, the review, even though it was a leak, was not coming up with the right answers; the Home Secretary has made a similar point. One of the key issues to getting this right is proper, early and deep engagement of the communities which will be affected across the length of the country. What will the Government do to ensure that communities are deeply engaged right from the outset of any review or strategies that are required, and that they feel ownership of these, rather than that they were forced upon them?

Lord Hanson of Flint (Lab): The noble Lord, Lord Scriven, makes a very important point. Rather like policing generally, it is important that any aspect of legislation or policy relating to prevention of terrorism, or understanding and taking action on extremism, has the support of the community for which it is designed and which it serves. Embedded in what we do will be discussion and consultation on the way forward.

My right honourable friend the Home Secretary determined that we needed to have a quick sprint on terrorism legislation. The leaked document was part of that sprint but was not government policy. The examinations of both Prevent and terrorism legislation are ongoing. At the moment, the Government's commitment is that the two main focuses of our policy have to be extreme Islamist action and extreme neo-Nazi right-wing action.

Lord Godson (Con): My Lords, I declare an interest as director of Policy Exchange, and I had the pleasure of publishing this document which cast an important light on government policy. I welcome the Minister's reaffirmation of Islamism and far-right extremism as the highest priorities.

In respect of the definition of extremism, both the Minister's colleagues, Mr Norris at the MHCLG and Mr Jarvis at the Home Office, have given apparently contradictory statements—first on 21 January and, secondly, Mr Jarvis on 28 January—on the disapplication of the previous Government's definition of extremism, which Mr Norris said would be disapplied. Mr Jarvis, in an Answer to a Written Question yesterday, stated that there were no plans to change the previous Government's definition of extremism policy. Can the Minister please shed some light on the matter?

Lord Hanson of Flint (Lab): Of course I can. Might I suggest to the noble Lord that the next time a leak finds its way to him, he puts it in an envelope and posts it back to the Home Office? That would be extremely helpful. I put that on the record for any noble Lord who receives in the post a document marked "Private: not yet government policy"; it is good to send it back to us.

There are no plans to change the definition of extremism, which was set out by the previous Government in March 2024. It sets down three points, which are: negating or destroying the fundamental rights and freedoms of others; undermining, overturning or replacing UK systems of liberal parliamentary democracy; or intentionally creating a permissive environment for others to achieve the results in either of the first two points. That is the definition of extremism. It has not changed, and was not going to be changed. The leaked document did not include a change and it is not government policy. I will buy the noble Lord some envelopes for the future.

Lord Carlile of Berriew (CB): Does the Minister agree that Ministers have a perfect right to reject documents that are placed before them, wherever they come from, and that this is not a matter for journalistic surprise? Does he agree that we should do nothing to dilute the considerable effectiveness of counterterrorism policing, which involves a number of authorities and public bodies? Does he also agree that Parliament and even the media should await patiently the two reports by experts in the field, to which he referred earlier, and confirm that we will then enjoy informed debate rather than wild comment?

Lord Hanson of Flint (Lab): I am grateful to the noble Lord, Lord Carlile, and I agree with all three points that he has mentioned. The key point is that Governments consider a range of advice. I give a commitment from this Dispatch Box, as my right honourable friend the Home Secretary would from the House of Commons, that when any change or development of policy is made it will be reported to this House and to the House of Commons. That is the right and proper thing to do. As for speculation on leaked documents and advice given to Ministers: Ministers decide. They receive advice, commission potential papers and deliberate on them. The two reviews we have established are designed to create debate and bring forward suggestions that Ministers will ultimately decide on. I thank the noble Lord for his comments, with which I agree, and welcome his support.

The Lord Bishop of Manchester: My Lords, I declare my interest as co-chair of the national police ethics committee. In your Lordships' House next week, we will begin Committee on the very important Terrorism (Protection of Premises) Bill. Would the Minister agree that this is a time when we have to be absolutely clear what we mean by terrorism, so that we in this House can give that Bill the clear, in-depth scrutiny it requires?

Lord Hanson of Flint (Lab): I agree, and I look forward to spending potentially several days debating that Bill with noble Lords. It is important that we have a definition of terrorism. It is currently set down in legislation. The Government have asked again for a review of that as part of the review the noble Lord, Lord Carlile, referred to, but there are no outcomes to it yet. Until it brings any outcomes, that is the definition of terrorism in place for this legislation.

Baroness Hazarika (Lab): My Lords, as part of the work that the department is doing, could the Minister look at the intersection of extremist ideology, whether that is Islamist or far right, with other important issues, such as misogyny and examples of mental health issues? Will they also look at what technology companies are doing? If you have a fragile mind and are being fed a diet of awful, grotesque violence and extreme pornography, that will contribute to these problems as well.

Lord Hanson of Flint (Lab): My noble friend mentions other sources of issues that may lead people to extremist or terrorist behaviour. The Government are cognisant of that and will not ignore that approach. However, the two main threats are from Islamist terrorism or extreme right-wing neo-Nazi terrorism, so that is where the focus of government action is. We will still examine incidents on a case-by-case basis when they arise.

On the reviews that are being undertaken, we have to learn lessons from issues such as Southport. If there are issues that need to be updated when Prevent and the terrorist legislation are reviewed then so be it. How we deal with materials placed on the net and the responsibility of tech companies for that material is one of the issues that may need to be updated in due course. Self-evidently, individuals are being radicalised in a range of ways, including in the ways my noble friend has mentioned, from Islamist, neo-Nazi and other material they have seen on the net. There is a need to ensure that we examine that new framework,

[Lord Hanson of Flint]
which was not in existence the last time I was in the Home Office 14 years ago, but which is in place now. Therefore, the Government's response needs to be cognisant of that. We will take all of those points into account and report to this House in due course, when appropriate.

ECO4 and Insulation Schemes

Statement

The following Statement was made in the House of Commons on Thursday 23 January.

"With permission, Madam Deputy Speaker, I would like to make a Statement about energy company obligation 4 and the Great British Insulation Scheme. The Government have identified an emerging issue of poor-quality solid wall insulation installed under those two inherited schemes.

Energy company obligation 4 began in April 2022, and the Great British Insulation Scheme began in May 2023. Around 65,000 households have had solid wall insulation installed under the schemes. In October 2024, TrustMark, the independent body that oversees tradespeople working in homes, did routine audits and found significant examples of solid wall insulation under those schemes that did not meet the requisite standard.

At that point, TrustMark began suspending a number of the installers responsible. After officials in our department were made aware of the issues, they asked TrustMark to conduct a much fuller audit, which concluded in mid-December. Officials informed Ministers at the start of December about the situation, and told them that early findings suggested that there were widespread cases of poor-quality installations that did not meet the required standard. Since that point, we have consulted the certification bodies responsible for overseeing the work, and the building safety regulator, to understand the true scale and nature of the emerging problem.

It became clear to me that there is a serious systemic issue around ECO4 and GBIS solid wall insulation. It ranges from minor problems, such as missing or incomplete paperwork, to major problems, such as exposed insulation or poor ventilation, which, if not fixed, could lead to damp and mould. As more poor-quality work has come to light, a total of 39 businesses have been suspended from installing new solid wall insulation in people's homes. I can inform the House that suspended installers will not be able to deliver new solid wall insulation under any government schemes until they have fulfilled their obligations to put any issues right.

Additional on-site audits are being conducted as I speak, so that we can get a full picture of the scale of the problem and identify affected households. The auditing work continues at pace, and we have put in place a comprehensive plan for immediate repair and remediation where needed. Let me be absolutely clear about this: installers must fund any repair work themselves and carry it out as soon as possible. Consumers should not be asked to pay a penny towards the cost of getting the problems fixed.

We have instructed Ofgem, the energy regulator, to oversee that work. Ofgem will work with TrustMark and certification bodies to ensure that it is delivered at speed. Non-compliant work found through the audits is already being fixed. In the very small number of cases in which TrustMark audits found health and safety concerns, including wires not being fitted properly, the problems are being fixed urgently, with the expectation that they should be resolved within 24 hours.

Critically, I reassure the House that additional monitoring and checks are being put in place to ensure that future solid wall insulation is done to the requisite standard. It is also important to say that, based on what we know so far, we believe that the issues we have discovered are specific to solid wall insulation installed under ECO4 and GBIS. Stronger systems of checks and balances are in place for other schemes that involve local authorities and social housing providers, so we do not expect to see the same scale of problem there. However, the Government are reviewing the quality of solid wall insulation under other schemes. I will update the House on the results of that work as soon as they are available. We will continue to require the urgent remediation of any issues found across all government energy-efficiency schemes.

I know that this will be concerning news for families who have had solid wall insulation fitted through those schemes. Getting this sorted for those customers is our No. 1 priority. Since I was informed of the problems, I have worked with Ofgem to develop a full plan for assessing all affected properties and getting any problems fixed. Let me set out what our plans mean for those families. Ofgem will now oversee quality checks on all solid wall insulation installed under either scheme, to identify households that might be affected. That will begin with every measure being examined over the coming weeks by qualified professionals, and that will include looking at photographic evidence. If a quality check raises issues, the certification body that oversees the installer, or TrustMark, will arrange an inspection of the property and the problem will be fixed as soon as possible. Installers will be required to provide evidence to TrustMark that issues have been properly fixed. Let me reiterate our assurance that where solid wall insulation under the schemes has not been done right, consumers should not have to pay a penny to fix that.

We are clear that the responsibility for finding and fixing any problems lies with those who carried out the work. Consumers do not need to take any action now. However, given the inevitable concern among those who have had those measures installed, all households with solid wall insulation fitted under the schemes will be sent a letter from Ofgem in the next three weeks. It will set out the steps that we are taking, and how households can proactively raise concerns. We are also setting up a GOV.UK advice page specifically for those affected.

The Government are moving fast to protect households, but I must be honest with the House: these issues are the result of years of failure in a system that must be reformed. Home upgrades are, we believe, one of the best tools to get bills down for good and deliver warm homes. That is why our warm homes plan will cut bills for millions of households by upgrading their homes,

including with solar panels, batteries, heat pumps and energy-efficiency measures such as double glazing and loft insulation. However, the Government have inherited a fragmented and confusing system of protections for people who want to insulate their homes—too many organisations with different roles and responsibilities, not enough clarity for consumers about who to turn to if things go wrong, and problems that should have been picked up earlier being missed. The system is in dire need of reform.

Installers are responsible for poor-quality installations, but they have been allowed to operate in a failed system that has left some households exposed to bad practices. The system can no longer command confidence, which is why we are committed to overhauling it, and to driving up quality and protecting consumers through the warm homes plan. We will look at the entire landscape —from how installers work in people's homes and are certified and monitored, to where home owners turn for rapid action and enforcement if things go wrong—and we will ensure that there is more of a guiding mind overseeing upgrades across the system.

The steps I have set out demonstrate that the Government will do whatever it takes to protect consumers. We will regularly report back to the House about the steps being taken. We have set up a process through which colleagues from across the House can raise concerns about their constituents. Above all, we are determined to ensure that families are never let down in this way again. We will put in place a robust system of compliance, audit and regulation, so that consumers have the confidence to take up the offer of upgrading their homes. We will do what is necessary to ensure that families can have warmer homes and lower bills. I commend this Statement to the House".

5.43 pm

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, the energy company obligation scheme and the Great British Insultation Scheme were established to improve the energy efficiency of homes—one of the best ways to cut consumer energy bills and keep people warm. This is particularly true for those experiencing fuel challenges. We took significant steps to improve the energy performance rating of homes. By the time we left office, 70% of social housing had an energy performance rating of A to C, up from 24% in 2010. In fact, almost half of the measures installed under the GBIS have been to low-income households.

The installation of solid wall insulation makes up a small proportion of the work undertaken by the ECO schemes and the Great British Insulation Scheme. It is worrying, however, that we have seen examples of substandard solid wall insulation under the schemes as identified by TrustMark.

It is with that in mind that we welcome and support the action announced by the Government last week, in which Ofgem will oversee the repairs and remediation. We are also grateful to hear of a review into the quality of solid wall insulation in other schemes and that additional on-site audits will be conducted to inform future action. It goes without saying that installers should fund the necessary repair work to remedy impacted households, which may experience issues with damp and mould.

However, we look to the Minister to provide clarity. Will the Government publish a full list of the 39 companies suspended from the scheme for carrying out poor-quality work? Can the Minister explain how the suspended companies will be required to remedy their work, and how will the Government ensure that the remedied work meets the necessary standards? Finally, will the Minister clarify exactly what action will be taken to ensure that every household which had solid wall insulation implemented under the schemes is thoroughly and properly informed and provided with the necessary information to rectify the work?

I am sure that all noble Lords in your Lordships' House can all agree that households should have warm homes that are both cheap and efficient to run.

Lord Teverson (LD): My Lords, I gather from looking at the press release more than the original Statement that 65,000 applications will be checked through Ofgem procedures. Today I met someone who is affected by this, and I want to emphasise just the worry that the 65,000 or whatever will have over the future of their houses, their saleability, their onward renting or the damages to landlords. This is a real concern.

How many of the 39 companies that the noble Baroness, Lady Bloomfield, mentioned, were part of the TrustMark scheme? That scheme, which I believe all those contractors should have been a part of, is described as "Government Endorsed Quality". What really worries me regarding future schemes—I know there is a big ambition on the part of this Government to carry on retrofitting—is that there will be a loss of confidence.

The one question I would really like an answer from the Minister on is about what I think is wishful thinking: namely, the Government's view that all these issues will be replaced or rectified by the original installers. I do not wish to accuse the department of being naive, but let us be clear: the majority building business model is that when you get into trouble, you go into liquidation. I and, I think, other people really want to understand who will then bear the cost of those rectifications where that happens, as I suspect it will quite regularly.

The Minister of State, Department for Energy Security and Net Zero (Lord Hunt of Kings Heath) (Lab): My Lords, I am grateful to the noble Baroness and the noble Lord. The noble Baroness has taken time out from Nuclear Week, which we have both been spending a very enjoyable three days on. She is absolutely right to stress the importance of the scheme. Clearly, there is consensus across the House on dealing with this big problem, as both the noble Lord and the noble Baroness suggested.

I make it clear that we have the evidence of an audit of about 1,100 of those 65,000, and there will now be a massive piece of work to follow up with further audits, which will be overseen by Ofgem. Some of those will be desk based and others will be in-person site visits. There will be a proportionality test to decide how the audits will be undertaken.

The sampling that has been done was geared towards the installers that were thought to be most risky, but the fact is that a significant proportion of that sample

[Lord Hunt of Kings Heath]
showed that there were major issues, which is why we needed to take swift action to conduct further checks and initiate a further programme of remediation. We think it is 38 installers, not 39—a correction has been made by TrustMark. To answer the noble Lord, of course they were all under the auspices of TrustMark, and we are working very hard through certification bodies and TrustMark to require them to remediate the work.

As the noble Lord pointed out, it is a requirement for those schemes to be registered with TrustMark. In the case of those already audited, this is happening. I believe most installers want to do the right thing and do a good job. My understanding is that where issues are being flagged, they are repairing the work, but clearly we are having mechanisms put in place to make sure that the installers deliver on their obligations, and the guarantee system we have acts as a backstop. Clearly, the current system is not working. There is a combination of TrustMark, the companies involved, the certification process and the UK accreditation system—there are a lot of bodies involved and there is not sufficient co-ordination or tight oversight of this. We need to focus on remediation, but then we must move on to establish a better system in future.

On whether remediation will be carried out effectively, we are going to put additional spot checks in across the system to make sure that where insulation faults have been remediated, that work has been done to the required standard. Suppliers have committed to additional checks and monitoring future installations of solid-wall insulation so that householders can be confident that it is done to a better standard. I very much agree that any householder who has learned about this issue will be concerned. They will be concerned about the impact on their home, but also about whether the remediation work will be done effectively.

In terms of information to those households, Ofgem has begun writing to all households that have had solid-wall installation installed under energy company obligation 4 or the Great British Insulation Scheme. As I said, we will be reviewing the quality of all 65,000 solid-wall insulations, and we hope that the vast majority will not have any issues or that any issues found will be minor, but if we see major concerns, we will want action to take place immediately. It is clearly important that we carry out a quality check across all solid-wall insulation under these schemes.

I want to pick up the issue of saleability raised by the noble Lord, Lord Teverson. Clearly, this will be a concern. Householders seeking to sell or perhaps remortgage their home will be worried about lenders' approach. Our expectation is that the firms that have done this shoddy work must pay for the remediation. Clearly, that must be the principle under which we operate. There is a moral hazard in my saying anything different from the Dispatch Box on that issue.

Looking further ahead, it is clear that the whole system of consumer protection is fragmented and in need of reform. In terms of our overall goal towards net zero and the massive challenge of heating efficiency in our homes, it is essential that in all these programmes the public have confidence in the quality of the installation. That is why what has been discovered has been very disappointing, but we have to take it, look at the whole system and improve it.

5.54 pm

Lord Foster of Bath (LD): My Lords, I do not for a minute doubt the Government's commitment to improving the energy efficiency of existing properties, and I know that they are well aware of the huge task that is ahead of them to meet the 2030 and 2035 targets. However, the Statement makes it very clear that yet more work will have to be done as a result of the problems described in it. Earlier today, I asked the noble Baroness, Lady Taylor, whether she could explain where the staff were going to come from to carry out this work. Now there is an additional problem to be dealt with. The noble Baroness made it very clear that the department is working closely with the Department for Education to develop solutions to this, not least through the apprenticeship scheme, but can the Minister give us a little more detail about what is actually going to arise as a result of those discussions, because many people are deeply concerned that we will not have the staff to be able to carry out the work that arises under this Statement, let alone the work that is urgently needed to improve energy efficiency in other homes?

Lord Hunt of Kings Heath (Lab): My Lords, I was privileged to be by the side of my noble friend when we had that very interesting Question, because of course, although she answered it, the future homes standard very much concerns my department as well, which is why we are working so closely together. I think that she said that not only is the skills issue very much on her agenda but that her department is working closely with the Department for Education. Of course, my department has a huge vested interest in ensuring that we deal with any skills shortages. We are very focused on the supply chain. We are supporting the sector to obtain necessary qualifications to work in government schemes through our skills competition and exploring measures to ensure that installers are getting the right skills and experience to carry out high-quality installation. Clearly, this is one issue that must arise from what has happened: why installers do not seem to be able to do the right thing.

There is much that we are going to work on, but I would say on the positive side that if ever one wanted to make a connection between the growth agenda and the charge to net zero, this is it. A huge number of skilled jobs will be there to be filled in future. Our job in government is to facilitate the training and development that need to take place to respond to that challenge.

Baroness Bennett of Manor Castle (GP): My Lords, the Minister just spoke about the possibility of a huge number of skilled jobs. He may be aware of the TUC's recommendations from last year for the Government's warm homes strategy. If we are going to train people in those skills, we have to make sure those are also good jobs. Those TUC recommendations include ensuring that these are high-quality jobs supporting direct employment, with strong procurement rules and adherence to nationally negotiated terms and conditions. One key thing we have seen in the past is that government

policies have come and gone, people have got trained up and started businesses, then the money has gone away and those people have left the industry. The TUC is recommending a multi-decade national retrofit plan. Are the Government listening to what the TUC has to say on making sure those are good jobs for skilled people?

Lord Hunt of Kings Heath (Lab): Actually, I agree with much of what the noble Baroness says. What the sector—and that includes trade unions and the people working in the sector—needs is certainty for the future. Indeed, to relate it to another low-carbon energy structure, nuclear, that is the message that we have been getting over the last three days. Obviously, we are still developing our plans and projects around the massive challenge of the decarbonisation of buildings. Clearly, we need to make sure that we provide the kind of certainty that the private sector needs to make the investment. We need to make sure that a supply chain is vibrant and that we have skilled people working in it. I should say that the whole energy industry, if I may put it that way, although it also relates to my noble friend's responsibility, offers such potential for the future. It really is an exciting time to be thinking about what we need to do to provide what the noble Baroness has just said.

Baroness Wheatcroft (CB): My Lords, the Statement says:

"We will put in place a robust system of compliance, audit and regulation, so that consumers have the confidence to take up the offer of upgrading their homes".

Can the Minister say whether he thinks this was a failure of regulation? If so, can he reassure the House that the move to regulate or not regulate so that growth can be set free will not jeopardise schemes such as this and lead to more failure?

Lord Hunt of Kings Heath (Lab): Actually, that is a very interesting question and the answer is yes. Clearly, the failure was in the hands of the companies that got the contracts to provide the services. They have been shown visibly to have failed. However, the regulatory system is a mishmash. There are too many bodies involved. There is confusion about who is responsible for what. The certification bodies can be in competition with each other. There is a risk, therefore, of a lowest common denominator approach. Clearly, we need to improve that, but what we want is not a huge amount of unnecessary bureaucracy but proportionate regulation. I think this can be done more efficiently and the public can have more confidence—and that actually is the Government's view on regulation generally.

The Earl of Lytton (CB): My Lords, the Minister has made several points that certainly chime with me. In a sense, we have been here before because of things such as electro-osmotic damp-proof courses, types of urea formaldehyde foam being put into wall cavities and, more recently, polyurethane foam being sprayed on the inside of roof slopes. All these firms seem to be task-and-finish jobs. I have been involved with this for probably nearly 50 years as a professional dealing with property and I have seen these people come and go and reappear in different guises. If one is going to have a system of regulation-lite and move to individual responsibility, I get that up to a point, but there is not the penetration to make sure that that is constantly policed and enforced, and there is only one other option that is available to prevent people operating like spivs and charlatans, if I can put it that way—that is not to say all in industry are like that, but clearly some of them are—and that is to have a regime of strict liability at director and company level, in the same way as we had with health and safety, in order that they cannot escape the liabilities anything like as quickly simply by disappearing off and becoming insolvent. Would the Minister care to comment on that?

Lord Hunt of Kings Heath (Lab): My Lords, I am grateful to the noble Lord because he speaks with such expertise in this area. In a sense I should have reflected on that in my answer to the point made by the noble Lord, Lord Teverson. I am not going to commit myself in terms of what the future is going to look like, but I will take his remarks and make sure my ministerial colleagues see them. As I said, our first task must be remediation and responding to the concerns of 65,000 people who will be very concerned. Obviously, they are going to get the letter from Ofgem; some of them are already getting it. We will then be reflecting very much on how we need to develop a more robust system.

I, too, have experience. I remember being a Minister in the Department for Work and Pensions when King's College reviewed the work of gas installers, and, again, they found a great number of problems. As a result, the whole gas regulation process was shaken up. So we have to look at these things very seriously, because the credibility of the net-zero programme and the decarbonisation of our homes depends on public trust. If we cannot gain the public's trust, they will not take the necessary action, so we really have to work hard on this.

Viscount Thurso (LD): My Lords, further to the answer the Minister gave to my noble friend Lord Foster regarding skills, I sit on the Industry and Regulators Committee and we had a very good presentation regarding the Government's skills strategy and the formation of Skills England, but there was some concern expressed as to whether sufficient weight would be given to those in the construction trades, which is where many of those who are required will come from. I hope that the Minister and his ministerial colleague will put some pressure on Skills England to make sure that those skills are given the weight they should have, because without them we will not get the benefits of growth in that industry.

Lord Hunt of Kings Heath (Lab): My Lords, I agree with the noble Viscount. I will take that away in terms of the work we are going to be doing. Within the energy sector there are some fantastic examples of industries that really have invested in skills and training. To take EDF as an example and looking at Bridgwater and Taunton College, where it has invested hugely and where the quality of education and skills training is phenomenal, I say that it is things like that I would like to see across the whole sector.

Lord Grantchester (Lab): I welcome the determination to correct this and put the situation right. I am concerned over the effect of this on public confidence in TrustMark and undertaking home improvements. Regarding retrofitting, householders used to be able to approach with confidence the charity Carbon Trust as a one-stop for advice on energy home improvements. It was extremely helpful in giving independent guidance to householders on the necessary measures for upgrading the energy efficiency of their homes. Will the Minister look at how such advice might be made available again?

Lord Hunt of Kings Heath (Lab): My Lords, I think my noble friend is hinting at whether there is a one-stop shop. The answer is no, there is not. Obviously, we have a number of agencies that provide very helpful advice, including the Energy Saving Trust, Citizens Advice and National Energy Action. In the immediate aftermath of what has happened, Ofgem, in addition to sending letters out, will have a helpline and contact details. The point the noble Lord raises is an important one and we will be looking at this as part of our review of the general arrangements.

Non-Domestic Rating (Multipliers and Private Schools) Bill

Second Reading

6.08 pm

Moved by ***Baroness Taylor of Stevenage***

That the Bill be now read a second time.

The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government (Baroness Taylor of Stevenage) (Lab): My Lords, on behalf of my noble friend Lord Khan of Burnley, I beg to move that this Bill be now read a second time, and in doing so I send my condolences to my noble friend on the death of his mother.

It is a great pleasure to open the debate on the Non-Domestic Rating (Multipliers and Private Schools) Bill. I very much welcome the interest shown by noble Lords in the matters related to this Bill and for the opportunity for both I and my noble friend Lord Khan to engage on key points of the Bill.

A few months ago, the Chancellor of the Exchequer set out our Government's first Budget: a Budget to commence a decade of renewal and deliver on the Government's primary objective of economic growth. The decisions taken in the Budget, some of them very tough, are necessary to enable the Government to deliver economic stability, restore the public finances and deliver our plan for change. It is right that the Government do not shy away from the challenge before us, doing all they can to restore our public services and give businesses the confidence and stability they need to thrive. Stability, certainty and predictability are essential to business decision-making and, while the Government cannot completely remove all the uncertainty that may arise through running a business, there are elements that are within our control.

We have heard from businesses that they have long-standing frustrations with the business rates system. They have said that it is inflexible, that it stifles investment and that it is unfairly skewed against property-intensive sectors such as the high street. The changes we are making to business rates, including through this Bill, will address those concerns.

I think noble Lords will agree that our high streets sit at the very heart of our communities. They should, and do, represent the very best of our thriving and vital community life. They are centres of economic activity so important to the economic health of our country, but they are also meeting places for vibrant communities, whether it is families enjoying a meal together, work colleagues relaxing after a hard week's work, friends shopping for a new outfit or gadget, or the multitude of other reasons that people use our town centres. The Government have committed to transforming the business rates system to make it fit for the 21st century, an endeavour that will be delivered across the course of this Parliament. That journey starts with this Bill. Through it, the Government have begun the important task of rebalancing the business rates burden faced by our high streets.

The Bill before us today seeks to enable the commitments made by the Chancellor at the Budget to introduce permanently lower tax rates for qualifying retail, hospitality and leisure properties with a rateable value below £500,000 from April 2026. This permanent intervention ends the uncertainty of the stopgap retail, hospitality and leisure relief that has been extended year on year since the Covid-19 pandemic. That relief was always intended to be a temporary measure, born out of the extraordinary context of the early 2020s, and necessary for the time but at great cost to the Exchequer. In the challenging fiscal context we now find ourselves in, it is not financially responsible to continue that indefinitely.

Our intention through this Bill is to introduce two new lower multipliers. One multiplier offers a tax cut for retail, hospitality and leisure properties with a rateable value of between £51,000 and £499,999 that currently pay the standard non-domestic rating multiplier. The other new multiplier will provide a tax cut for retail, hospitality and leisure properties paying the small business non-domestic rating multiplier—that is, those with a rateable value of less than £51,000.

I have already spoken of the Government's responsibility towards the public finances. Of course, any permanent tax cut must be sustainably funded. For that reason, the Bill allows for the introduction of a higher tax rate on the most valuable properties—those with a rateable value of £500,000 and above. This represents less than 1% of business properties in England and captures the majority of large distribution warehouses, including those used by large online businesses, as well as other out-of-town businesses that draw footfall away from our high streets. By introducing this higher tax rate, the lower tax rates for retail, hospitality and leisure businesses can be sustainably funded from within the business rates system—a prudent approach that aligns with the principle of ensuring that any tax cut is fully funded.

I anticipate that noble Lords may raise questions about the delegated powers in the Bill that will enable the Government to introduce these new tax rates from April 2026. Unlike many taxes, which are generally

paid after an event, business rates bills are calculated in advance for the whole year and are issued by billing authorities often several weeks before the start of the financial year. Therefore, changes to the multipliers—in other words, the tax rates—have to be made in advance and be in place several weeks before the start of the financial year if they are to be included in demand notices. Therefore, this Bill does not set the level of the tax rates; that will be done later this year at the Budget, taking into account the outcomes of the 2026 business rates revaluation. The Bill instead provides a power to set them.

To put it simply, without introducing delegated powers there would be insufficient time to introduce the tax rates at the Budget and pass the required primary legislation for those tax rates with sufficient time left for billing authorities to prepare for the changes at an operational level. That is why the Bill provides the ability to set these new tax rates through secondary legislation.

Nevertheless, as is expected and good practice, the Government have carefully considered the approach to these powers and constrained them accordingly. The lower tax rate for retail, hospitality and leisure properties cannot be set more than 20p below the small business non-domestic rating multiplier for that year and can be applied only to qualifying retail, hospitality and leisure properties, the exact definition of which will be set out through secondary legislation later this year. However, it is the Government's intention for the definition to broadly follow that which is in place for the current retail, hospitality and leisure relief. The higher tax rate cannot be set more than 10p above the standard non-domestic rating multiplier for that year and can be applied only to properties with a rateable value of £500,000 and above. It is important to say that these are not the intended tax rates—as I have said, they will be set at the Budget later this year. These are the maximum parameters within which the new tax rates may be set, not the target tax rates.

I appreciate there may be interest from noble Lords with regard to how these multiplier changes may impact on the funding available to local authorities from levying business rates. Since 2013, the business rates retention scheme has allowed local government to retain a portion of the business rates that it collects. The measures contained in the Bill will affect the level of business rates income collected by authorities differently in different areas. I reassure noble Lords that the Government are committed to ensuring that, as far as practically possible, local government income will be unaffected by business rates tax policy changes. It is worth noting that the Government have committed to reform the local government funding system to help deliver this, and, as intended since 2013, business rates growth will be subject to redistribution across the country through a business rates reset in 2026-27.

I am aware that, at the start of my speech, I set out the Government's ambition that the transformation of the business rates system should go broader than the measures within the Bill before us. Indeed, noble Lords questioned me extensively about our wider plans during Question Time on Monday. I will briefly touch on those plans now.

At the Budget, the Government published the *Transforming Business Rates* discussion paper, which set out the priority areas for reform and invited stakeholders to co-design a fairer business rates system. The areas of interest within that paper include incentivising investment and growth, tackling avoidance and evasion, the frequency of revaluations, and ensuring that the system is fit for purpose, reflecting our modern, fast-paced economy. I am pleased to say that many stakeholders have already engaged with the Government on these matters, providing valuable insight and expertise. Any changes will be phased over the course of the Parliament, and the Government will publish an update in due course.

I turn now to the second measure set out in the Bill: the removal of private schools' eligibility for business rates charitable relief. The Government are committed to breaking down barriers to opportunity for all. While we believe in supporting parental choice, we must ensure that every child has access to high-quality education that helps them achieve their full potential and thrive. The Government must concentrate on improving the state education sector, where more than 90% of our children are educated. That is why the Government are ending tax breaks for private schools, to help raise revenue to fund the state education priorities that we set out clearly in our manifesto.

As I said earlier, the Government have had to take very difficult but necessary decisions to restore our public finances and, in doing so, enable the restoration of public services. State education is one such public service that is used by the majority and available to all who require it. At the Autumn Budget, the Government announced an increase of per pupil funding in real terms, with a £2.3 billion increase to the core schools budget in 2025-26. This includes a £1 billion uplift to high-needs funding in 2025-26, providing additional support for the more than 1 million children in the state sector with special educational needs and disabilities. This funding needs to be paid for. To help make that happen, the Government are ending tax exemptions for private schools, as we set out in our manifesto.

I am aware that there has already been a great deal of discussion in this House of the Government's policy to remove tax breaks for private schools, and the Government genuinely welcome the scrutiny that noble Lords have brought to this matter. I am sure there will be some more this afternoon.

Noble Lords will be aware that the measure relating to VAT is being legislated for through the Finance Bill. Ending the VAT exemption of private school fees and removing eligibility for business rates charitable relief from private schools that are also charities will together raise approximately £1.8 billion by 2029-30. This will help deliver the Government's commitments to education and young people.

The Bill before us today covers the business rates change only, and that is where I am going to focus my comments. There are over 2,400 private schools in England, of which approximately half are charities able to benefit from business rates charitable relief. This Bill removes that eligibility. It provides a specific definition of a private school as a school that provides

"full-time education … for pupils of compulsory school age … where fees or other consideration are payable for that … education".

[Baroness Taylor of Stevenage]

In respect of further education, the institution is one that

"is wholly or mainly concerned with providing education suitable to the requirements of persons over compulsory school age but under 19",

and where education is provided to those persons full-time which is "wholly or mainly" for a fee or other consideration.

I am aware that noble Lords have raised questions over how this change will affect pupils with special educational needs and disabilities. The Government have carefully considered the design of the policy to ensure that effects on those pupils with the most acute needs are minimised. The Bill provides that private schools that are charities that wholly or mainly provide education for pupils with an education, health and care plan will remain eligible for charitable rate relief. For clarity, the definition of "wholly or mainly" in business rates generally means 50% or more. This will operate alongside the existing business rates exemption for properties that are wholly used for the training or welfare of disabled people. Properties that qualify for this exemption pay no business rates at all, and any private schools that currently qualify for that particular exemption will continue to do so.

Taken together, the existing and new provisions are intended to make sure that the majority of private special schools will be unaffected by this measure. In fact, the Government expect that any private special schools losing eligibility for charitable rate relief will be the exception. It is worth adding that stand-alone nursery schools with their own rates bills are not within the scope of the Bill and, if charities, will retain eligibility for the existing relief. As previously announced, it is the Government's intention that this measure will come into effect from 1 April 2025. As business rates is a devolved tax, the measures in the Bill will apply only to England; there are different measures in place in Scotland and Wales.

The measures in the Bill partly deliver on two of the commitments within the manifesto on which the Government were elected. The measure to enable the introduction of new multipliers is commencing the Government's plans to transform the business rates system. It begins our journey to fulfil the ambition to deliver a business rates system fit for the 21st century; one that supports our high streets in a sustainable way, offers stability, promotes investment and drives economic growth. The measure to remove charitable rate relief from private schools will contribute to our overall ambition to break down barriers to opportunity and help all children to receive the high-quality education they deserve and their parents aspire to. I beg to move.

6.23 pm

Baroness Scott of Bybrook (Con): My Lords, first, I send our condolences to the noble Lord, Lord Khan of Burnley, and to his family in Burnley. He is always in our thoughts and prayers. This will be a difficult time for him, as I know. I declare my interest as vice-president of the Local Government Association.

This Bill represents another stealth tax for businesses. Not only are the Government increasing business rates; at the same time they are also reducing business rate relief for retail, hospitality and leisure businesses up and down this country. This is the wrong approach and we will scrutinise this Bill very closely in Committee.

Throughout the election campaign, the now Chancellor promised that the Labour Government would be the

"most pro-business government this country has ever seen".

Yet the choices they have made indicate the exact opposite. This Budget has been decidedly anti-business and the decision to increase business rates demonstrates this Government's failure to understand how to achieve growth.

On Monday, the CBI reported that firms expect another significant fall in activity over the coming three months, with the CBI's growth indicator suggesting a 23% fall in the three months to January. The only official estimate of the revenue from this Bill is just £70 million for the Exchequer in 2025-26, but the impact on businesses will be disproportionate to that figure. When paired with all the other damaging tax increases in the autumn Budget, it provides a clearer picture of the campaign of crippling tax rises that this Government are imposing on our businesses.

As we scrutinise this Bill, we will be focusing in particular on the impact of these changes on our high streets, including hospitality and leisure businesses. Businesses are being asked to pay more through their employer national insurance contributions and the inflation-busting increase in the national living wage. With this Bill, the Government are hitting businesses with a triple whammy. It is our duty to hold the Government to account and to scrutinise the unacceptable negative impacts this Bill will have.

While the Bill will ensure that these online giants pay higher business rates, the Government have singularly failed to protect businesses on the high street, some of which will also be subject to these higher rates. Although the Government set out to separate online businesses from traditional retail, the Bill uses the rateable value of £500,000 as the distinction. This will allow a higher rate for

"the majority of large distribution warehouses, including those used by online giants".

I do not dispute that this distinction will capture many online retailers, but it will also capture additional businesses such as supermarkets, hotels and department stores. The Bill fails to distinguish between these different business types, and it will have unintended consequences. The CEO of John Lewis & Partners has confirmed this, explaining that the prime location of its stores means they have a higher rateable value than out-of-town warehouses. He has called the combination of higher business rates and the national insurance tax raid as a "two-handed grab".

We are also concerned that the new business rate multipliers have not yet been set. We are being asked to trust the Government and give them these powers without knowing how they intend to use them. I cannot understand why the Government would not set these rates before publishing the Bill; we need clarity if we are to proceed. Would the Minister be willing to give the House an explanation of the Government's plans in this area before we go into Committee?

We are deeply concerned about the impact these changes will have on businesses, which will be hard hit by these measures. We know the Bill will mean that

retail, hospitality and leisure businesses on high streets up and down this country are going to be closed. This will be yet another setback for our high streets, which we already know are struggling. The Minister claims these higher rates will affect only 1% of businesses, but I am certain that the impact will be wider spread and it is vital that we protect our high streets. In the world of public finances, the Bill does not raise an extraordinary amount. The £70 million referred to in the impact assessment will not go very far, but the impact on businesses that are forced to close as a result of this, alongside other measures included in the Budget, will have a wide-reaching impact on our economy, as well as on our communities across the country.

The Government claim the Bill will leave retail, leisure and hospitality businesses with a lower bill to pay, but this will not be the case for many businesses that our high streets rely on. The anchor stores of our high streets will be hit. I agree with the Government that independent stores are important on our high street, but that does not mean that the larger stores are not. I am worried that the Bill will have the effect of forcing retailers out of their high street locations and instead moving them to out-of-town locations where the value of property is lower. I cannot see how that is going to benefit anyone.

The second part of the Bill removes charitable relief for private schools. My noble friend Lady Barran will speak about this part of the Bill in more detail in her closing speech. This is a mean-spirited attack on private schools, and Clause 5 raises many issues. I am concerned about the exemption only for pupils with EHC plans. We have been clear that taxing education is wrong, but taxing education for children with special educational needs is unconscionable.

The Government may have made an attempt to retain charitable relief for schools that wholly or mainly educate pupils with SEND, but the way that the Bill has been drafted fails to account for special educational needs pupils who do not have an EHC plan. We know it is exceptionally difficult to get one of those plans and it takes a very long time, so many parents choose to send their children to private schools instead. The Bill will place an additional cost on the many parents in that position. Surely that cannot be right. We will bring forward an amendment in Committee to address this clear failure in drafting.

Alongside the issue of SEND education in private schools, I do not think the Government have considered the effect of the Bill on private schools' engagement with their local communities, which often involves sharing facilities with state schools, summer schools and other community organisations. Many private schools go above and beyond in providing facilities for the other schools in their areas but, with the number of extra costs the Government are piling on them, they will be unable to provide the same level of help. The Bill may have the perverse effect of forcing private schools to reduce that support as they seek to cover the tax bill imposed on them by the Government through lettings at a higher commercial rate. I ask the Minister to confirm whether that has been considered.

In conclusion, the damage that the Bill will wreak on our high streets cannot be ignored, nor can we allow the principle that education should not be taxed to be abandoned without any challenge. We will take a robust approach to the Bill in Committee and hold the Government to account for the negative impacts that these measures will have on our towns, our high street and our educational system.

6.32 pm

Lord Fox (LD): My Lords, I join the noble Baroness, Lady Scott, in sending our condolences to the noble Lord, Lord Khan, and his family. It must be hard for him at the moment, but he can be sure of the warmth from your Lordships' House.

In speaking to the Bill, I will not comment on Clause 5 because I am sure that quite a few others will speak at some length on it, and we will certainly have a chance to revisit it in some detail at later stages. Instead, I will dwell on business issues, which corresponds with my Front-Bench duties. I declare that I have a family member who owns an independent shop.

There is an aphorism that perfection is the enemy of the good. The Bill is not perfect, and its lack of transparency makes it hard to see what may be good about it. I hope that, during the course of this debate and the later stages of the Bill, the Government see fit to shine more light on it and offer more transparency so that we can get a better feel for all the moving pieces.

However, the Bill is evidently not a comprehensive reform of the business rates system, despite Labour's manifesto commitment to do so. We know that the business rates system is deeply flawed. Of course I would say that a commercial landowner levy, as proposed by the Liberal Democrats at the last election, would go a long way towards addressing many of the entrenched problems in the current system.

I turn to concerns directly about the Bill. First, it fails to address the core issue of the imbalance between businesses that trade from out-of-town premises to those that trade from bricks and mortar shops within a town centre. The noble Baroness, Lady Scott, analysed this problem, but, of course, this Government inherited it from the noble Baroness and her colleagues, so although they are able to analyse it now, they failed to do anything to address these issues when they were in their control.

At the heart of this issue is the imbalance between in-town and out-of-town valuations. Historically, as the noble Baroness, Lady Scott, pointed out, valuations on high streets massively outstrip those on warehouses. This mismatch in valuations looms large when considering business rates. We look forward to future reviews of that when and if they come; it would be helpful if the Government could give us a timetable for what will happen in addition to this Bill.

Furthermore, the Bill does not ensure that businesses that invest in their properties will not face an increase in their rate bills. Will the Minister exclude any new investment made now from future business rate valuations from April, so that businesses are able to invest in their future and will not see that investment push up their rate bills even higher? That is an inverse relationship and makes no sense.

The Bill is intended to help retail, hospitality and leisure businesses—the so-called RHL—and has been heralded by the Government as a cut in business rates for them. However, there is no guarantee of that.

[Lord Fox]

As I have said, there are a lot of moving pieces and, when all things are considered, businesses could still face increases in the tax burden of their businesses.

The Bill spells out the end of small business rates relief, but we do not know what the intended tax rates will be. As a result, a number of smaller and independent high street businesses will likely be hit hard by this process because, although we do not know what will happen, we can only assume that the Government will not slash rates in the future. Research by the House of Commons Library that was commissioned by my honourable friend Daisy Cooper MP, the member for St Albans, shows that from April 2026 these reforms to business rates could leave small and independent businesses in effect much worse off than the big chains—to some extent, a different version of a problem set out by the noble Baroness, Lady Scott. We cannot both be right, but either way that creates a problem.

I shall explain. At the moment, the 75% relief is capped at £110,000, but when the relief goes to zero then that cap will no longer exist. I understand why the cap was there; it was implemented because business rate relief is classified as state aid. The cap therefore ensures that businesses do not benefit from a subsidy above the limit specified in the Subsidy Control Act 2022—one of the Bills that I had the great pleasure of working on. The new multipliers will comprise lower tax rates for specified sectors rather than reliefs and therefore will not engage the subsidy control regime. That is why the cap of £110,000 will be scrapped from 2026-27. I am sorry for explaining things, but it helps me to understand them even if it does not help anyone else.

The Library research shows that the net effect of abandoning the cap could be that small businesses end up 80% worse off, while big multiple outlet chains could be 40% better off because they can aggregate their gains and off-set their costs across their chain. I appreciate that the Government plan to review business rates in the 2026 financial year—at least, that is what they have said—which I hope will analyse the impact on business rates, but it is also important to understand that differential assessment now, while we are assessing the Bill.

Has the Minister's department gamed out the whole rates system and its effect on large chains versus single individual outlets? Will there be an impact assessment that sets out the impact on small businesses on high streets? Will she publish all this analysis, and ensure that the Government at least do not rule out introducing new small business relief in a targeted way to support such small independent businesses? That is one reason why the absence of an impact assessment of the Bill's effect on the high street seems, frankly, inexplicable. How can a Government propose a change such as this without looking at the impact, and how can we consider the Bill without knowing what its effects will be?

RHL businesses are a very important part of most high streets—I would say a key part—but they are only one element of a well-functioning, prosperous high street, and the Bill does not offer immediate support to businesses outside the RHL sector. What about banking hubs and Post Offices? What about small businesses, such as accountants and those in the creative industries? What about the light engineering and manufacturing sector? In the Commons, the response has been that this Bill is targeted at the RHL sector, but look at the short title and the long title and you will see that it is not. It can definitely include these other elements, and so will the amendments that we will bring in Committee.

Furthermore, the implication we have heard from ministerial quarters is that these non-RHL businesses have a choice where they locate. This is a pernicious assumption. In other discussions, where we have talked about the need to enhance our high streets and market towns, much has been said about creating a mixed environment and a mixed economy. That means a mix of not just retail, hospitality and leisure outlets but banks, Post Offices, small businesses, offices and light engineering, all playing a role in bringing people to an area and creating a lively local economy. The Bill works diametrically counter to this, and will make it less likely that such beneficial mixed use happens. Moreover, we are increasingly seeing large tracts of towns being owned by one landlord. In this way, competition for rents is eliminated, making it even harder for small concerns to negotiate a reasonable rent.

Finally, the Bill fails to address the issue of business rates non-payment, which runs at a higher level even than council tax avoidance. In the days where councils are even more cash-strapped, they need help in collecting what is due.

In summary, this Bill is very unlikely to materially help market towns across our country. The change from a system of capped temporary relief to an uncapped lower multiplier will inadvertently end up with small businesses subsidising, and doing worse than, big corporations. We on these Benches believe that the Government should complete the consultation before unfreezing the rates relief, which could badly affect small businesses in our high streets. The Government say that they want growth, and so do we—we all do—but these business rates changes will stifle the growth of small businesses and our high streets at a time when we should be unleashing them. We urge Ministers to think again.

6.42 pm

The Earl of Lytton (CB): I thank the noble Baroness, Lady Taylor, for her introduction to the Bill and add my best wishes to her colleague, the noble Lord, Lord Khan. I express my thanks to him for his willingness to engage prior to this debate.

I commend the briefing from your Lordships' Library, which is a most useful explanation of what is rather a niche specialism. I am grateful for comments from two rating specialists, Jerry Schurder and Simon Green from Newmark, formerly Gerald Eve, and to fellow professionals from the RICS rating and taxation forum. However, I stress that the views I express are mine and not in any way an official view of any other person or body.

I remind your Lordships that I come to this matter from a technical standpoint, with on-off professional involvement going back over 50 years in business rates and local government finance matters. I am also the beneficiary of a small business exemption on a very

small rural business hereditament. I hold no brief from any professional body or any relationship with any commercial business rates payer or school.

The Bill has been described as a rebalancing measure, and that has been a repeated theme. We have heard that it imposes supplementary charges on less than 1% of some 2.15 million hereditaments where the value is £500,000 rateable value or over. According to my information, that amounts to 16, 857 separate hereditaments. I understand also that the Bill is the first step to meet the Labour manifesto commitment to

"replace the business rates system"

and

"level the playing field between the high street and online giants".

At the moment, as we have already heard, there is a long-standing, and I believe just, criticism of the overall burden of business rates. Like for like, they are the highest of any OECD country. I am told that Jaguar Land Rover has a plant in Germany where the comparable tax burden is just one-sixth of the English plant equivalent. This is repeated constantly across many different types of business.

I remind noble Lords that when I first joined your Lordships House, back in 1985, I made my maiden speech on something called the Local Government Finance Bill—noble Lords may remember that that brought in the poll tax. In those days, there was a unified system of rateable values for all residential and commercial, and of course it has now been split. There is discrepancy in the whole local government finance arrangements between the burden borne by the capped council tax payers—who, as it happens, are almost certainly the main consumers of the goods and services produced by local government—and the rather higher level placed on business rates payers, who, it must be added, do not have a vote.

Any changes in taxation should aim to make the process more certain, clear, simple, speedy, efficient and so on, as we have heard. This is the expectation of businesses and the general public. The importance of business rates revenues is such that HM Treasury strives to protect the revenue stream at all costs, despite wider economic contraindications. Accordingly, it follows that the appetite so far within the Treasury for a root and branch reform has been rather modest. I hope that the consultation will produce real change.

As ever, the real rebalancing becomes evident in the other details. First, there was Covid assistance for retail, hospitality and leisure, or RHL, as the noble Lord, Lord Fox, referred to. The previous Government put that in place, but it is now progressively being withdrawn and will disappear by April 2026. It was previously worth £2.5 billion, but is now worth about £1.7 billion. The Government say they are not removing this relief, but from 2026 onwards it will have to be funded internally by the ratepayers themselves, rather than being an extra grant from the Government. This follows the fiscal neutrality principle, whereby however you shuffle the deck of the burdens within the business rates system, the thing will still yield the same amount or more. The situation now is whether the lack of adequate tapering—I think there is a problem with that—is going to produce a cliff edge in demands when we get to April 2026 and this is brought in.

Secondly, and much more significantly, the overall burden of business rates is set to rise. Currently, I believe it is about £26 billion gross—so I am told—but according to the last OBR budget report it is set to rise to £39 billion by 2029-30. That is a 50% increase over five years. I have really no idea at the moment how this is going to be achieved—will it be by broadening the tax base or simply by increasing the rate in the pound multiplier for existing businesses? That is another uncertainty. One must accept that businesses are not stupid; they can see what is coming down the track and will take a view accordingly. The rebalancing is not quite what one might expect. The Bill seems to be a redistribution of fiscal risks without attempting to deal with the underlying problem, and I have difficulty with that.

Noble Lords will note—it has been mentioned by the noble Lord, Lord Fox, and the noble Baroness, Lady Scott—that there is no financial impact assessment for this Bill, because it relies on the level of values, both cumulative and individual, in the as yet unpublished rating list for 2026. The explanation is that the figures on which such an assessment may be made are currently unknown.

This means that, effectively, we are being asked to sign off something without really having any idea of how it is going to work. The noble Lord, Lord Fox, referred to the number of moving parts. Yes, absolutely. I have been constantly saying that this has more moving parts than a Swiss watch. I make no apology for that analogy. We just do not know how much individual businesses will face, because the manner in which the reliefs apply and their response to them is, of course, entirely opaque. Government would set the relative multipliers in the Budget speech: I understand that they could set a different one in each successive Budget. There will be at least two multipliers on the sub-£500,000 rateable value cohort, which is the majority of the hereditaments.

There is a discrepancy between what the Bill allows and the admitted policy. For instance, the Bill allows for many higher multipliers, but, apparently, the policy is to have only one. Because policy can presumably be amended at relatively short notice, and the multipliers will be decided in each Budget speech, I cannot see that this does anything other than create a level of uncertainty that could be avoided. I am unclear whether the supplemental multiplier—that is, for the £500,000 value and above—will in the end apply to all the hereditaments in that category, or to only some.

The Government suggest that the current guidance for small business relief will become statutory regulation and thus more certain. I welcome that, but I wonder whether, of itself, it will generate arguments at the margins about whether something is in or out, creating further problems and uncertainty about the yield that the tax will produce. Going back to the number of moving parts, pushing one bit means that several other bits keep moving on the way. It is a very difficult thing to keep track of. So that is one of the things that is there. If the OBR estimates are right about this 50% rise in the burden, this has to give us thought as to the implications for business confidence, investment and growth.

[The Earl of Lytton]

I will leave other noble Lords to say—and I hope somebody will—how this might impact billing authorities and their ability to deal with it. The retail, hospitality and leisure uses do not necessarily coincide with high streets. We keep hearing about this as if they are almost interchangeable. They are not. They are different templates. High street health depends on many more things than business rates. It depends on local policies for planning, core time servicing, pedestrianisation, parking, congestion and air pollution charges, disruptive roadworks and things such as national insurance, minimum wage and other legislative and regulatory functions.

I will say a quick word on properties that might be affected. They include some 4,600 odd offices; 2,443 large warehouses, of which—as we have heard—some will be fulfilment centres; 1,802 superstores; 955 factories; 947 schools; 860 shops—some of them in major shopping centres—534 hotels, and so on. They also include some 325 hospitals—places such as large London teaching hospitals, at least one of which I know has a £12 million rateable value at the full rate. That will be £1.2 million. Well, I leave your Lordships can work out how many nurses and doctors or rehabilitation of hospital wings that could deal with.

I will conclude with three points. First, I will repeat what I have long maintained, namely that the impact of business rates is, of itself, a material mover and shaker of business decisions and policies. It does not exist in isolation. Why put oneself in a tangible, fixed asset such as highly rented business premises if one can operate from something else or in another way? I will leave that at that point.

Secondly, rates and rents are intertwined. Businesses naturally look at the overall costs of occupation when comparing their options, one area with another. If rate reductions simply bolster rents, nothing is gained. If rents are diminished by rates burdens, beware of impeding investment decisions in favour of high streets where one might want that investment to occur.

Finally, I will say a quick word on charitable relief. I do not call into question anything to do with the political policy that sits behind it. From a practical point of view, premises used for charitable and some not for profit community or social purposes—not just registered charities—can get 80% mandatory relief and may get another 20% discretionary relief on top. Of course, some of these compete with regular retailers, but I struggle to understand the rationale of the proposed selective denial of relief for private schools operating as charities in educating the young, as against any other philanthropic sector such as animal welfare, the arts, conservation and so on and so forth.

Noble Lords will all know of situations that apply. This strikes me as arbitrary, if not actually discriminatory, that this should take place, especially when we are told that it is not policy under this Bill to differentiate, say, teaching hospitals or public service-type buildings from the £500,000 and above cohort. Well, if you can identify one particular lot of schools, you can certainly identify another lot and say, "Well, we won't incorporate them". I cannot believe that, in this modern age of computer technology, you cannot pick them out and make a pretty accurate and granular decision on how you are going to deal with these things. So it seems to me that this is an incredibly blunt instrument that is being applied here. I also think it requires further and better justification, particularly in relation to the charitable relief on private schools, because it appears to lack consistency.

All in all, the normal expectations of tax reform in the area of the manifesto pledge do not appear to be met in this Bill as presented. I, for one, certainly hope that between us we can change that for the better.

6.56 pm

Lord Waldegrave of North Hill (Con): My Lords, it is a pleasure to follow the noble Earl, Lord Lytton. He speaks with immense knowledge on these matters. I join in sending condolences to the noble Lord, Lord Khan, as he passes through one of the terrible watersheds of life that we all pass through.

I am going to speak primarily on the second part of the Bill and declare my very recent interest as provost of a famous school—namely, Eton College. Provost means chair of governors in ordinary language. Before we come to that, until a couple of years ago, my wife and children owned a small, historic pub in Dorset Street in Marylebone in which, I am sorry to say, I now have no interest. My daughter Harriet was the licensed publican. She reminded me that it had a very annoying rateable value of £51,000, which was always just above some decimal threshold.

As the noble Earl, Lord Lytton, and the noble Lord, Lord Fox, both said, so many moving parts are coming along in the rating relief world in the next year that it is very difficult to tell whether the Barley Mow will gain or lose, but I recommend that noble Lords give it the benefit of the doubt and go there to support it against any possibility of trouble.

I shall speak mostly today about the sense of sadness—and it is a sadness—that I have about the educational approach of this Government. There are many things about this Government, such as in prison reform and other areas, which I strongly support, but there is a genuine sense of grief about what is happening in secondary education in particular. I have been involved in policy for quite a long time, as have many in this House—in my case since 1971, when I was a civil servant—and I know that very few important things are ever achieved by Governments unless they are persisted with for decades. It is utterly ludicrous, for example, to suppose that the underlying growth rate of a country can be changed in a year or two, or three or possibly even 10. You only have to look at the long-term trends to see that. The same is true of the NHS, for which I once had the privilege of being Secretary of State. Any reform of that great leviathan needs a decade, probably, of consistent working, across party, in the same direction to make any real change. The same is true of education.

The miracle was that it was thanks to visionary Ministers on both sides of the Houses. I name the noble Lord, Lord Adonis, Mr Nick Gibb, my noble friend Lord Baker and Mr Michael Gove. I could also name many who spoke in the debate last week, including the noble Lord, Lord Harris, and many others, such as

our new Member, the noble Lord, Lord Young of Acton, who have taken part in the establishment of academy chains and free schools and, more important than the details, the establishment of a more or less bipartisan approach to education over the last 20 years or so.

The biggest element of that—I will not repeat last week's debate, which I found very moving—has been the spread of academy chains, with their freedoms and drive. I name, for example, the one with which Eton was in close co-operation, Star Academies, which emerged out of Blackburn with a great deal of help from Mr Jack Straw, under the brilliant leadership of Hamid Patel, now rightly Sir Hamid. It is a quite extraordinary academy chain, and there are many others like him. Since that debate, we have had the added voice of the Children's Commissioner making the same points that so many made last week, and from different sides of this House.

That was the main plank of the bipartisan approach: the spread of academy schools and the release of extraordinary energy, originality and social entrepreneurship of the best kind in so many schools. A lesser but not trivial plank of the bipartisan policy was the chivvying and pressing of those private schools with charitable status to work with the public sector to exchange expertise—both ways, I have to say—and to develop an educational ecology, if you like, in Britain where the two sectors work together for mutual benefit.

I was chivvied as provost of Eton by the noble Lord, Lord Adonis, who rang me up and said that I had such a distinguished governing body that I should jolly well get on with it and sponsor a new free school—and we did. We became the academic sponsor of, and in various other ways sponsored, Holyport College, the first new state boarding school for many years. I was chivvied peremptorily by my noble friend Lord Cameron, who, as Prime Minister, sent for me to come to Downing Street at a moment's notice. I was allowed to park my car on Horse Guards Parade; it was very smart. So we went faster: we were one of the partners in the London Academy of Excellence, that outstanding school in Stratford East, which has created an ecology there that other schools, such as Brampton Manor Academy, have now followed. They compete with it; some are doing even better, which is wonderful and everything we hoped.

Eton was in the process of proposing, with Star Academies—maybe it will still happen; I pray that it does—similar schools to the London Academy of Excellence in Oldham, Dudley and Middlesbrough. Our analysis, with the help of people in those localities, was that GCSE results there were perfectly good but there was not good passage into top universities. Statistically, there must be just as many people in Middlesbrough who deserve to go to Oxford, Cambridge or King's, and all the other great universities that we have, but they were not getting there. In our school, we really know nothing about and could not contribute to one of the other great things that needed to be done—my noble friend Lord Baker is the great leader on this—of spreading better technical education. But we knew that we could help with getting clever people into really good universities, and that is what we proposed to do.

All this kind of partnership is now put under threat. That is what is so sad; it genuinely saddens me. It is not easy to find many areas of our national life where we have been outpacing our many competitor countries, such as France, Germany and the United States, over the last 20 years, but in the PISA tests and other tests we have been. It has not always been upwards, but it has been compared with what they have done, so we have outperformed them. Now backwards we go towards the old days, with academies threatened with being robbed of some of their crucial freedoms, and Britain the only country that I know of seeking to drive a wedge between private and public, by making independent education subject to tax. I think we are virtually alone in the advanced world on that.

I come in particular to the effect of the taxation of charitable schools, which is removing from charitable schools their rating relief and charging the parents VAT. Then there is a sort of hidden tax of the Teachers' Pension Scheme, which is unfunded. State schools are reimbursed for it, so the Treasury can really put any number it likes on it. It is another source of taxation on those independent schools which have teachers in that scheme.

This divide will get worse. First, of course, the charitable test goes back to a great judgment of that wonderful and famous jurist of the latter half of the 20th century, Lord Wilberforce. His seminal judgment said that there are plenty of charities that have to charge fees. His judgment was actually attached to a supplier of medical scanners, which charged fees, but he said that the test is not whether you charge fees—plenty of charities do that—but whether you make what you provide available to enough people who cannot pay the fees.

The first thing that the charitable schools will have to do with this additional taxation burden is to withdraw everything back into the bursary provision. I have nothing against bursary provision; Eton has spent more than £10 million a year on bursaries, to the great benefit of the school and, I hope, the pupils who benefited from them. That will be the first place where schools will have to put the money. Everything will have to go back into that, because the Charity Commission does not give direct credit for outreach or partnership things; it should but does not. The bursaries will have to come first. For many schools, including Eton, which is one of the richest, the search for economies to try to protect parents as best they can in future, and to protect the bursaries, will lead them to say, "We can't really do so much of the other side of the thing that Lord Adonis and co. were rightly chivvying us about".

The paradox here is that one of the Back-Benchers on the government side in the House of Commons said, "Oh, these things are just businesses like any others". Well, there are schools that will be "just businesses" over which the Government and society will have no control at all, and there will be more. In the half of independent schools that are charitable, we have a whole structure of regulation to ensure that we carry out social benefit but we will have schools, like in America, France, Germany and Switzerland, that have no particular social benefits at all. There are no levers for the noble Lord, Lord Adonis, or my noble friend Lord Cameron to pull. That seems to me really paradoxical; we will end up with a much wider division

[Lord Waldegrave of North Hill]
between that different kind of independent school and those that are charitable. Build on the charitable levers and pull them; I am sure that is the right approach.

Finally, the noble Earl, Lord Lytton, made a point that I have not seen much made elsewhere; namely, this is the first time, to my knowledge—I may be ignorant and probably am—that we have taken one little group of charities and aimed taxation at it. I wish people would not refer to it as a tax loophole or tax break. That is like saying that not having VAT on children's clothes is a tax loophole. It was a decision taken, by all the countries of Europe and wider, that education, as a public good, should not be taxed. It was not a loophole. That is just shoddy language.

The danger of this is the precedent that is now being set. Imagine that an incoming, right-wing Government—perhaps too right-wing for me and led, goodness knows, by he who shall not be named—finds that some charity has just published a great paper, based on what this incoming Government says is out-of-date Marxist economics. It says that we owe the Republic of India £23 trillion, so is called inconvenient nonsense, being Marxist and so on. That Government might say, "Look at that charity: they've got shops all up and down the high street. Let's take their rating relief away". This is setting a precedent which will be used by others. The Bill's supporters will be to blame for it, and they really might want to think again about that.

I was Chief Secretary to the Treasury once, a wonderful job where you get into all the nooks and crannies of government. Do not believe a word about the hypothecation of this taxation. The Treasury never hypothecates anything—it never lets you do that. That is just political flummery. We have done it in the past—everybody does it. The proof that it is not actually hypothecation is that if the Government do not raise the money they expect to out of this, which they probably will not, they will not change the policy or cut the number of teachers they say have been financed by it. That is just politics. It is bad principle taxation and it will do long-term damage. Above all, it is breaking up that consensus, and, my goodness, in this country we need more areas of consensus, not fewer.

7.10 pm

Lord Maude of Horsham (Con): My Lords, it is a great pleasure to follow my noble friend, and indeed the noble Earl, Lord Lytton, who is a neighbour of mine in Sussex. I had the pleasure of him being a constituent of mine, when I was a Member in the other place. He speaks with enormous authority on this subject. The issue around the multipliers, with which he dealt with great expertise and subtlety, is one of horrendous complexity, as he says, with many moving parts. I seem to recall that my noble friend Lord Waldegrave had at one stage the delight of being the Minister for Local Government and had to grapple with all these issues. I say to the current Minister that the Government would do very well to listen to the noble Earl, Lord Lytton, who speaks with such authority and credibility on this complicated topic.

I declare an interest. I would like to say that I am the provost of Brighton College—I like the ring of that—but I have to say, much more humbly, that I am the chair of governors of Brighton College, which is now the top performing co-educational school in the country. It is a charity, as most independent schools are, and it will suffer from the actions of this Government. I hope that Ministers will at some stage give up the fiction that this is about building up the maintained sector. As my noble friend rightly says, there is no hypothecation. There is no credible impact assessment of the effect of the removal of rates relief from educational charities of this kind. The amount of money that is purported to be raised—which is, I guess, very optimistic anyway—gets lost in the roundings of any Treasury arithmetic. We should be very clear, as my noble friend set out extremely eloquently, that this is not about building anything up but about pulling something down—something quite important that has a benefit for the country much wider than the benefit for those pupils fortunate enough to attend these schools.

My noble friend talked about, for example, the London Academy of Excellence. Brighton College was the principal driver of setting that up. It provides an extraordinary education for the most disadvantaged children from the most disadvantaged borough in the kingdom, and it would not have been done without the input, drive and innovation provided by independent schools, which are charities. That was part of the public benefit that charitable independent schools are rightly expected to provide, and while they continue to have charitable status they will continue to be expected to provide public benefit. But the "quid" for that very substantial "quo"—the public benefit—is being removed, not just through the removal of this business rates relief but through the imposition of VAT, as well as the much more widespread hit, as my noble friend says, of the increase in teachers' pension contributions and the huge hike in employers' national insurance contributions. It is not just a triple whammy for independent schools but a quadruple whammy, and that will have an effect.

It is not as though such schools are enriching anyone. They are, by definition, schools that are not for profit—that is what a charity is. I think of a school, lamentably little known but actually an incredible national treasure, called Christ's Hospital. Again, I had the pleasure of representing it in my constituency of Horsham. It is an extraordinary school, completely unique, with a huge endowment greatly supported by the City of London Corporation and livery companies. It is genuinely needs blind. It selects children, but on the basis of those who come from the most disadvantaged families, as long as they meet a minimum ability standard. Those who need the help most are the ones admitted. Christ's Hospital will be hit by this quadruple whammy. The public benefit is not just what a school such as Christ's Hospital provides outside; it is manifest in what you might call its day job.

We should be very clear that this is not about building up maintained schools, which we all want to do and which has been done, as has been said, through an extraordinarily long-term consensual bipartisan approach, not just since the Blair Government but before then, which has had great results. The PISA rankings—which do matter—have risen remarkably in England. England has raced up the rankings, in stark contrast with Scotland and Wales, which have not had the same consensual and benign approach.

Such an approach is about creating difference and allowing innovation—allowing great leaders of schools, academies and free schools to innovate and create not so much competition as emulation, where other schools can see what can be done and can follow and build on that. It is the opposite of the bureaucratic approach of "uniformity must rule"; it is about saying that you can innovate and do things differently, and that that will benefit others as well. It is a great shame that that approach has been abandoned. It will do harm to children going to schools now and in the future, because the public benefit that comes from it will be diminished over time.

On the very day the Chancellor of the Exchequer has been expounding the benefits of economic growth and how important it is that we do everything to support it, it is important to make the point that independent schools are internationally renowned earners for this country, through young people from overseas coming to schools in the UK and through the growing number of schools overseas that take the names of great UK schools and are created in their image. There are clearly soft power benefits but also hard currency earnings. At a time when we are told that everything must be done to support growth, in this sector, where there has been growth, innovation, investment and excitement—not just obviously, or even mainly, in the independent sector but supported by the independent sector—the Government are talking the talk but walking in a different direction.

The Government would do well to think again on this. Much that this Government have done since they were elected in July has had the hallmark of not being well thought-through. We are all conscious of the law of unintended consequences, but a lot of the consequences that will flow from Clause 5 of the Bill are, I suspect, not wholly unintended, and are the more to be regretted for that.

7.20 pm

Lord de Clifford (CB): My Lords, I join other noble Lords in sending my condolences to the noble Lord, Lord Khan of Burnley, and his family for their recent loss of a senior member of their family.

I express my interest in the non-domestic rates Bill. I wish the House to note my interest in the matter as a non-domestic rates payer for five properties as part of the veterinary business I manage. My knowledge of non-domestic rates is not as extensive as it could be, and certainly not as extensive as that of my noble friend Lord Lytton.

Non-domestic rates reform has been a topic of discussion for many years for businesses. High street retailers, pubs and hospitality venues have been part of my early morning walk, listening to business news while I walk my dog, for many years. Businesses complain about the financial burdens this tax puts on them. I welcomed the Treasury report *Transforming Business Rates* in October 2024 and the call for evidence from stakeholders by the end of March. Therefore, I feel that this Bill is the start of a transition on business rates reform, and it is certainly not the solution.

I commend the general direction of the Bill in providing a possibly clearer and more certain system for how non-domestic rates are calculated for businesses, as the current rate is confusing, complex and not guaranteed. Two multipliers are included for retail, hospitality and leisure businesses. They are lower than the standard multiplier and possibly apply to two bands of rateable values of up to £500,000, which is welcome. My reservation is that the maximum reduction of 20 pence or 0.2—however it is expressed—will give savings to the RHL sector, but there is no indication from the Government as to the possible level of the lower multipliers that will be announced in the Budget in the autumn.

I agree with the noble Baroness, Lady Scott, the noble Lord, Lord Fox, and my noble friend Lord Lytton that it is difficult at this point to estimate and predict whether these businesses will make a saving in the coming years. Can the Minister say whether an assessment has been made of how much lower the standard multipliers would have to be to ensure that small businesses end up paying less or similar amounts of business rates than they currently pay, including the current reliefs that have been in place since the pandemic? I am aware of one leisure business that is already looking forward to 2026-27 with no indication of any relief expected. It is budgeting for a substantial increase in its non-domestic rates bill of thousands of pounds. As a result, it is looking into how to it can absorb those costs.

I welcome the addition of the higher multiplier for properties with rateable values of over £500,000, which is around 1% of the properties charged business rates. What proportion of the 1% are high street shops? These large shops are vital to our city centres, high streets and shopping centres as they attract great numbers to those locations. If this additional cost burden is too great for these large shops, it could have the opposite effect from the one the Government desire of trying to keep the high street alive.

I thank the Minister's team for the briefing on the Bill last week and the confirmation that it is intentionally meant to be fiscally neutral, with the only additional funding coming from the removal of rate relief for charitable private schools. I have a concern about the removal of the relief. As expressed in the other place, although relief is being given to schools in which over 50% of their young people have an education, health and care plan, some schools that are charities and educate people with special educational needs do not have EHC plans in place for some of their students. If a school has a large number of these pupils, it may not qualify for relief. Those schools will see a significant cost added to their ever-increasing cost burden.

For families that send a child to these schools, this will add a financial burden. They already face certain challenges and need the extra support of these schools to ensure that the child is educated and can fulfil their potential in life, both at home and in the workplace. Has any further evidence been ascertained on the number of schools that provide education to SEN pupils but would not be eligible for the relief that will be removed?

I listened with interest to noble Lords' many comments and contributions to this debate and to the issues raised. I look forward to contributing further at the next stage.

7.25 pm

Lord Lexden (Con): My Lords, I continue the discussion about independent education. I do so with some temerity in view of the fine speeches made by my infinitely more distinguished noble friends in this debate.

I declare my interest as former general-secretary of the Independent Schools Council and the current president of the Independent Schools Association, one of the council's constituent bodies, which has just under 700 member schools. Most of them are small in size, operating on tight budgets without any reserves whatever. They are dependent on fee income which, in some cases, can be as low as £3,000 per pupil a year. The council—the chief representative of the independent education sector—acts on behalf of some 1,400 schools. They are immensely diverse in character and are educating with marked success around 80% of the 600,000 children in the independent sector. No responsible Government would seek to make life difficult for these flourishing schools, some of world renown. Yet severe difficulty is exactly what this Government are creating for them.

This Bill continues and extends the Government's attack on independent schools—one that recognises no distinction between the very varied types of school in the independent sector of education. The Government treat them as it they are all the same and all equally capable of shouldering the new financial burdens, each one of them unprecedented in character, that they are inflicting on independent schools in quick succession. Perhaps the Government believe that all independent schools can somehow find the means to pay their unprecedented financial exactions. If they believe that, they are putting hostile prejudice before reality.

Over 1,000 independent schools, 40% of the total in England, have fewer than 100 pupils, according to the Department for Education's figures. Is it not obvious that these numerous small schools will suffer particular hardship as a result of the unprecedented financial pressures the Government are piling on them? Some will go under. Evidence is accumulating. The Independent Schools Council will ensure that all of it is placed prominently before the public.

This will add to what is already known. A revealing short debate on Monday, introduced by the noble Lord, Lord Morrow, brought to our attention the sharp fall of no less than one-third in the number of prep schools in Northern Ireland after Sinn Féin made them pay VAT. It is well known that Northern Ireland has some of the best schools in the country, achieving spectacular exam results. It is deplorable that their number should have been reduced by a VAT burden.

On 1 January, just four weeks ago, the Government slapped VAT at 20% on all independent schools, having given them no more than a few months to rework the budgets they had already drawn up for the current school year. It was a terrible thing to do. As they endeavour to come to terms with Labour's new education tax, independent schools must now prepare for two more financial burdens: the increase in national insurance contributions and the full payment of business rates for the first time ever under the terms of this Bill. Independent schools face a threefold assault from this Labour Government—an assault carried out in just six months.

The Government rejoice that, through this Bill, they will end tax breaks. What do they mean by this? Presumably, they want us to think that they are taking away from independent schools exemptions from taxes that they did not deserve in the first place but somehow managed to acquire. It is absurd. There are no special arrangements which have hitherto enabled independent schools to get out of paying taxes. They have shared with all other providers of education services exemptions from VAT. Those schools which are charities have, until now, shared in the tax arrangements that cover the charitable sector as a whole.

This Bill will create a two-tier charity system in our country, with independent schools in the bottom tier, where other charities may join them in due course as the Government find fresh targets to hit. This Bill will establish for the first time that charities that the Government do not like can be stripped of their charitable treatment even while they comply with their obligations and serve the community at large through work of great public benefit. For independent schools, public benefit work increasingly takes the form of partnership with state school colleagues, as we have heard from my distinguished noble friends. Up and down our land, the two education sectors work together in thousands of partnership schemes.

The increased costs the Government are inflicting on independent schools will endanger that invaluable work. Remarkably, the Bill will inflict grave damage on independent schools without raising significant revenue. The Budget documents estimate that some £70 million will be raised in 2025-26—just 0.1% of the core schools budget. Could there be any clearer evidence of the Government's hostility to independent schools? Is this, by the way, the first legislation to substitute "private schools" for "independent schools" in its wording? Over the last 30 years or so, the habit has grown up of referring to independent schools as "private" schools. It is in an informal, everyday term. "Independent" is the correct, formal term. Why are the Government now abandoning it? The education department has always registered schools outside the state sector as independent schools. The department has an independent schools division. Should not legislation respect formal, correct usage?

It will be evident that my chief concern is the damage that this Bill will do to small schools, which abound in the independent education sector, as a result of a threefold financial assault being made on them at such speed. I think of the 20,000 children who attend independent Muslim faith schools, charging pupils on average £3,000 a year. I think of the 20,000 children at the United Kingdom's 80 independent Jewish schools. Their representatives said last month that they

"cannot absorb the cumulative financial pressures",

adding that

"it is likely we will see a significant proportion"—

of children—

"being left without a school to attend. Many will be left with no alternative but to be educated at home".

I think of the many wonderful schools making superb provision for children with both complex and more moderate special needs at a time when the state

SEND system is in such deep trouble. About 100,000 families will have to pay more as a result of the Government's tax increases. A number will be driven into the broken—the Government admit that it is broken—state SEND system, unless the tax rises are eased.

There will be much to consider in detail as we move to the Committee stage of this unfortunate Bill.

7.33 pm

Lord Jamieson (Con): My Lords, I also pass on my condolences to the noble Lord, Lord Khan of Burnley, and his family.

While I understand the strategy of switching the burden from bricks and mortar retailers to internet retailers to support our high streets, I think this is far too blunt an instrument. I agree with my noble friend Lady Scott of Bybrook that increasing NNDR on large businesses risks damaging some of our key high street retailers, particularly anchor stores, high street cinemas and leisure, that help drive footfall. However, I would like to speak about the wider impact on growth of these measures.

This morning, the Chancellor talked about the Oxford-Cambridge arc as Europe's Silicon Valley. I declare my interest as a councillor and former leader in central Bedfordshire, which is at the centre of that arc. I agree with the Chancellor about the potential of the arc to support economic growth and improve jobs, but this needs to be nurtured and not taxed. In central Bedfordshire, we have many world-class businesses, such as Lockheed Martin, Millbrook Proving Ground, MBDA, Nissan and Cranfield University—not to mention the potential of Universal Studios coming to our area. All of them will see significant increases in their NNDR.

As a councillor, I worked hard to support the growth of these and other businesses, yet in the past few weeks, talking to local businesses, they have made clear to me the headwinds that they are facing from national insurance increases, employment rights and changes to minimum wages, which have led them to review some of their growth plans. A potential 20% increase in NNDR risks being yet another nail in the coffin of growth, not only in central Bedfordshire—I use that as an example—but across the country.

One of the many attractions of Bedfordshire for international companies and their international staff is the excellent Bedford Harpur Trust schools, notably as they provide the international baccalaureate. Yet, here again, we see the impact of government policies of charging VAT and increases in national insurance and, now, NNDR—to that I will add the pension issues raised by my noble friends—making this option much less attractive for those businesses and their employees.

We have also previously raised the important role private schools provide for those with SEND. Just this morning, I had a council leader raise with me the issue of a parent who had sent their child to a private school and now, with the additional cost of VAT, they are seeking an EHCP so that that burden will now fall on the local council to pay the fees. Again, adding NNDR will only exacerbate this trend.

Finally, I want to touch on the hospitality and leisure sector, which will lose its discounts this year. While many small businesses will benefit from the proposed NNDR changes, larger local businesses such as Center Parcs and Woburn tell me that they will face the double whammy on NNDR, in addition to the impact of national insurance, extension of worker rights and minimum wage increases—yet more headwinds to growth. This is a Government who are focused on growth yet they seem to think more about taxing growth.

As I said earlier, this is too blunt an instrument. There is no clarity on the business rate multipliers and two little information on the impact. I ask the Minister whether the Government will commit that there will be no net negative impact on council finances from these measures and what the impact of the measures will be on high street businesses, businesses in general, jobs and economic growth.

7.37 pm

Baroness Pinnock (LD): My Lords, I hope I am okay in asking the Minister to pass on my condolences to the noble Lord, Lord Khan of Burnley, and his family at this particularly sad time for them all.

I remind the House of my relevant interests as a councillor and as a vice-president of the Local Government Association. As my noble friend Lord Fox has indicated, a radical overhaul of taxation of business properties is long overdue. Successive Governments have tinkered with the multipliers and valuation periods. In addition, the increasing discrimination of the system against town centre businesses has been recognised and the response has been in the shape of various levels of relief. All that demonstrates, however, is that the non-domestic ratings system is no longer fit for purpose. The Government have admitted that to be the case. Unfortunately, this Bill does not address fundamental reform— at which point, I commend to the Minister the Liberal Democrat policy of a commercial landowner levy; I am sure she will read that with interest.

However, the Bill makes a small step in the right direction by attempting to make a significant change to the balance of rates paid by some small businesses, with a larger share demanded, rightly, of the warehouse distribution sector.

What it fails to do is assess the impact of those changes with the loss of relief that is also proposed. As the noble Earl, Lord Lytton, and my noble friend both said, you cannot deal with one without dealing with the other, and it is very difficult to assess what changes these proposals will make.

We on the Liberal Democrat Benches have long argued that online retailing should have business rates comparable with those of small businesses in town centres. The Bill proposes that retail, hospitality and leisure businesses based in town centres—whatever that means—should have a multiplier that is up to 20p in the pound lower than it is now. The Government's argument is that these changes will help to support small businesses in local centres and encourage the community and economic value they provide. However, this change is restricted to a sector of businesses located in town centres. Can the Minister first provide a definition of them? I believe she did say, in her opening speech, that a definition of retail, hospitality and leisure businesses will come later. To be frank,

[Baroness Pinnock]

I do not think that that is acceptable when we are being asked to understand changes that are going to be made, yet we are not sure of a clear definition of those businesses. Do they include, for instance, council-run indoor markets? Those are retail businesses in town centres: my understanding is that they might be excluded. I would love to know from the Minister, because for me it is an important question.

Can the Minister say why professional businesses in town centres are not able to benefit? Solicitors and accountants are at the heart of the commercial operation in small towns, as are post offices and doctors' surgeries. If the aim is to support our high streets, all these businesses should be included.

Many local centres also include small manufacturing businesses of various sorts, which provide local employment and are often the source of innovation. Can the Minister explain why these businesses in town centres are excluded? How much better it would be to have a blanket of small businesses in town centres all being part of this reduction in the multipliers.

Out-of-town warehouse distributors have long had a competitive advantage over their bricks-and-mortar counterparts. The Bill proposes that the multiplier for these businesses should be up to 10p in the pound greater than it is now. However, the Bill fails to link the valuations of these warehouses compared with to those in small centres. I think I have quoted this before in your Lordships' House, but an Amazon warehouse in South Yorkshire is valued at around £25 per square metre, whereas a small shop in my town centre has a valuation of £250 per square metre. That is at the heart of business rates because, if those do not change, tinkering around the edges with multipliers will still leave disadvantages for town centres. That is at the heart of the problem we would seek to address in order to redress the balance between online retailers and those in our town centres.

The other issue concerns larger stores, often located in large town centres, and out of town retail centres. It would be interesting to know how those will be judged in this new Bill. Will they be in that 1% or not? If they are, that will put the business model of some of them in jeopardy. The basis of the valuation of rental values makes life very difficult. Can the Minister explain why it is that, despite the number of empty shops in many towns, the rental valuation does not appear to be on the same declining path? My noble friend had a potential answer to that question when he said that the problem is that properties in many market towns are increasingly owned by a single owner. Certainly, in my local small town, most of the properties are in the ownership of two people, and that makes competitive rental values difficult to achieve. I am sure that the Minister will ask her officials about that.

I am very grateful to the noble Lord, Lord Khan, who I met, and his officials for their time in understanding the impact of all these changes, but the main question I had was not satisfactorily answered, I am afraid. It was, "Where is the impact statement?" I was told that, because impact assessments are not published for tax changes, there was not going to be one, but the Government must have done their sums, so let us see them. Otherwise, we cannot understand. We are all making estimates of the various moving parts, as various noble Lords have said, and how those are going to change. The Government must have done those sums, so it would be really good if they would share them and, if the Minister cannot share them today, perhaps she will be able to before Committee.

I will move on. It is also vital that councils know what the impact will be on business rate income, as that contributes a very large slice of funding for local services. I was told that the overall impact will be neutral, but, in her opening speech, the Minister suggested that, although the overall impact would be neutral, it would be difficult to ensure that no council loses out by these changes. Actually, as I know the Minister understands, every pound for a local council is now critical, so, again, I hope she will be able to find the answer to that before Committee.

I will move on, I think. The other major sector of the Bill is about private schools, about which we have heard various noble Lords speak this afternoon. As we know, it removes the business rate exemption for those schools which are charities, and Liberal Democrats are opposed in principle to the taxation of education. I think in particular of the 100,000 or so children with SEND in private education without education and healthcare plans. Those families will be hit hard by the proposals in the Bill when they are already facing more challenges than most of us. Private education provision has already faced the introduction of VAT and the NIC increases on employers. The removal of business rate exemption is the third financial hit in as many months. Well-endowed private schools will weather the financial storm, but others may not, resulting in increasing pressure on state school places.

In conclusion, this Bill is a small step in the right direction, but it fails to assess all the moving parts. As many speakers have said, the Government should think again about the exemption of relief to private schools, and we urge the Government to rethink the totality of the impact of the Bill on business.

7.50 pm

Baroness Barran (Con): My Lords, I would like to add to the noble Baroness's list of messages to send to the noble Lord, Lord Khan, and his family. I send my very best wishes to them at this time.

I listened very carefully to the speeches made by your Lordships this evening. I am struck by the range of concerns expressed across the House, based, as they appear to be, on a lack of transparency in the Bill and the number of moving parts. In fact, the clarity is so absent that my noble friend Lady Scott and the noble Lord, Lord Fox, ended up with very different analyses of where the impact of the Government's proposed changes will fall.

The Government are rightly focusing on much-needed growth in our economy, and I do not doubt their commitment to achieving that, but there is a lack of alignment in the actions that they have been taking in order to deliver on that aspiration. This Bill comes after the harmful decision to increase employers' national insurance and ahead of the impact of the Employment Rights Bill—one where, as the noble Baroness knows, the Regulatory Policy Committee has been deeply critical of the Government's impact assessment, deeming

it not fit for purpose and, crucially, stating that the cost to business will be higher than the £5 billion forecast by the Government. My noble friend Lord Jamieson was spot on when he said that businesses needed to be nurtured and not taxed.

I echo the concerns of my noble friend Lady Scott of Bybrook and other noble Lords. This Bill does not achieve what the Government committed to in their manifesto—namely, the reform of the business rates system: as the noble Earl, Lord Lytton, said, quoting again,

"the levelling of the playing field between the high street and the on-line giants".

Since the Bill does not do that, it would be helpful to the House if the Minister could explain why.

We are, as the noble Lord, Lord Fox, and other noble Lords have said, once again having to respond to a Bill which does not give us clarity on how it will work in practice and what its impact will be. There has been no proper consultation with businesses, no impact assessment on Clauses 1 to 4 and no clarity on what the business rate multipliers will be. The Minister explained the technical reasons why the latter is the case, but I think—and hope—she could be sympathetic to some of the questions that have been posed to her across the House. If the Bill becomes law without amendment, it will give the Government powers to set business rates multipliers without clarity on how those powers will impact on businesses.

Therefore, can the Minister give the House a forecast for how these proposed changes in business rates will affect council budgets and the revenue they receive, and the revenues to the Exchequer? Ideally, as my noble friend Lady Scott asked, we would like an explanation before we reach Committee. Do the Government have an official estimate of the impact of these measures on jobs? As the noble Baroness knows, retail alone employs 5 million people. She will have seen the forecast from the Centre for Retail Research projecting that more than 17,000 shops are expected to close this year.

It would also help if the Minister could give the House more clarity on the impact on different categories of businesses. We have heard concerns about pubs, leisure centres and anchor stores in high streets. We know that the reduction in small business rate relief from 75% to 40% will have a big impact on many of those businesses, with hospitality, leisure and retail paying just over 30% of all business rates, much larger than their contribution to GDP overall.

We also heard concerns from the noble Earl, Lord Lytton, about the impact on local authority schools, hospitals, police stations and, potentially, our universities. The Minister will have seen calls from the Local Government Association for further clampdowns on business rates avoidance, and I wondered what the Government plan to do to respond to those. The LGA has also called for more flexibility for councils on business rate relief in relation to charities and empty properties and the ability to set their own multipliers, either above or below the national multiplier. My assumption is that that is a reflection of how they feel that they have a real understanding of their local situation and pressures, and want to be able to respond to those. Again, it would help if the Minister could respond to that.

I hope very much that the Minister, who I know does listen, will listen to those concerns from across the business community: from the Association of Convenience Stores to major retailers such as M&S and Sainsbury's, from leisure centres to hospitality businesses, and from universities to the public sector.

Turning to Clause 5, I thank my noble friends Lord Waldegrave, Lord Maude and Lord Lexden in particular for their extremely eloquent and heartfelt arguments in favour of a more generous and collaborative approach. Certainly, I can speak personally from my time in government and say that we tried to emphasise and encourage more collaboration, and more contribution from independent schools. Now, when faced with a new schools Bill from the Government, we would argue that the flexibilities that have unlocked so much energy, as we heard from my noble friends, in preschools and academies, should be given also to maintained schools.

I went to see the most wonderful primary school—if anybody is in Oldham, I would recommend a visit—last week. It is a maintained school, but it is achieving what it is achieving despite its maintained-school status, rather than because of it. It cannot have all the flexibilities, in terms of timetabling and length of school day, that it would have if it were an academy.

The broader picture for independent schools, as we have heard, feels like continued attack, with the decision to apply VAT to fees part-way through the school year, and now the decision to remove their entitlement to business rates relief for those with charitable status. As we have also heard, schools are also hit by the rise in national insurance contributions and by the increased contribution to the teachers' pension fund. It is hard to understand this decision in anything other than ideological terms. As we have heard, it does not raise significant sums of money: £70 million out of the £1.8 billion which the Government hope to raise from VAT and this proposal. The same change is not being proposed for stand-alone nurseries, but it will impact nurseries that are part of an independent school. As we have heard from other noble Lords, this seems a curious way, at best, to approach charity law. It will, as we have heard, create a two-tier charity system in which some charities can be disadvantaged fiscally, even when they comply fully with their charitable obligations and serve their communities.

Secondly, we are very concerned about the displacement into state schools of some pupils who are currently in independent schools, particularly those with special educational needs and disabilities. I understand that the Government have estimated this number to be just under 3,000 pupils. As I mentioned to the Minister when we met earlier this week, the national figure is not so important. What is important is what is happening in those local authorities that really have no spare places: in areas such as Surrey or Bristol or, as my noble friend Lord Lexden said, in areas such as Bury and Salford, where small, low-cost faith schools will be hit by this move.

How are local authorities in these areas going to accommodate children whose parents can no longer afford to send them to an independent school, and now need a place in the state system? Where is the capital funding going to come from to pay for these

[Baroness Barran]
places? There are normally long lead times on pupil-place planning for a good reason; children cannot be accommodated well at very short notice.

While these specific measures will have a relatively small effect on displacement into state schools, we need to be clear that there will still be some displacement, and that is a cost to the state. More importantly, when it comes to individual places, it will be a strain on class sizes in some of our local schools and, ultimately, on parents' prospects of getting the first-choice school they want their child to go to.

The Minister will know that we are particularly concerned about children with special educational needs and disabilities in this context. Some parents have felt they want their child to be educated privately and have made great financial sacrifices to do so. They have not sought an education, health and care plan because they do not want their child labelled in that way, and some of these children will now enter the state system and put more pressure on stretched SEND teams. What support will the department give to schools and trusts to make this workable? Will it commit to monitoring these moves and reporting on them, including any funding and placement challenges for local authorities, as the LGA has requested?

More broadly, all around the country, independent schools are involved with their local state schools, working in partnership, sharing resources such as swimming pools, theatres, academic staff and more. Have the Government assessed the impact on state schools if it becomes impossible for independent schools to continue these partnerships, as my noble friend Lord Waldegrave explained, having to focus rather on retaining bursaries, in line with their charitable objectives?

Of course, we welcome the carve-out for schools that wholly or mainly educate children with an education, health and care plan, but I would be grateful if the Minister can confirm how many schools this applies to and how many children are educated there.

This Bill raises many more questions than it answers. Maybe one could generously say that the Government's direction of travel has been sketched out; the detail along the way certainly has not. While the Government talk about importance of certainty, businesses are not getting certainty with the Bill, apart from, of course, charitable independent schools, where the misguided decision to tax some parts of our education system is all too clear. I appreciate I have asked the Minister many questions. I look forward to her reply, but if she is not able to answer all of them, I would be grateful if she could write.

8.03 pm

Baroness Taylor of Stevenage (Lab): My Lords, with the leave of the House, I rise to close the debate. I thank all noble Lords who have taken part in the debate. The great strength of your Lordships' House is the hugely knowledgeable and informed debates we have, and this has been a great example, with experience from across sectors such as business, education and many other areas—even veterinary practices—so I am very grateful to noble Lords for their contributions. They have demonstrated their enthusiasm and interest for our high streets, the important role they play in our local communities and the small businesses that are their lifeblood, and for ensuring that all children are able to receive a high-quality education. There is certainly consensus on that, if perhaps not on the means of achieving it, but there is a consensus that every child deserves to have all the opportunities that should be available to them.

I will make a few general comments on remarks made by noble Lords, and then I will attempt to answer most of the questions, but I expect I will run out of time long before I get there. I assure noble Lords that anything I do not get to, I will reply to in writing.

Both the noble Baronesses, Lady Scott and Lady Barran, referred to the overall policy, in relation to some of the really tough decisions we have had to take. I understand that these are tough decisions and why people think they are. However, yet again in this House we have had a bit of a swerve around the reason why those decisions were necessary; it is the inheritance we picked up when we came into government. We have to balance the books and get the fiscal picture straight so that we can deliver the reform to public services that we want to see, and tackle some of the cost of living issues that everybody faces.

I have another general comment on a point raised by a number of noble Lords. The Bill is not intended to achieve the comprehensive reform of business rates that we have set out as our intention. We are working on it and there is a consultation paper out at the moment, and I hope all noble Lords who have contributed this afternoon—and anyone else who has an interest in the business rates system—will make a contribution to the ongoing work on business rates. Having been a councillor for many years and listened to many complaints from both the public and private sectors about how business rates operate, I am in no doubt that we need comprehensive reform.

I hope that has picked up some of the general points and I will turn now to the specific points that noble Lords made.

There were, rightly, a number of questions regarding the impact of the proposed new multipliers. The noble Baronesses, Lady Scott, Lady Pinnock and Lady Barran, and the noble Lords, Lord Fox and Lord de Clifford, all mentioned this issue. As I explained in my opening speech, the actual tax rates to the new multipliers will be set at the 2025 Budget, taking into account the effects of the 2026 business rates revaluation, which we have to do, as well as the broader economic and fiscal context at that time. It is for my right honourable friend the Chancellor to make those decisions at the right time. Tax policy and legislation are not subject to the same requirement for an impact assessment that accompany other non-fiscal policy decisions. Nevertheless, the Treasury is committed to publishing an analysis of the effects of the new multipliers at Budget 2025, taking into account the broader factors that I just mentioned. I hope I set out clearly in my opening speech why we need to take these steps.

On the VOA and its property rateable values, which were mentioned by the noble Baroness, Lady Scott, the noble Lord, Lord Fox, and the noble Earl, Lord Lytton, on 5 February the VOA will publish an

ad hoc release relating to properties with a rateable value of over £500,000. That will provide a breakdown by category of property type by local authority for all those properties with a rateable value above and below £500,000, so we will be able to see clearly which properties are impacted by which parts of this reform.

On the issues around the multipliers policy approach, I have heard the message that noble Lords may think this is a blunt tool for dealing with this matter—the noble Baronesses, Lady Scott and Lady Pinnock, the noble Earl, Lord Lytton, and the noble Lord, Lord Jamieson, mentioned this. The permanent tax cut for retail, hospitality and leisure properties, including those on the high street, from 2026-27, will ensure that much-needed certainty and support. That tax cut has to be funded, so we intend to introduce that higher rate on the most valuable properties. The Government's view is that it is the fairest approach to ask all properties with a rateable value of £500,000 and above to pay a higher tax rate to support the viability of our high streets. It is the fairest way and, as I said in my opening speech, the higher rate will apply to less than 1% of all properties, and we will know which those properties are once the VOA has published its assessment.

The noble Baronesses, Lady Scott and Lady Pinnock, raised the approach being detrimental to anchor stores. I understand the concern around this. Unfortunately, we lost our Marks & Spencer store in Stevenage town centre; luckily, we managed to attract it back, and it is operating there very successfully, and it is much appreciated by our residents.

The Government intend to introduce two permanently lower tax rates for retail, hospitality and leisure properties, which will give certainty. I understand concerns that the higher multiplier may catch some of the largest and most valuable retail businesses. However, we think that the fairest approach is to ask all properties above £500,000 to pay that. This is a property tax, so whether large stores are based on the high street or in retail parks, it will still have the same impact. I remind noble Lords that the upper rate will impact on less than 1% of properties.

Retail, hospitality and leisure relief was extended year by year by previous Governments, but it has been a stopgap measure. The noble Baroness, Lady Scott, and the noble Lords, Lord Fox and Lord Jamieson, raised the issue of our process being a temporary measure. This is a permanent measure which will give certainty to those businesses. Before the intervention we are taking now, retail, hospitality and leisure relief would have ended entirely in April 2025, creating a cliff edge for those businesses. We have decided to offer that 40% discount to retail, hospitality and leisure properties up to a cash cap of £110,000 per business in 2025-26. By extending that retail, hospitality and leisure relief instead of ending it entirely, the Government have, for example, saved the average pub with a rateable value of £16,800 more than £3,300. We are doing our best to support the sector, in spite of the difficult fiscal picture that we see.

On wider business rates reform, raised by the noble Lord, Lord Fox, the noble Baroness, Lady Pinnock, and many other noble Lords, the discussion paper has been published. It builds on our plans announced at the Autumn Budget to support high streets by further highlighting areas for reform, incentivising investment and modernising the system so that it is fit for the 21st century. A number of noble Lords mentioned business rates avoidance. We will shortly publish a consultation on adopting a general anti-avoidance rule for business rates in England.

The noble Lord, Lord Fox, raised the issue of the small business rates relief which is in place to support all of our small businesses. I want to highlight that that provides 100% relief to small businesses which occupy only one property with a rateable value of £12,000. A taper of relief down from 100% is available to such ratepayers with rateable values up to £15,000. That scheme ensures that over a third of all properties, or about 700,000 ratepayers, are not paying any business rates at all. The Government have no plan to remove small business rates relief, which is permanent and set down in legislation.

The noble Earl, Lord Lytton, raised the issue of business rates being too high overall and I understand those concerns. We all know only too well that economic and fiscal stability is critical to business confidence. At the Budget, the small business multiplier for properties with a rateable value under £51,000 was frozen at 49.9p, meaning that, together with the small business rates relief, over 1 million properties will be protected from a 1.6% inflationary increase.

The Budget honours the manifesto commitment not to raise corporation tax. The UK has the lowest corporation tax in the G7, the joint most generous plant and machinery capital allowances in the OECD, and the joint highest uncapped headline rate of R&D tax relief in the G7 for large companies. I will come on to the noble Earl's other points later, but I thank him, as usual, for his expertise, which we experienced during the levelling-up Bill and have once again had the benefit of this afternoon.

Supporting the high street and the broader government approach was mentioned by a number of noble Lords, including the noble Baroness, Lady Scott, and the noble Lord, Lord Fox. We are committed to rejuvenating our high streets and town centres. The measures in this Bill to introduce permanently lower tax rates for RHL properties will help, but they are only part of our work. In December, we introduced the high street rental auctions, a new power which allows local authorities to auction off the lease of persistently vacant commercial units. The new regulations will make town centre tenancies more accessible and affordable for businesses and community groups, while helping to tackle the vacancy rates on our high streets.

In addition, through the English devolution Bill we will introduce a new strong right to buy for valued community assets, such as shops, pubs and community spaces. That community right to buy will give local people the power to purchase community assets that go up for sale, helping to keep assets in the hands of the community. I have seen the great benefit of this in the Station Pub, in Knebworth, which the community has taken over and made a great success of. Like the pub mentioned by the noble Lord, Lord Waldegrave, it is a great place, and if noble Lords are ever in that area, they should visit. The Government continue to invest in a number of initiatives to boost town and city centres, including our high street accelerators. As part

[Baroness Taylor of Stevenage]
of our plan for change, we are working hard to support our high streets, and the measures in the Bill are part of that.

I thank all noble Lords for their comments on private schools, and in particular on special educational needs. The noble Baroness, Lady Scott, and other noble Lords mentioned pupils who do not have an ECHP. I used to be the education spokesperson at Hertfordshire, so I am very familiar with the sometimes lengthy delays in obtaining EHCPs. The approach adopted in the Bill has sought to ensure that the impact on pupils with the most acute special educational needs is minimised.

The Government are aware that some parents may make a choice for their child to attend private school, but this is a choice, like that made by any parent using the private sector. For most pupils with a special educational need, support is provided within a mainstream state school, and all children of compulsory school age are entitled to a state-funded school place if they need one. We support local authorities to ensure that every local area has sufficient school places for children who need them, and that appropriate SEND support is available, if needed. I recognise the issues around obtaining an EHCP. I am concerned by what the noble Baroness, Lady Scott, said about stigma around obtaining an EHCP, and I will discuss that with my noble friend the Education Minister.

The noble Lord, Lord de Clifford, spoke about what will happen to pupils with an ECHP when a school loses its charitable relief. Business rates are a tax on property; it is not possible to differentiate at the individual pupil level. Where a private school has only a few pupils with EHCPs, it will lose its eligibility for charitable rates relief. However, where a private school has been named on a pupil's EHCP, the local authority funds the pupil's place. Therefore, in the event that a private school loses eligibility and chooses to pass through some of that additional cost to fees, these pupils and their families will remain unaffected. In private schools, including private special schools, just 5.7% of pupils have an EHCP, predominantly in private special schools, and 97% of such pupils have their place at a private school funded by their local authority. I hope that helps clarify that point.

The Government are committed to reforming our SEND provision overall to improve outcomes and return the system to financial sustainability. We have provided a £1 billion uplift in high-needs funding for the next financial year. We know that that will not solve all the problems, but it will make a start. As part of our plan for change, we want to make sure that we are doing our very best to provide those opportunities that SEND children need, as with all children. This Bill is part of the process of driving that forward.

The noble Lord, Lord Jamieson, spoke about SEND and the state sector, and said that this approach will increase costs. We are absolutely committed to improving inclusivity and expertise in mainstream state schools, restoring parents' trust so that their children will get the support they need to flourish. If an EHCP assessment concludes that a child can be supported only in a private school, the local authority will fund that place.

The noble Lord, Lord Lexden, whose great knowledge on this subject I respect, spoke about the Government not caring about pupils in private schools. The Government believe in parental choice, but we are determined to fulfil the aspiration of every parent to get the best education for their child. To eliminate barriers to opportunity, we need to concentrate on the broader picture and the state sector, where most of our children—93%—are educated.

Ending the tax breaks on business rates—and VAT—for private schools is a tough but necessary decision. We need to secure vital additional funding to help deliver those commitments to education and young people. As I said, there is a consensus on what we need to do, but perhaps not on the means of getting there.

The noble Lord, Lord Lexden, also mentioned the impact on faith schools. Again, the Government value parental choice but all children of compulsory school age are entitled to a state-funded school place if they need one, and schools are required to follow the Equality Act and requirements relating to British values. We expect them to foster and promote an environment that encourages respect and tolerance of children and families of all faiths. The Government have listened carefully to arguments on this matter and have decided that a carve-out for faith schools cannot be justified. However, children can attend faith schools and have their faith respected in the state sector.

The noble Lord, Lord Lexden, referred to private school closures. We expect those numbers to remain relatively low and they will be influenced by various factors, not just the removal of VAT and business rate tax breaks. Parents can seek places in other private schools or find a state school place through their local authority. There has been a traditional number of around 50 private schools, excluding independent special schools, closing each year, but we must also note that private schools have continued to open, even after the Government announced that they would end tax breaks for private schools. The register of independent schools shows that 77 independent schools have opened between January and October 2024.

The noble Lord, Lord Lexden, felt that the timing of this was poor. Ending tax breaks on VAT and business rates for private schools is—I will say again—a tough but necessary decision, and we have had to take some measures to fill the gap in the budgets. Delaying implementation of the business rates policy would forgo around £140 million a year that is intended to fund the Government's investment in state education and young people.

Baroness Scott of Bybrook (Con): But if I remember rightly, the decision about the taxation of independent schools was made well before the Chancellor got into place and saw anything in the books.

Baroness Taylor of Stevenage (Lab): Knowing the Chancellor as I do, I am sure she was extremely well prepared for taking on the commitment and had some idea of what was going on well before she came into office. I am sure that that was her being well prepared.

The noble Baroness, Lady Scott, and the noble Lords, Lord Waldegrave and Lord Maude, raised the impact on charitable activity if schools stopped or

reduced their activity. They will continue to operate as charities and there will be no other tax changes specific to their charitable status.

I see I am running out of time, so I will close. I have a number of other points, including on several points of detail made by the noble Earl, Lord Lytton.

Lord Fox (LD): I will read the noble Baroness's statement in *Hansard* with great interest but does she recognise that, far from clarifying the issue, which has a number of moving parts, she has thrown some more moving parts into the bag? For us to have a sensible and reasoned approach to Committee, we really need some more clarity. I hope she will take that back with her from this debate. We are willing and ready to engage but it is very difficult, with the degree of murk we are currently encountering.

Baroness Taylor of Stevenage (Lab): I hear the noble Lord's remarks, and of course I will take that back. I and, I am sure, my noble friend Lord Khan will be happy to undertake any further engagement that noble Lords wish to have before we go into Committee.

The two key points seem to be that this was not a general review of business rates, which we know it is not—a further, wider review of business rates is going on—and the clarification of the VOA valuations, which will set out what categories properties over and under £500,000 will come into. Of course, we will do our best to clarify any further questions that noble Lords have as soon as we can.

I thank all noble Lords who contributed to the debate. This is our first step on the road to transform the business rates system. We want to provide certainty and support to our high streets by enabling the delivery of a permanent tax cut that is sustainable and levels the playing field between the high street and the online giants. It will also help break down barriers to opportunity and support all parents to achieve their aspirations for their children. All parents have aspirations for their children, and it is right that we do our best to support them in delivering and achieving them by raising additional revenue to support the more than 90% of children who attend a state school.

Bill read a second time and committed to a Grand Committee.

Official Controls (Amendment) Regulations 2024

Motion to Approve

8.26 pm

Moved by ***Baroness Hayman of Ullock***

That the draft Regulations laid before the House on 19 November 2024 be approved.

Relevant document: 10th Report from the Secondary Legislation Scrutiny Committee (special attention drawn to the instrument).

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Baroness Hayman of Ullock) (Lab): My Lords, this SI is required as part of the implementation of the border target operating model, which aims to deliver a streamlined approach to imports that protects public, plant and animal health and minimises friction at the border. The instrument uses powers conferred by the Retained EU Law (Revocation and Reform) Act 2023, also known as the REUL Act. The changes it implements fall into three main categories.

The first category of measures provides a long-term legislative framework for sanitary and phytosanitary controls that have already introduced, but takes this beyond the reliance on temporary powers such as the transitional staging period. I will give some examples of how the instrument does this. It amends the definition of an official certificate to include digital documents, which will facilitate fully electronic and digital import documentation. It expands the definition of a documentary check to include remote examination or by automated means. We are also making it possible to remove the requirement to carry out documentary checks on all imports, so that checks can be made based on risk. The instrument also provides the power to allow for inland border control posts for reasons other than geographical constraints, and gives government the power to determine whether to designate allowing greater control to place border control facilities and resources with biosecurity, trade and food security priorities.

The second category of measures allows for a response to risk so that conditions governing the import of animals and animal products can be updated administratively. This will uphold our obligations to protect biosecurity and public health while facilitating trade, and will mean that competent authorities, devolved Governments, the Food Standards Agency and Defra will be able to amend and manage biosecurity controls in response to changing risks. Additionally, animals and animal products can be categorised based on risk, including the ability to exempt low-risk categories from unnecessary checks, which will align our animal control measures with plants and plant products.

The third category of measures allows policies to reduce burdens and allows the extension of policies to non-EU goods. Implementation of these future policies would require further legislative change, but we propose to have the powers in place now in order to provide for future flexibility so that we can respond quickly to risk.

However, there are two policies that have impact from the date this instrument will come into force. First, it allows diagnostic testing of plants and plant products to be undertaken at a border control post, instead of such tests needing to take place at official laboratories. This will significantly reduce the time that certain perishable goods will be held.

The second is the use of enhanced enforcement powers to require and pursue full cost recovery of the common user charge for goods entering through government-run border control posts. This is vital to ensure full cost recovery of the operating costs and ensure that businesses pay charges for their import activity.

These changes will have no impact on the Windsor Framework and do not bring in additional checks on the west coast of Great Britain. The Scottish and Welsh Governments has consented to these amendments.

8.30 pm

I now draw the House's attention to a submission that we received from Friends of the Earth. It shared its concerns about checks being made away from BCPs, the frequency of checks being based on risk, how misdeclaration would be handled, performance monitoring and whether we are acting within the powers in the REUL Act. In our response, we explained that this instrument only provides provision to be made for documentary, identity and physical controls to be undertaken at places other than border control posts or control points, and that we have robust, evidence-based risk modelling that can place SPS into categories based on the inherent risk that the product poses to animal, food, biosecurity and public health.

For animals and animal products, the default documentary rate remains at 100% and, while low-risk goods do not require certification or routine checks under the new approach, we are still able to detain these goods for checks based on intelligence. By next year, we will be regularly reviewing the risk categories and we have existing surveillance programmes to ensure that any emerging risks are detected and dealt with in a timely manner. Finally, the REUL Act is being used within its powers to replace the provisions under assimilated law that was inherited from the EU, and to create new provisions that achieve the same or similar objectives.

The Secondary Legislation Scrutiny Committee asked about the use of administrative rather than legislative powers in other areas of import controls. Our response explained that, while powers exist to control imports through statutory instruments, administrative powers are required to ensure that changes to import conditions can be made rapidly in response to emerging biosecurity and food safety risks with trading partners that are approved to export into Great Britain. The amendments reflect and build on changes already made since the United Kingdom left the EU to refine our listing procedures for imports of animals and animal products in ways that provide the flexibility and responsiveness needed to protect biosecurity and facilitate trade. The committee noted Defra's explanation and was reassured about the use of administrative rather than legislative powers in this specific policy area.

The Government are committed to removing trade barriers, including through looking to negotiate an SPS agreement with the EU, but this will clearly take some time. This instrument therefore is needed to implement the policy that industry has been preparing for and, importantly, to ensure that biosecurity is maintained between now and any agreement taking place.

These regulations will ensure that the controls already in place are enduring. They implement a responsive border to protect the United Kingdom from emerging pests and disease, while at the same time supporting businesses with processes that are as simple and effective as possible.

Amendment to the Motion

Moved by ***Baroness Hoey***

At end insert "but that this House regrets that the draft Regulations further distance Northern Ireland from the United Kingdom and embed it further under European Union control."

Baroness Hoey (Non-Afl): My Lords, the Official Controls (Amendment) Regulations are in my view deeply problematic, because they effectively render for SPS border purposes that Northern Ireland, along with the rest of the world, is a third country in relation to the rest of the United Kingdom. These regulations have for UK citizens living in the part of the UK called Northern Ireland what I call a deeply othering implication whereby we are set apart from our own country, with the rest of the world.

Let me be clear: when I fly back to Northern Ireland each week from your Lordships' House, I am in effect entering the European Union when it comes to all laws relating to goods. I am entering its single market and its customs code, which is of course why the EU insists on the Irish Sea border to distinguish and give effect to the fact that, under this regulation, you are entering EU territory.

The Minister has sought to justify this by saying that the Government are seeking to protect the biosecurity of Great Britain and that this is not new but the stated purpose of their border target operating model, which was subject to public consultation. I have to tell the House that I and the other noble Lords who are opposed to these regulations are very aware of these points, which do nothing to remove the central injustice of the effect of these regulations on the body politic of the United Kingdom. I understand why the noble Baroness still attempts to justify the regulations, because she may not feel that it is her responsibility to engage with the central injustice, but I and others certainly can and that is what I want to highlight in this debate tonight.

I start by stating that a most basic function of a Government to its people is the provision of their security, and a critical component of security is biosecurity. The Government cannot just be allowed to abdicate their biosecurity responsibilities for Northern Ireland to the European Union, any more than it would abdicate its responsibilities for any other aspect of the security of Northern Ireland or other part of the UK to another country or group of countries. Surely this is a basic moral imperative. In case of any doubt, Article 1.2 of the Windsor Framework states:

"This protocol respects the essential state functions"

of the United Kingdom.

We all know that, before the imposition of the Irish Sea border, Northern Ireland was deemed to be in a different SPS zone from the rest of the United Kingdom. But what was never in doubt was, first, that Northern Ireland was part of the United Kingdom and not a third country in relation to it and, secondly, that, as such, the biosecurity of Northern Ireland was as much a responsibility of the UK Government as the biosecurity of GB. In this context, while any Government confronted by the outbreak of a biosecurity threat in a particular part of their territory will seek to limit movements to protect the rest of their territory from that outbreak, at no point is that part of the state relinquished such that it ceases to be part of the ultimate biosecurity identity of the state in which it is located. Ultimately, our security was held in common by the union that is the United Kingdom.

The difficulty with these regulations is not simply that their focus is on the biosecurity of Great Britain, as if the biosecurity of Northern Ireland did not

matter, but that they are construed in terms that effect the casting aside of Northern Ireland for biosecurity purposes so that it is no more the concern of the UK Government than any other part of the world, the rest of the world being conflated with it into the same zone of third countries. This othering, as I mentioned earlier, transforms Northern Ireland from being part of the UK body politic for biosecurity purposes into something outside it. This is a hugely controversial issue, because one of the most basic questions of political identity pertains to who you join with when your back is against the wall in the context of a security crisis. Who are the people with whom, in the words of John Stuart Mill, "our lot hangs together"? With whom do we say "we"? These are not trifling matters that can be adjusted on a whim. The people of Northern Ireland cannot be lifted out of their security identity and become, like the rest of the world, a potential threat to the biosecurity of Great Britain from which Great Britain must be protected by the Irish Sea border.

The presenting difficulty is even worse than that. Biosecurity threats are, by definition, greatest from those who are not part of you but close. Northern Ireland, therefore, is reconfigured by these regulations not just to be a third country but the greatest third-country biosecurity threat to Great Britain on account of being the closest third country to Great Britain, separated by just a dozen nautical miles of British territorial sea in the North Channel.

In addition to reconfiguring Northern Ireland into a third-country threat to the biosecurity of Great Britain rather than part of the United Kingdom that is still the responsibility of the UK Government, these regulations imply that, as a third country, the biosecurity of UK citizens living in that part of the United Kingdom that is not Great Britain is not the responsibility of the UK Government. This rather suggests that there is no equivalent UK biosecurity legislation covering Northern Ireland because, if such legislation existed, while being in some senses in separate zones, ultimately the fact that the UK is a single state means that UK legislation pertaining to the biosecurity of Northern Ireland would need to relate to the equivalent UK legislation pertaining to the biosecurity of Great Britain and vice versa.

I raised this twice when we debated biosecurity regulations on 10 December 2024. The Minister in her response sought to respond, but I intervened to make the point clearer as it was being missed. I said at column 1694:

"If goods coming from the Republic through Northern Ireland into Great Britain have to be security-checked for phytosanitary and all the other reasons, why are people in Northern Ireland then left with nothing? How does the Minister know that we are not going to be poisoned or threatened by some kind of problem that she feels will come through to Great Britain?"

The Minister responded:

"I completely get the point that the noble Baroness is making. Our international commitments, and the Trade and Cooperation Agreement, require us to treat EU goods equally, regardless of the entry point. As she is aware, there is a lot of legislation already in place. There are issues within the Windsor Framework. There are matters that we need to discuss with the EU as we go forward with the EU reset that has been discussed".—[*Official Report*, 10/12/24; col. 1694.]

Well, that did not really answer the question: how does the UK discharge its equal essential state function to protect the biosecurity of the people of Northern Ireland and how does that legislation relate to the GB legislation?

Perhaps I can attempt to give the real answer and then the Minister will have the opportunity to correct me if I am wrong. The truth is that the UK Government have, in violation of Article 1 of the Windsor Framework, abdicated their essential security function in Northern Ireland in relation to biosecurity and effectively allow goods to flow in freely from the EU, outsourcing their essential state function in biosecurity to the EU and its legislation. The only biosecurity function and legislation that the UK Government now seek to provide relates to Great Britain and they set out that function in this and other legislation in terms that not only do not apply to Northern Ireland but reconfigures Northern Ireland from being part of the same biosecurity identity as the rest of the UK.

In all of this—and this might sound surprising—the regulations before us today give great grounds for hope. That sounds rather strange, given everything else I have said, so let me explain. These regulations contain three central components. First, they make provision for an SPS border to protect Great Britain from goods coming from the Republic of Ireland and the wider EU. Secondly, they do so along the Irish Sea rather than on the international boundary on the UK-Republic of Ireland land border. Thirdly, they make provision for that border to be upheld without hard-border infrastructure.

Under these regulations, those wanting to move goods from the Republic and wider EU into Great Britain by way of Northern Ireland are, under Regulations 16 and 17, no longer required to pre-notify to a border control post but can pre-notify instead to authorities based anywhere in GB, and, under Regulations 14, 7 and 11, they are no longer required to attend a border control post on the border and can be directed to SPS facilities away from the border, in some cases in Northern Ireland and in some cases in GB—and in some situations checks can take place at the place of destination.

This is a huge breakthrough, but it makes these regulations completely unsustainable. The justification for moving the border between the Republic of Ireland and the UK to the Irish Sea was that, if a hard border was erected along the actual international border, it would be provocative and terrorists would attack the border infrastructure and anyone employed in staffing the border.

It was never that the border cannot be where it is. The whole point of the Belfast/Good Friday agreement was and is to recognise that unless and until there is a border poll and a majority of people in both Northern Ireland and the Republic vote for Northern Ireland to leave the UK and become part of the Republic, the international border remains where it is and Northern Ireland remains in the UK.

In this context, a border without infrastructure has long existed across the island of Ireland for multiple purposes: tax, excise and legislation. We even have miles into kilometres and pounds into euros when we cross the border. Checks happen there. During Covid,

[Baroness Hoey]
the Republic conducted border checks and people moving south were stopped in their cars. Recently, we saw Irish police seek to enforce the border for immigration purposes. The difficulty presented by Brexit—I say this particularly to the noble Baroness, Lady Suttie—was not that there should be a border, because there already was a border. It was thought that adding an SPS and customs border to the excise, tax and legal border would require permanent infrastructure that might be attacked: a hard border.

8.45 pm

What the regulations before us today demonstrate is that the SPS border for goods moving from the Republic into Great Britain does not need to be a hard border. In so doing, they sweep away the justification for putting the border in the wrong place. This is a huge issue for three reasons. First, the repercussions of putting the border in the wrong place, in violation of the international border, has been to disenfranchise the people of Northern Ireland—not just in relation to one law or 300, but in relation to a staggering 300 areas of law. This constitutes the biggest reversal of democracy in the history of these islands. While our current legal arrangements declare that the people of England, Wales and Scotland are worthy of the right to stand for election to make all the laws to which they are subject, they tell us, the people of Northern Ireland, that we are worthy of the right to stand for election to make only some of the laws to which we are subject.

Secondly, this arrangement violates the territorial integrity of the UK and is thereby contrary to international law. Thirdly, this arrangement, while consistent with domestic law in the Northern Ireland Act 1998, as amended, is contrary to international law, as set out by the Belfast/Good Friday agreement's consent, cross-community consent and democracy principles.

The enormity of these repercussions is such that the notion that the desire to avoid a hard border across the island of Ireland for customs and SPS purposes was such that they could be disregarded never made any sense. However, in the context of the regulations before us today making it plain that it is acceptable to have an SPS border processing goods from the Republic and the EU into the UK without hard infrastructure on the border, the entire justification for having the border in the Irish Sea is not only swept away but replaced by an urgent imperative to relocate it where it should be, at the international border. The provision of the border in the right place by means of the mechanism in these regulations—pre-notification and the use of SPS checks away from the border—means that there is no need for the UK Government to abdicate their biosecurity responsibilities to the people of Northern Ireland. In the context of the provision of the border, as provided for by these regulations, in the right place rather than the wrong place, Northern Ireland can cease to be a third country in relation to Great Britain, just as Great Britain can cease to be a third country in relation to Northern Ireland.

So, while I warmly applaud the mechanism in these regulations, which is, at least as far as the SPS border is concerned, a complete game-changer, I have to stand against these regulations not just because they are in the wrong place and responsible for all the earlier points I made about the damage to democracy but because they demonstrate that their being in the wrong place with these socially destructive effects is completely unnecessary and something that actually compounds the injustice.

The Government, as part of their reset with the European Union, must now embrace the more robust infrastructure-free border that was initially proposed way back, from within the EU, with mutual enforcement, which is now provided for by Bill proposed by the Member of Parliament for North Antrim, Jim Allister—the European Union (Withdrawal Arrangements) Bill—which is currently in another place. In doing so, the Government would very quickly restore to themselves their essential state functions in biosecurity as they relate to Northern Ireland as well as Great Britain, re-enfranchise 1.9 million UK citizens, restore the territorial integrity of the UK, and make negotiating a trade deal with the United States—something that will be virtually impossible while part of the UK has been left in the EU—possible. Most of all, the Government should stand up for the union of Great Britain and Northern Ireland and stop our country being torn apart. I beg to move.

Baroness Ritchie of Downpatrick (Lab): My Lords, I welcome my noble friend the Minister to the Front Bench, as well as the noble Lord, Lord Caine, on behalf of the Opposition, and the noble Baroness, Lady Suttie, on behalf of the Liberal Democrats. I declare my interest as a member of the Secondary Legislation Scrutiny Committee in your Lordships' House, a member of the UK-EU Parliamentary Partnership Assembly and a member of the Government's Veterinary Medicine Working Group—which is all related to the European Union.

A very interesting YouGov poll was published in the last few days; it showed that the public in the UK wanted to join the EU again. This cannot be discounted, and I would like to leave that point with the Government. An interesting analysis was provided by Piers Morgan—who would not exactly have been seen as a remainer—who said he cannot see why the reset does not involve rejoining the European Union. Little benefit has come out of Brexit for the people of the United Kingdom, and we should make that point quite clear.

I support this statutory instrument, which is also supported by Logistics UK, which has had major problems with the border target operating model and its implementation. However, it makes the case for the single trade window, which is not reflected in this particular legislation. As I have already said to my noble friend the Minister, this is an issue which requires legislation. As my noble friend the Minister has said, there are some benefits in this statutory instrument which need to be highlighted, including amendments to provide a long-term legislative basis for the border target operating model beyond temporary powers.

The organisations involved in haulage and in bringing in and transporting plants and animals have no fundamental objection to this. However, they feel there is a risk that giving the BTOM a long-term legislative basis reduces the pressure on the Government to make a comprehensive veterinary and SPS agreement with the EU. I know my noble friend the Minister has

already referred to this in her speech, and it is one of the areas that we have looked at in the Veterinary Medicine Working Group. I would be most pleased if my noble friend the Minister could confirm the ongoing situation.

This statutory instrument includes amendments to extend policies which are currently applied only to EU goods to goods from the rest of the world. This makes sense, as it will mean that rest of the world goods imports do not have an unfair advantage over EU goods regarding the border target operating model's bureaucracy and costs. It also provides amendments to allow the BTOM to be updated more responsively to biosecurity risks. This sounds sensible if it is used only in cases of genuine biosecurity risk. It would be problematic if changing risk classifications became a way of raising more revenue for the Government.

In short, there are minor issues that are benefits in this statutory instrument. As a member of your Lordships' Secondary Legislation Scrutiny Committee, we raised the point about administrative powers, which my noble friend the Minister addressed in her opening comments. However, there is disappointment that safety and security declarations will be made via the Government's existing sub-optimal service, rather than the single trade window. That is why organisations such as Logistics UK—from which I have received representations and a briefing—in their spending review submissions to the Treasury have called for the development, thorough testing and introduction of a single trade window which efficiently and effectively operates as one border portal, and which is interoperable with international systems, to reduce the bureaucratic and cost burden on businesses. Can my noble friend say what the possibilities are of this happening?

In supporting this statutory instrument, I look forward to seeing the reset being promoted by the Government leading to a more enduring solution for all the people of the UK, including those in Northern Ireland. We need to ensure that there is less trade friction, but that is why we have the Windsor Framework and the BTOM; they are both devices to manage the trade friction that would not have been there if we did not have Brexit. It all comes back to that horrible little subject. Many who once were Brexiteers now see that there is little value in it and that we should be reverting back to where we once were.

Lord Dodds of Duncairn (DUP): My Lords, I am grateful to the Minister for introducing these regulations and explaining them in such detail. I congratulate the noble Baroness, Lady Hoey, on tabling the regret amendment, which means that the matter can be debated properly in this Chamber and given the scrutiny that it deserves. Far too many of these regulations are being laid by negative procedure and affirmative procedure and are being brought to the Grand Committee. The full scrutiny of Members in this Chamber needs to be brought to bear on the contents of these regulations, because they have significant effects. A lot of them are very technical in nature—when you listen to the Minister introduce the matter, it sounds extremely technical indeed—but when one delves into it, one can see the significant ramifications, as the noble Baroness, Lady Hoey, pointed out in her forensic analysis of the regulations, and the effects and implications that they have.

I am sure that the Minister, having listened to her noble friend Lady Ritchie of Downpatrick, will go away and say that the answer to this is to persuade the Prime Minister to come out publicly and declare his wish to rejoin the European Union. He may try to resist that, for obvious reasons, not least that it would further diminish his standing with the people of the United Kingdom. There will be those who say that the answer is to undo Brexit, but I think that that debate is long gone. The issue that we are debating is how Brexit is done. The problem that we have in Northern Ireland is not the fact that we had Brexit but the fact that Brexit has been done in a way that separates Northern Ireland, wrongly, undemocratically and unconstitutionally, from the rest of the United Kingdom. Brexit can be done and must be done, if the institutions at Stormont are to endure in the long run, in a way that does away with the current problems.

On the issue at the heart of these regulations—the biosecurity of Great Britain, as the noble Baroness, Lady Hoey, explained at length—we had a recent example of the problem that is being created. On 16 January, the Defra Minister in the other place, Daniel Zeichner, told Members of Parliament about the steps being taken by His Majesty's Government to protect people from foot and mouth disease in Great Britain. He said:

> "The Government have taken decisive and immediate action. The import of cattle, pigs and sheep from Germany has been stopped to protect farmers and their livelihoods".

The Minister did not talk about Northern Ireland voluntarily, but, when he was challenged, he said:

> "Northern Ireland farms are just as important. In Northern Ireland, the controls will apply to meat and live animals moving from a 3 km protection zone and a 10 km surveillance zone surrounding the affected premises in Germany. Those products cannot be moved to Northern Ireland".—[*Official Report*, Commons, 15/1/25; cols. 331, 336.]

The biosecurity of Great Britain was so important that the import of all cattle, pigs and sheep from Germany had to be stopped immediately. By contrast, cattle, pigs or sheep could come to Northern Ireland from anywhere in Germany, so long as they did not come from a 10 kilometre surveillance zone surrounding the affected premises.

The levels of protection the UK Government insisted on for Great Britain, and rightly so, could not have been more different from those the EU provided for Northern Ireland, the UK having abdicated its biosecurity responsibilities in relation to Northern Ireland, as the noble Baroness said. In this context, the claim by the Minister in the other place that Northern Ireland farms are just as important looks limp, pathetic and absurd.

9 pm

The next day, businesses began cottoning on to the problem and asking Defra how the protections the Minister had spoken of in relation to Northern Ireland could be enforced. How were people to know whether the imports were coming from one part of Germany or another? Britain had taken the wise decision to ban it all to be absolutely sure. A bit of scrambling was done within Whitehall, which produced a bit of panic, followed by an announcement before the end of the day that all beef imports from Germany to the island of Ireland had been banned. That is such a chaotic,

[Lord Dodds of Duncairn]
unacceptable way to proceed, especially in the context of these regulations, which make it clear that it is possible to enforce an SPS border without hard infrastructure, as the noble Baroness, Lady Hoey, outlined. There is no need for Northern Ireland to be fobbed off with EU biosecurity protections that will be changed only when there is some kind of crisis and, apparently, when the Republic of Ireland is given a special dispensation to keep the UK Government onside.

This is very real, recent, living example of how Northern Ireland is being treated completely differently compared with the rest of the United Kingdom on something that potentially affects the agri-food industry in Northern Ireland, and the health and welfare of British citizens in Northern Ireland. Of course, this all applies because sanitary and phytosanitary imports into Great Britain are controlled in one way but in Northern Ireland we are left under the jurisdiction of the European Union because of the Windsor Framework/protocol.

This is the outrageous constitutional position that Northern Ireland finds itself in, with all the undemocratic consequences that flow from it that deny the representatives of the people of Northern Ireland—unionists, nationalists and others, because there are people who do not designate as either, as we know—here or at Stormont any say in the laws that govern them in all these areas. That should alarm all parties in Northern Ireland but seems to be welcomed by nationalists. The SDLP, Sinn Féin and the Alliance Party revel in the fact that the EU makes these laws and, as elected representatives in Stormont on the so-called Democratic Scrutiny Committee, want hardly any scrutiny of these matters because everything that comes from Europe must be wonderful and cannot possibly cause any damage. All the evidence, of course, is that real hardships, frictions and difficulties are being caused.

Unfortunately, we have seen in recent days a development whereby the mechanism that was trumpeted by Rishi Sunak and others as a means of giving Stormont a brake on the application of EU law has been shown to be nothing of the sort. It is a dodgy brake, which is normally a subject matter for dodgy car salesmen, but in this case a dodgy politician and others portrayed the brake as something it is not. It is not a Stormont brake, for instance, because Stormont does not have the final say. Many of us argued that at the time; were dismissed by people in this House, people in the other House and by our political opponents, but we have been proved absolutely right. That cannot, therefore, be pointed to as a means of cutting the pipeline of European law, as people suggested that it would.

As the noble Baroness, Lady Hoey, said, these regulations illustrate the folly of the approach that Northern Ireland had to be aligned with European law for single market purposes, for the purposes of agri-food production and so on and so forth because that was the only way to avoid a hard border and the carrying out of checks along the border. We can now see from these regulations that it is perfectly possible to preserve the sovereignty of our country and ensure that there is no so-called hard border. This can be done by sending, for instance, as is said in these regulations, electronic pre-notification, requiring some lorries to attend a facility for checks that do not have to be at the border on an at-risk, intelligence-led basis. What could be wrong with that?

We are going to have this for goods coming from the Republic of Ireland through Northern Ireland into Britain, but we cannot possible have it for goods coming from Northern Ireland or from Britain into the Irish Republic. Oh no; that would be contrary to the Belfast agreement, for some reason, and to any right and rational approach. Of course it is not. If it is perfectly possible to do it in one direction, it should be possible to do it in the other. This is perfectly sensible.

The fact of the matter is that successive UK Governments have buckled in the face of EU resistance to sensible outcomes, suggestions and proposals. Instead, we have a needlessly complex, undemocratic and unconstitutional framework that denies the democratic right of the people of Northern Ireland. This cannot and will not endure. Some people tell us, "Oh, it's a complete waste of time to talk about these things. It's all over. You shouldn't waste your breath talking about them". As long as we have people in Northern Ireland who are denied their constitutional and democratic rights and as long as we have this needless friction between the economy of Northern Ireland and our biggest market in the rest of the United Kingdom, we will continue to raise these matters. We will highlight and put the spotlight on them. I am not a defeatist in these matters. I believe that a point will come where people will realise that this entire monstrosity cannot endure in any sensible, pragmatic or practical way.

We had a vote in the Northern Ireland Assembly in December, which said by a majority vote that these arrangements should continue. The normal way in which the Assembly makes decisions on any crucial matters is by cross-community vote—a majority of unionists and a majority of nationalists. As the noble Baroness, Lady Ritchie, and other noble Lords from Northern Ireland will know, we have not had majoritarianism or majority voting on major issues in Northern Ireland for well over 50 years. However, this vote was rigged so that only a majority was required to ensure that unionists—despite every single one of them voting against—would have to have imposed on them arrangements which they do not support.

I note that, as a result of that vote going through on a majority, the noble Lord, Lord Murphy, has been tasked with undertaking the independent review. I have the greatest respect for the noble Lord. He has immense experience of Northern Ireland and has always acted in a way which has evoked trust and respect from all communities and all sides in Northern Ireland. I look forward to working with him as part of this review, but he will know—as all noble Lords need to know—that the fundamental problem with this protocol/Windsor Framework is the lack of cross-community consent. Every single unionist in this Westminster Parliament and every single unionist in the Stormont Assembly opposes it and votes against it. Their views seem to be cast aside, which is something that will have to be addressed.

Lord Bew (CB): My Lords, I support this legislation but I accept completely the argument made by the noble Baroness, Lady Hoey, and the noble Lord,

Lord Dodds, about it throwing a light on the flexibility. I think the noble Baroness, Lady Hayman, used "flexibility" four times in her introduction. The flexibility, the methodology, which is in place here was exactly what the noble Lord, Lord Frost, might remember the EU describing as the usual unicorn thinking—nonsense, fantastical thinking. Now we discover that, when it suits the EU, you can be amazingly flexible and light-touch with what you are going to do. That point has to be conceded and I will return to it.

Since we are talking about the basic state functions of the United Kingdom, which we are today, perhaps the Minister might say, when she concludes, whether the UFU, for example, has expressed opinions about this legislation to the Government. More generally, with respect to the Windsor Framework, is the business community sending messages about the broad working of that framework? That is really quite an interesting area.

Let me return to the issue of biosecurity. The original much-loved—or much-hated—protocol of 2019 said that the UK retains its basic state functions. One of the things that happened between that original protocol and the Windsor Framework of 2023 is that there was, shall we say, a serious discussion between the United Kingdom and the European Union as to what its basic state functions were. It was resolved, for example, that the original position in the 2019 protocol that certain medicines should not be available in the EU's agreement with Northern Ireland was wrong, and that the basic state functions of the United Kingdom implied strongly that all the medicines that the United Kingdom Government believed should be available in the hospitals should be there. That is one of the clear-cut victories of the Windsor Framework, from a unionist point of view. That issue of medicines was the top item in the DUP election manifesto for the recent Assembly elections and it is rare that parties get the top item.

I am drawing attention to the importance of the concept of basic state functions and pointing out what happened—by the own account of the noble Lord, Lord Dodds—on the question of biosecurity. I want the Minister to confirm, as she may later on, whether the UK has abdicated its responsibility for basic state functions for Northern Ireland on biosecurity. Rather like in the case of medicines, it turned out that it had not. The developments as described by the noble Lord suggest, again, that it is an example of how the UK then responded to the fact that it had basic state functions in this area. I do not think there is evidence that the UK has abandoned its concept of having basic state functions in Northern Ireland which have to be maintained.

More broadly, let me again express sympathy for the noble Baroness, Lady Hoey, on her regret amendment. There is no question that two things came together politically in 2016 or 2017. One was the near defeat in the general election of the May Government, which hugely weakened the hand of the British Government in negotiations with the European Union; the other was a shift in Irish elite opinion from a view that it might be possible to do certain checks on the Irish land border and so on. This was discussed in Dáil committees and in a number of books, and it is perfectly clear that there was a shift. Those two things came together to produce the outcome of the 2017 joint agreement, which was international law.

When Michel Barnier said that David Davis was ridiculous to stand up in Parliament a couple of days later and say that it was not international law, he was quite right. But it is also clear from the same book that Michel Barnier's concept of the significance of European law for the functioning of the institutions of the Good Friday agreement was massively exaggerated, maybe by a factor of 60. It is clear that what he was suggesting at that level was as wrong as what David Davis was suggesting.

That is the context of the much-hated protocol on Northern Ireland. I absolutely accept that there is bad faith on the Irish Government side. It involves a betrayal of the Good Friday agreement and the framework document, both of which insist that there are two economies on the island of Ireland. Now, magically, out of nowhere, it is declared that there is one economy on the island of Ireland and the British Government have a responsibility to support the island economy. I am not saying there is not an island economy in, say, parts of the agricultural industry; I am saying that as a totality the island economy is not a very significant reality.

9.15 pm

When I first started to argue that, the SDLP argued very strongly, but Sir George Quigley, chairman of the Ulster Bank and a very fine man, famously used to argue strongly the case for an island economy in the 1990s. There is one dramatic proof, however, of the argument. The Ulster Bank no longer exists in the Irish Republic, having once been very strong. The island economy is more of a rhetorical trope than a reality. The significance of the Windsor Framework is that we finally step off this and it supersedes, quite explicitly—page five is very clear on this—the language of both the protocol and the joint EU-UK accord of 2017.

That is where we are. It is a messy compromise. It does not get rid of the Irish Sea border, and I will to come to that, but it deals—with many of the side-effects that have been correctly noted by the noble Baroness, Lady Hoey, and the noble Lord, Lord Dodds—with a number of the obvious defects of the original settlement and places Northern Ireland in a better place: a place that has allowed the return of the functioning of the institutions of the Good Friday agreement.

I want to say something about the Irish Sea border. For a long time, traditional unionism defined itself by saying that the arrangements in 2017, 2019 and so on—checks of any sort in the Irish Sea—were an affront to the Act of Union. Nobody bothered to read the Act of Union. Articles in the Act of Union bring in a much stronger Irish Sea border than anything envisaged, and a much greater range of checks than anything agreed, in this document. At the time, that was actually a complaint of Irish nationalists. They said it was not the simple deal that they were offered. Unionists took the view that it was a price worth paying, and they paid it for most of the 19th century. In the 20th century, *Safeguarding the Union* again shows that there is an Irish Sea border. There are checks and payments on many products going between the rest of the United Kingdom and Northern Ireland.

[Lord Bew]

The point is that unionists again agreed in debates in this House—more accurately, in debates in the other place—that this was a price worth paying. That is the question that unionists have to face up to now. This is a compromise reached between the United Kingdom and Europe. The balance of forces in the Houses of Parliament is perfectly clear. However interesting the Allister Bill is, there is no possibility of it gaining even the slightest traction in the other place. The question is very simple: is it the case, as was the case with traditional unionism, that this deal, which is clearly an improvement, a price worth paying for the continuation of the union? There is no other case—we know what unionists decided in the 19th century and 20th century. The question is: what will they decide in the 21st century?

Lord Morrow (DUP): My Lords, I strongly agree with everything that the noble Baroness, Lady Hoey, has said. The whole rationale for the Irish Sea border was that there could not be a hard border in the island of Ireland. It was never that there could be no border, not least because the Good Friday agreement confirmed that the international border remains where it is unless a majority of people in Northern Ireland vote to leave the UK for the Republic and a majority of people in the Republic vote to absorb Northern Ireland, which of course has not happened. The international border is clearly present, not least in relation to tax, excise, legislation, et cetera. These regulations, however, demonstrate to us that a border without a permanent infrastructure can provide an acceptable way of managing SPS goods coming from the Republic and wider EU into GB by means of pre-notification and SPS checks on the border.

In doing so, they remove the justification for moving the SPS border from the international border to the Irish Sea. In so doing, they remove the attempted justification for its many injustices. The methodology of these regulations makes it impossible for the UK Government to justify keeping the border in the Irish Sea. In doing so they, first, abdicate their biosecurity responsibilities in relation to Northern Ireland. Secondly, they effectively expel Northern Ireland from the UK biosecurity identity. Thirdly, they disenfranchise the people of Northern Ireland, at least in relation to SPS legislation. Fourthly, they disrespect the territorial integrity of the United Kingdom by allowing 27 other states the right to make the laws of part of the United Kingdom in this area.

These regulations highlight a better way but then fail to follow through on their discovery by needlessly keeping the border in the wrong place. They must be rejected and the Government must come back with new legislation, such as the mutual enforcement Bill currently before the Commons, that at least places the SPS border, along with the tax, excise and legislative border, on the international border.

In making this case, I ask the Minister to recognise the basic injustice that underpins these regulations and not to try to justify them on the basis that—notwithstanding the fact that these regulations demonstrate it is unnecessary to have the Irish Sea border dividing our country in two—we must continue to stand by the division of our country because of the UK Government's agreement with the EU.

In making this point, I remind the House that international law, as has already been referred to, is very clear that treaties are not inviolable because they are treaties. There are laws about what makes a treaty valid quite apart from when the parties of the treaty are happy to sign up to them. For example, the UN Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, in accordance with the Charter of the United Nations, censures anything

"which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples".

It further states:

"Every State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country".

Lest anyone should be in any doubt about the importance of these principles, the declaration also affirms:

"The principles of the Charter which are embodied in this Declaration constitute basic principles of international law, and consequently appeals to all States to be guided by these principles in their international conduct and to develop their mutual relations on the basis of the strict observance of these principles".

Furthermore, it states:

"Where obligations arising under international agreements are in conflict with the obligations of Members of the United Nations under the Charter of the United Nations, the obligations under the Charter shall prevail".

When we have at our disposal a means of avoiding our division, whether it be through an alternative expression of these regulations that apply their methodology to the international border or through the mutual enforcement Bill currently in another place, it is simply unconscionable that we should entertain anything less.

In this context, I was very pleased to see that these regulations were voted against in the Division in another place by none other than the leader of the Opposition, the shadow Chancellor, the shadow Defence Secretary, the shadow Business and Trade Secretary, the shadow Transport Secretary, the shadow Culture Secretary, the shadow Housing, Communities and Local Government Secretary, the shadow Science, Technology and Innovation Secretary, the shadow Scotland Secretary and the shadow Welsh Secretary. That is quite a conglomeration of people who see this for what it is.

I would like to go on the record to thank them and the other Members of another place who voted against these regulations—and again, here tonight, I would urge all noble Lords to do the same. May I say this? I will say it very gently. These regulations in the main, in Northern Ireland, are welcomed by those who have united Ireland aspirations. It suits their political ideology and agenda, but we are more interested in fairness—and we think that this House, this place, should give us that at least.

Lord Frost (Con): My Lords, I rise to support the regret amendment moved by the noble Baroness, Lady Hoey. She has made most of the main points in her remarks and I can only endorse them. It is getting late and it is not right to rerun the bigger arguments about Brexit at this moment, but I want to respond briefly to the noble Baroness, Lady Ritchie of

Downpatrick. If we are quoting polls about public opinion, I saw a poll tonight saying that 52% of Brits were ready to leave the ECHR now. So, perhaps you pay your pollster and take your choice about the state of public opinion, I guess.

However, it is important to focus on the fundamentals of the situation we are discussing tonight, which these regulations give rise to. The regulations testify to something we always feared, which is that differential arrangements for Northern Ireland, in which it remains closer to EU laws and rules, would end up becoming semi-permanent, contributing durably to separation between Great Britain and Northern Ireland. That is what is happening. That is at the root of the problem.

This was entirely foreseeable, ever since the joint report between the UK and the EU in December 2017, which the noble Lord, Lord Bew, referred to. I would agree with him, except to say I would regard it not as international law but more as a political agreement between parties. But that is history now. Nevertheless, it was that that made the original commitment to align Northern Ireland with the EU single market and customs, in default of any other solution. Of course, it then became inevitable that the EU would never try to find any other solution, and the UK has never been able to escape from the consequences of this rash and damaging commitment. It was that that led to the agreement of the original Northern Ireland protocol in 2019—under duress, as I argue—as the only way of delivering the referendum result, once Members of this House, and of the other, had closed off the option of leaving the EU without an agreement.

The Johnson Government, both when I was responsible for this issue and under my successors, did their best to deal with the unsatisfactory nature of that protocol, culminating in the Northern Ireland Protocol Bill, so intensely disliked in this House, too. That Bill fell, and soon that Government, having promised one thing, then did another and agreed the Windsor Framework. This has done little to improve the situation in practice. But the big change it did make to the political situation was that, instead of trying to remove them, the British Government were now actively committed to defending these arrangements, based on the protocol. That meant defending EU interests rather than UK interests in areas covered by the protocol in Northern Ireland. This is at the root of the political problem that these regulations symbolise. In my view, as I have said many times and carry on saying, it was a serious mistake that caused profound damage to our national interests, and the Windsor Framework will one day need to be corrected.

Since then, we have seen a stream of regulations implementing the Windsor Framework, one set of which we are discussing tonight. Most of them have contributed to reinforcing the division between Great Britain and Northern Ireland, and so it is with today's regulations designed to reinforce the SPS border between Northern Ireland and Great Britain. The noble Baroness, Lady Hoey, is absolutely right to point out that the effect of the Windsor Framework and these regulations is that HMG are abdicating their biosecurity responsibilities for Northern Ireland to the EU. I agree with her that this can hardly be consistent with Article 1.2 of the protocol, which supposedly respects the essential state functions of the United Kingdom. Others have asked him, but I also ask the Minister whether he agrees that biosecurity is an essential state function of the United Kingdom. If so, how is it compatible with these regulations?

9.30 pm

In all of this, as has been pointed out, there is nevertheless reason to be positive about one thing in these regulations: they concede the point that, even with a border that is as blindingly visible to all as the Irish Sea, checks and processes do not have to be conducted at that border but at a facility elsewhere. This obviously undermines the entire rationale for the protocol arrangements in the first place; these exist only because, as the noble Lord, Lord Bew, pointed out, we were told that anything else was impossible—a fever dream of crazed Brexiteers looking for unicorns in the negotiations. Instead, what the regulations before us demonstrate is the opposite: that the SPS border for goods moving from the Republic into Great Britain does not need to be a hard border. They sweep away the justification for having controls at the Irish Sea, rather than the land border, in the first place.

One day, this reality is going to have to be recognised. One day, a different route is going to have to be taken via that of mutual enforcement. The Windsor Framework is going to have to be ditched and UK laws are going to have to apply in Northern Ireland as they do anywhere else in this country. In my view, that is the only way forward. I do not think that the current arrangements can stand; they are overcomplex and create too many political problems and anomalies, and I do not believe they can work durably over time. I am sure that, with time, that is going to become clear. One day, they are going to be swept away and we will make this a properly United Kingdom once again.

Meanwhile, like the leader of my party, and, as has been noted, many other colleagues and right honourable friends in the Commons, if the noble Baroness pushes her amendment to a vote, I will vote for it and against these regulations tonight.

Lord Elliott of Ballinamallard (UUP): My Lords, I will make only a few brief comments. I thank the Minister for bringing forward the legislation in the first place, and the noble Baroness, Lady Hoey, for her amendment. What she says is absolutely right, but the difficulties and problems did not start with these retained EU law animals, food, plant health and trade regulations. They started back with the weak negotiations with the European Union that gave us the protocol and then the Windsor Framework. That is where our problems have come from, and now we are seeing the outworkings of it—and this is just one of the outworkings.

On the issue around human medicine, I welcome the resolution that the noble Lord, Lord Bew, highlighted. Robin Swann, when he was Health Minister, secured that with the European Union. It is just a pity that we could not get the same resolution for animal health medicines, which is a massive issue for the agricultural sector in Northern Ireland. I know from discussions

[Lord Elliott of Ballinamallard]
with the Minister that they are hoping to make progress on that, and we might hear something on that when she speaks.

I was pleased to hear the noble Lord, Lord Frost, say that we need to have a different route and that the Windsor Framework needs to be ditched. It is about time people started saying that and that we plan for a new resolution. The resolution that we got back in 2019 was disastrous for people in Northern Ireland and for small businesses, which are finding huge difficulties and problems in that respect.

Th noble Lord, Lord Dodds, mentioned the Stormont brake. It is pretty useless, even if it were implemented. I know we had a test case quite recently, but the reality is that, if the Stormont brake was accepted by the UK Government and put to the European Union, what in actual fact would happen to that legislation in Northern Ireland? We would not get the UK legislation then. We would be back to the old European regulations and legislation. We in Northern Ireland would be left in no man's land, because we would have the new UK regulations and Northern Ireland sitting with a different regulation altogether. I have argued right from the start that it is pretty worthless, even if it were to be implemented, and I stand by that comment. Indeed, when we met officials in the Northern Ireland Assembly some time ago, they explained in very great detail that it would not be practical if it were to be implemented.

I just wanted to make those few brief comments. I support the amendment of the noble Baroness, Lady Hoey, but that is not where our problems are at the moment. Our problems are much wider and deeper. It was the poor negotiations that brought us the Windsor Framework in the first place.

Lord McCrea of Magherafelt and Cookstown (DUP): Like my colleagues, I support the regret amendment put down by the noble Baroness, Lady Hoey. I preface my remarks by thanking the Minister for the gracious manner in which she has always dealt with concerns expressed by noble Lords, even when those opinions were very different from those of the Government. Her manner has been deeply appreciated.

The noble Baroness, Lady Hoey, and my colleagues who have spoken, have dealt with the specific technicalities of these regulations. I wish to deal with the underlying vehicle that has brought these regulations about.

By now, the Government must realise that the issues of the Northern Ireland protocol and the Windsor Framework will not go away and must be removed. They are a direct challenge to the territorial integrity of the United Kingdom, for through them Northern Ireland is no longer seen as a full and equal part of this United Kingdom. Rather, when leaving Great Britain to enter the other region of the United Kingdom —Northern Ireland—you are recognised as using an entry point to the EU under laws pertaining to goods. In 300 areas of law, Northern Ireland is subjected to laws not enacted in any other region of the United Kingdom, over which the people of the Province, through their elected representatives, have no say, and nor is there any democratic accountability. This is totally unacceptable.

It is well recognised that we got into this mess because the previous Westminster Government were anxious to get Brexit done, and the Irish Republic's Government defiantly ensured that Northern Ireland was used as the bargaining chip—and ultimately all we were was collateral damage. Over the years, the people of Northern Ireland have witnessed some of the most harrowing terrorist atrocities from Irish republican terrorists because they dared to defend their British citizenship, only to be betrayed by successive Governments at Westminster. Indeed, many across the world cannot understand why our people are so loyal to Britain, but our allegiance and loyalty is not to any political party or Government here at Westminster, but to our King and country.

These regulations treat Northern Ireland as a "third country" in relation to Great Britain—that is, a foreign country—which is not only disrespectful, but insulting. Therein lies the constitutional issue at the heart of the protocol and Windsor Framework. As was stated in the committee in the other place, powers have been surrendered to the EU under regulation 2017/625 and the UK Government

"cannot provide for the entry of consignments of goods to the United Kingdom; they can provide for the entry of consignments of goods only to Great Britain".—[*Official Report*, Commons, Fourth Delegated Legislation Committee, 8/1/25; col. 6.]

De facto, we have partitioned our United Kingdom with a foreign regulatory border.

The protocol/Windsor Framework was designed to make special provision for Northern Ireland that is not made for the rest of the United Kingdom—so they said. Our Government have handed over the passage of goods from one part of the United Kingdom to another to a foreign jurisdiction. That would not be acceptable in any other region of the United Kingdom. Why should it be acceptable to the law-abiding people of Northern Ireland?

We are witnessing the outworking of the Windsor Framework in the manner some of us warned of in previous debates. I and my colleagues in your Lordships' House warned of the constitutional, democratic and—for many—economic damage of the Windsor Framework. I know there are those who would prefer that the matter of the Irish Sea border, the protocol and the Windsor Framework would just go away—"It's as good as you are going to get". But for unionists in Northern Ireland, not to highlight the damage that has been and is being done, and not to demonstrate the inequity of the constitutional and democratic injustice that has been inflicted on the people of Northern Ireland would be to acquiesce in all this. My colleagues and I are not willing to do so.

The Windsor Framework was built on quicksand and many of the promises made to the people of Northern Ireland in the selling of it are now exposed as falsehoods. The recent issue of the so-called Stormont brake, which I originally described in this House as something that could not stop a child's toy tricycle, never mind the EU steam train, exposes the evident corrosion and decay in the Windsor structure. When will our Government have the courage to stand on their feet and face down the European Union, instead of bowing to its every demand? Can the Minister tell us what has happened to the *Safeguarding the Union*

Command Paper and its outworking? How have this Government sought to defend the union, and what positive actions have been taken to do so?

I know there are those who have a defeatist attitude and suggest that nothing can be changed. I remind them that that was what we were told about the Northern Ireland protocol: it was set in stone; it came down, like the commandments, from heaven and could not be changed.

In conclusion, I have noted a change of heart, as did the noble Lord, Lord Morrow. When these regulations were voted on in the other place, only one Conservative Member supported them—only one, and the one was no surprise at all to anybody from the unionist community—and 65 Conservative Members voted against them. The noble Lord, Lord Morrow, mentioned some who are in the shadow Cabinet. I trust that many across this House will have courage to join us in the Division Lobby tonight in rejecting the regulations.

There are numerous other things I wish to say, but I will not detain the House any further. I commend to noble Lords the amendment brought by the noble Baroness, Lady Hoey.

9.45 pm

Baroness Suttie (LD): My Lords, as ever, I thank the Minister, as did the noble Lord, Lord McCrea, for her detailed explanation of these regulations, as well as for her tireless work in trying to find solutions to this complex set of issues.

As is now customary in these debates, there are really two debates going on simultaneously. The first is on the details of the regulations before us, and the second is on the highly complex constitutional and worrying things that noble Lords opposite have been mentioning this evening. The noble Lord, Lord Frost, used the word "unsatisfactory". It is true that the second area of concern is about the difficult relations between the EU, Great Britain and Northern Ireland following Brexit. As the noble Lord, Lord Bew, said, it is a messy compromise; that is the situation we find ourselves in. The noble Baroness, Lady Hoey, is right—as usual—in thinking that I am saying what I believe to be the solution to this, which is not the same as what she believes to be the solution to this problem.

We support these regulations; we think they are necessary as a stopgap before a full-blown SPS veterinary agreement is put in place. I repeat what I have said in previous debates, that I hope the new Northern Ireland Committee of this House will provide a useful mechanism for carrying out the much-needed greater scrutiny of many of these issues, as the noble Lord, Lord Dodds, said. He is quite right: there needs to be greater scrutiny of these regulations, and it is important that from time to time, we debate them in this Chamber, but I hope that your Lordships' new Northern Ireland Committee will be able to look at these issues in great detail and perhaps carry out detailed inquiries, specifically on some of these issues regarding food and plant biosecurity.

Since we last had one of these debates, it is welcome that the noble Lord, Lord Murphy, has been appointed as independent reviewer of the Windsor Framework. As the noble Lord, Lord Dodds, said, he will bring a great deal of experience and wisdom to that role. It is also welcome, at least on these Benches, that the Government have not ruled out joining the pan-European customs union, which we believe will be greatly welcome as a first sensible step towards improving and deepening our relationship with the EU, as well as strengthening the economy. Obviously, the Minister is not the Minister for these issues, but I would like her to confirm that joining such a pan-European customs area would significantly reduce the bureaucratic burden for businesses, including many of those affected by these particular regulations.

Turning to the regulations themselves, I ask the Minister—as did the noble Baroness, Lady Ritchie—for an update on progress regarding the new SPS veterinary agreement. Is the Minister able to give some more information and detail on progress on that agreement and how long does she now think it will be until we are able to reach an agreement? Does she think there is any risk to animals and of animal-related disease during the period before such an agreement is reached? I believe that the veterinary SPS agreement was a Labour Party manifesto commitment, so I am absolutely sure that the Government are keen to make progress on this sooner rather than later.

In the Explanatory Memorandum attached to these regulations, paragraph 5.22 refers to

"debt recovery and collection costs for unpaid fees".

Is the Minister able to tell us the total cost of unpaid fees and the average fee charge for the service provided? Is it the case that the non-payment of fees is endemic, or is it just a small proportion of the overall costs involved?

Finally, the Minister will remember that, at the time the previous Government were introducing border control posts, which, as other noble Lords mentioned, were not at the point of entry to the country but some miles away, there was genuine concern about the likelihood of some goods deliberately avoiding control posts, which could result in goods entering the country without the necessary sanitary and phytosanitary checks. The Minister touched on this a little in her introduction, but can she give further reassurances that there is no such likelihood of this happening either now or in the future?

Generally, from these Benches we support this SI as the next stage in a process which is already in train and which has so far been working fairly effectively, but we sincerely hope that an SPS veterinary agreement can be finalised soon.

Lord Caine (Con): My Lords, I too am very grateful to the Minister for setting out the main provisions of the instrument before us this evening, and to the noble Baroness, Lady Hoey, for bringing the debate to the Chamber this evening. I also thank all other noble Lords for contributing to a debate which has, somewhat unsurprisingly, covered much familiar territory regarding the position of Northern Ireland following the United Kingdom's decision to depart from the European Union.

As the noble Lord, Lord Dodds of Duncairn, made clear in his contribution, the statutory instrument before your Lordships this evening is very technical. If noble Lords will forgive me, given the lateness of the hour, I will not follow noble Lords into those weeds,

[Lord Caine]
if I can put it like that. Rather, I will turn briefly to the regret amendment in the name of the noble Baroness, Lady Hoey, whose criticisms, along with those of other noble Lords, I fully appreciate apply as much to the Government in which I and my noble friend Lord Frost served at various junctures as they do to the current Administration.

I do not intend to engage in a detailed defence of all that we did in government, but I hope that the noble Baroness and others who have spoken will accept that I genuinely respect the views that they have put forward this evening. I know they are deeply and sincerely held and reflect the views of a great number of people in Northern Ireland itself. It is therefore important that both the Government and the Opposition continue to listen to those concerns and, wherever possible, seek to address them. If that is the approach to be taken by the Government, they will certainly have our backing in doing so.

As a Minister, I was very clear that the Windsor Framework and the Command Paper *Safeguarding the Union*, which was published a year ago this Friday, represented considerable improvements on the original flawed protocol, and indeed the 2017 joint report, which, I am afraid to say, is the root of so many of the problems that we have faced, as the noble Lord, Lord Bew, has consistently pointed out. I also spoke on this before I became a Minister, when I was a member of the same committee as the noble Lord, Lord Dodds. It was very flawed.

As the House knows, I spent a great deal of time from the other side of the Dispatch Box implementing many of the provisions of the framework and the Command Paper, which in my view aimed to strengthen and future-proof Northern Ireland's place within the United Kingdom and to protect the integrity of the UK internal market for the long term. But I never for one moment suggested that the framework or the Command Paper were in any way perfect, or necessarily the last word. Indeed, I remember that, when I took the Stormont brake regulations through your Lordships' House, in my closing section I had a sentence in which I said that the framework was not the perfect agreement. It will not surprise some noble Lords to learn that my officials wanted me to strike out that sentence, and I had to reinsert it when I got to my feet in the House. So, I have never thought that the provisions that we brought forward in government were beyond any improvement.

It was and remains my view that, where there is evidence of disadvantage to Northern Ireland as a result of current arrangements, any Government have a duty to listen and to act, using the provisions and bodies that are in place to resolve problems, or indeed to bring forward proposals for more substantive change. We have heard this evening a number of suggestions from noble Lords across the House and the Opposition, under new leadership and new management, will look with an open mind at practical and workable solutions that are put forward to us. Of course, we also look forward to the conclusions of, and hope to participate in, the review being carried out by the noble Lord, Lord Murphy of Torfaen, along, in due course, with the Government's response.

We should at all times in this House be guided by what is in the interests of the United Kingdom as a whole, and that must include an enduring commitment to delivering the best outcomes for our fellow citizens in Northern Ireland. I look forward to the noble Baroness's reply.

Baroness Hayman of Ullock (Lab): My Lords, I start by saying that I am very grateful to all noble Lords who have taken an interest in this instrument and for all contributions. I also thank the noble Baroness, Lady Hoey, for bringing her regret amendment before the House and enabling us to debate it in some detail. I am pleased to hear and welcome that she at least applauds the mechanisms contained in the regulations.

There have been many thoughtful and constructive points raised, and I think this reflects the importance with which noble Lords take our biosecurity. We have to maintain our biosecurity, but at the same time deliver the streamlined approach for imports that is needed to minimise friction at the border and at the same time protect our animal, plant and public health.

As I mentioned in my introduction, the instrument delivers measures to provide a long-term basis for the border target operating model beyond reliance on the temporary measures. It allows for border controls to be updated in response to risk and delivers powers to allow for certain policies to reduce burdens that will need to be delivered in the future.

I will, however, do my best to respond to the points that noble Lords have raised during this debate. First, I repeat, as I have done in previous debates, that I take very seriously the concerns raised by noble Lords regarding certain legislation that has been implemented following Brexit. I think we would all agree that such legislation is not exactly perfect. On that note, I very much welcome the noble Lord, Lord Murphy, who will be carrying out the independent review into post-Brexit trading arrangements with Northern Ireland. This has been welcomed by other noble Lords, including the noble Lord, Lord Dodds, and the noble Baroness, Lady Suttie. As the noble Baroness also said, we have a new Northern Ireland committee. That is a really important step because, we hope, it will have the opportunity to look in more detail at some of the wider concerns that are regularly being raised by noble Lords.

A number of comments were made and questions asked around whether members of the public in Northern Ireland will be left unprotected because the SPS controls apply just to goods entering GB. I reiterate at this point, as the Minister with responsibility for biosecurity, that it is a real responsibility. I take it very, very seriously, and I reassure noble Lords that, whatever current legislation means that I can or cannot do, biosecurity is right at the top of my list to protect this country. If we do not, the implications are just too appalling.

We are utterly committed as part of that to protect the biosecurity of the island of Ireland, which is and remains a long-standing single epidemiological unit. Northern Ireland continues to be protected under the biosecurity regime of the EU, in line with the Windsor Framework. Under this regime, Northern Ireland implements official controls and additional protections in response to risks, such as measures related to pest-free areas, traceability and additional notification requirements

for the highest-risk goods to maintain the biosecurity of the island of Ireland. Again, I stress that I and the department, Defra, work extremely closely with DAERA; I am in regular contact with the Minister and senior officials there. We must have a robust biosecurity regime, we have to have high standards and those high standards must be for now and protected into the future.

10 pm

That includes our negotiations with the EU regarding SPS agreements and veterinary medicines agreements. A number of noble Lords asked about this, particularly my noble friend Lady Ritchie and the noble Baroness, Lady Suttie. I cannot give any detailed information beyond saying that this is right at the top of our agenda. We are working extremely hard on it. I was gratified to see some very positive press from the EU regarding those discussions and the reset. We are continuing to rebuild that relationship and stress the areas that are of particular importance to us. As soon as I have any further information, I will of course share that with noble Lords.

There was mention that this SI treats Northern Ireland as a third country. I remind noble Lords that Article 3(2D) of the Official Controls Regulation, which is what this SI amends, defines any country or territory outside of the British islands as a third country. That means that Northern Ireland is not considered to be a third country under these regulations as defined. Requirements on movements from third countries do not apply to movements to GB from Northern Ireland.

I was also asked why SPS checks and controls take place away from the border between Northern Ireland and Ireland. This was obviously part of the Windsor Framework and was approved at the time by Parliament. We cannot unpick that through this SI, but, again, these things can be looked at by the work that the noble Lord will be carrying out if the committee is interested in doing so.

The noble Baroness, Lady Suttie, also asked whether checks could be missed with the new system. Just to confirm, consignments that are called into Sevington border control post for an inspection will have completed the necessary customs declarations and pre-notifications and will not be legally cleared for sale or use within the UK until they have been checked and cleared by the BCP. If, however, the importers fail to attend, the port health staff will commence any necessary action. Any placing of goods on the market will be illegal and the relevant local authority is then able to take the appropriate action—for example, it can recall the item from sale and potentially take legal action. The risk of any legitimate commercial loads not attending Sevington border control post is mitigated by robust, data-backed enforcement options. To further mitigate any animal disease risks, it is illegal in the UK to feed catering or domestic food waste to livestock, including pigs. However, we are aware that that is a possibility, and we are looking at it very carefully to ensure that it is not going to become a problem.

The noble Lord, Lord Dodds, asked about the foot and mouth outbreak and issues with Germany. As he said, measures were announced on 14 January that applied to imports from Germany into Great Britain, and he rightly laid out the situation that Northern Ireland is in as being part of the EU regulations and the fact there is a surveillance zone in Germany. I want to stress that the EU takes its biosecurity responsibilities for something like foot and mouth extremely seriously. There had not been a foot and mouth outbreak in Germany since 1988, so this is very significant for them. We are in regular contact with Germany. It will not want that disease to spread anywhere, so it has brought in what it considers to be the most stringent measures that are required without impacting too many other farms unnecessarily. We are in regular contact with German officials and the chief veterinary officer there, because we do not want to see any impacts into Northern Ireland any more than the noble Lord does.

There will be additional health requirements that will apply to the movement of live animals from outside the zones in order that measures to protect farmers in Northern Ireland are strong and to ensure that there are additional measures in place.

I thank the noble Lord, Lord Bew, for his contribution. He has a lot of knowledge around these issues, and I think his contributions always make you think about the bigger picture, how we are where we are and how difficult it is to unpick and move forward. I thank him for that. He asked specifically about business. I assure him and other noble Lords that as we have been bringing forward further legislation around the BTOM, I have had a number of round tables with businesses from all sides—retailers, producers and logistics—to get their feedback. We are now looking at how we can improve things from their perspective. Clearly, they are keen to have as few checks as possible while managing biosecurity at the same time.

It is late. It is just gone 10 pm. I hope I have answered all your Lordships' questions. On any that I have not, I will, of course, write to noble Lords with further information. As I have outlined, the measures make vital amendments for us to continuing implementing a global, risk-based import model for sanitary and phytosanitary goods, upholding the need for effective border controls that support businesses with import processes that are as simple as possible.

I think it is also worth noting that parliamentarians in this House and the other place will continue to be able to hold me, other Defra Ministers and the department as a whole to account through all the usual means for the ways in which the powers in this instrument are exercised. I am also sure that the issues that have been raised beyond the scope of the statutory instrument will be raised in more detail in the regular meetings that I am now having with noble Lords from Northern Ireland. On that note, I sincerely thank the noble Lord, Lord Morrow, for his kind comments about the way that I have tried to listen, understand and work with noble Lords in a very complex area.

Baroness Hoey (Non-Afl): My Lords, first, I thank the Minister for her usual generous response and the way she has handled all these SIs, where a lot of what is being said is outside her responsibility. We are very grateful as Members from Northern Ireland that she is willing to meet us so regularly to discuss some of the detail, even if, at the end, she is not able to change the substantial issue. Of course, we all know what it is.

[Baroness Hoey]

The noble Baroness, Lady Anderson of Stoke-on-Trent, is in her place. I thank her for the way that she reached out to all the Northern Ireland Peers after the very bad storm to ask how we were. I thought that was a very nice gesture, and I thank her.

This has been an interesting debate. In my contribution, I was very technical and rushed to get it all in, so I am very grateful that Members sat and listened to that. I think we had a very good wider debate, as we always do when we discuss anything about Northern Ireland. I am particularly interested in what the noble Lord, Lord Frost, said, and I remind Members, if they have already forgotten—I hope they have remembered—that on Friday it will be five years since we left the European Union. I say "left". Northern Ireland has not left, and that is still part of the thing, so when the noble Baroness, Lady Suttie, continues to say that it is all about Brexit, Northern Ireland has not had Brexit, although some of us have.

The thing that has most encouraged me over a number of SIs is how things have been changing. Originally, the Conservatives voted against any change to statutory instruments, and then on the previous vote, they abstained. Tonight, I understand that it is a free vote, so who knows what will happen the next time we have a statutory instrument? I say to noble Lords that we are going to continue to put these issues. It is the only place we get a proper debate.

I congratulate the noble Lord, Lord Murphy of Torfaen, and thank him for sitting through all this tonight. I hope that it has helped in his inquiry and that he will reach out to all of us—particularly those of us who are not necessarily in a particular political party in Northern Ireland—during his look at how the Windsor Framework is working.

I thank all noble Lords. I agree with what the noble Lord, Lord Dodds, said about how we must have hope and look to change, and that we cannot take an attitude. I am never going to take an attitude of, "Well, this is happening. We've got to put up with it. Why don't we just get on with it?", which I am afraid is what one or two noble Lords say. We are not going to do that. Particularly as many members of the Government have been kept behind tonight—I hope, to listen—I am going to press a vote, because I want to get it on the record.

10.10 pm

Division on Baroness Hoey's amendment to the Motion.

Contents 13; Not-Contents 30.

Amendment to the Motion disagreed.

Division No. 2

CONTENTS

Browne of Belmont, L. [Teller]
Dodds of Duncairn, L.
Elliott of Ballinamallard, L.
Foster of Aghadrumsee, B.
Frost, L.
Gascoigne, L.
Hay of Ballyore, L. [Teller]
Hoey, B.
McCrea of Magherafelt and Cookstown, L.
Morrow, L.
Moylan, L.
Rogan, L.
Weir of Ballyholme, L.

NOT CONTENTS

Anderson of Stoke-on-Trent, B. [Teller]
Bach, L.
Beamish, L.
Bew, L.
Browne of Ladyton, L.
Campbell-Savours, L.
Chapman of Darlington, B.
Coaker, L.
Donaghy, B.
Faulkner of Worcester, L.
Golding, B.
Grantchester, L.
Hayman of Ullock, B.
Healy of Primrose Hill, B.
Howarth of Newport, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L. [Teller]
Kinnock, L.
Merron, B.
Moraes, L.
Morgan of Drefelin, B.
Ritchie of Downpatrick, B.
Rook, L.
Spellar, L.
Stansgate, V.
Suttie, B.
Taylor of Stevenage, B.
Twycross, B.
Watts, L.
Young of Old Scone, B.

Motion agreed.

Water (Special Measures) Bill [HL]

Returned from the Commons

The Bill was returned from the Commons with amendments. It was ordered that the Commons amendments be printed.

House adjourned at 10.21 pm.

Grand Committee

Wednesday 29 January 2025

Arrangement of Business

Announcement

4.15 pm

The Deputy Chairman of Committees (Viscount Stansgate) (Lab): My Lords, I am tempted to say, "Welcome back", because, as we adjourned the last session in a spirit of good will, I hope very much that we can begin this session in the same spirit. I should add that, if there is a Division, we will adjourn the Committee for 10 minutes. It is quite possible that there will be, but not as many as interrupted our last session.

National Insurance Contributions (Secondary Class 1 Contributions) Bill

Committee (2nd Day)

4.15 pm

Clause 1: Rate of secondary Class 1 contributions

Amendment 6

Moved by ***Baroness Neville-Rolfe***

6: Clause 1, page 1, line 1, at end insert—

"(A1) In section 9(1A) of the Social Security Contributions and Benefits Act 1992, after paragraph (aa) insert—

"(ab) if the employer is a specified employer under subsection (1B), the specified employer secondary percentage;"

(A2) After section 9(1A) of that Act insert—

"(1B) A "specified employer" means a business with an annual turnover of less than £1 million.

(1C) For the purposes of this Act, the specified employer secondary percentage is 13.8%.""

Member's explanatory statement

This probing amendment would exempt the smallest businesses from the increase in national insurance contributions.

Baroness Neville-Rolfe (Con): My Lords, I rise to move Amendment 6 in my name and to speak to my Amendments 23 and 48, all on small business—a subject dear to my heart, as noble Lords will recall from our debates on the Procurement Act in the last Parliament, mostly in this very Room.

Small business is at the entrepreneurial heart of the economy. We need a constant stream of start-ups for an economy that is dynamic. The amount of regulation on such businesses is already discouraging. My own findings are that the imposition of additional employer NICs is leading some businesses towards despair, with more closed shops on the high street and busy insolvency practitioners. Others are not setting up. Their customers are affected by the chill created by the Budget and the enormous NICs hit in particular, which has a multiplier effect on confidence.

I acknowledge that the increase in the employment allowance is helpful and I congratulate the Federation of Small Businesses on its work on this with the Treasury and DBT. However, more needs to be done to drive growth. I believe that easing the strain of NICs on SMEs could play an important part.

My Amendment 6 would exempt micro-businesses with an annual turnover of less than £1 million from this jobs tax. I have tabled this amendment because I want to understand whether the Government would consider an exemption that would have a relatively low impact on the revenue that the Treasury receives from this policy. To exempt such small businesses would not come at a great cost to the Treasury, yet it would have a big impact on the businesses that it would protect and on attitudes to the Government's plans. The Financial Conduct Authority defines "small businesses" as companies with an annual turnover of less than £1 million—hence my choice for the threshold. I add that even many of these businesses may not survive recent tax rates. The Government will be failing in their promise, I fear, to be the most pro-business Government ever.

My proposal would be a modest step in the right direction and would reduce the negative knock-on effect of the NICs changes, in terms of jobs, shop and business closures and the higher prices that follow reduced competition. You see that effect, when a couple of coffee shops close, on the price of your latte.

I was interested to hear the Chancellor this morning saying that

"growth isn't simply about lines on a graph. It's about the pounds in people's pockets. The vibrancy of our high streets".

Chance would be a fine thing for the hard-working domestic SMEs that I am talking about.

Amendment 23 in my name seeks to increase the per-employer threshold at which employers begin paying national insurance on employees' earnings, from £5,000 to £7,500—sort of halfway. We know that Clause 2 is the most punitive part of the Bill, hitting small businesses and social enterprises hardest. As the OBR acknowledges, this jobs tax will have the indirect effect of stifling wages, as employers look to offset these increased costs.

Amendment 48 would increase the employment allowance for small businesses to £20,000. The increase in the allowance is very welcome, as I have said, as is the lifting of the EU-based limit on eligibility—ironically, a new Brexit freedom, on which I congratulate the Minister. However, many small businesses have more than three or four people, or so, which means that the increase in the allowance will be less than the additional NICs charge. We should debate in Grand Committee, as we did on procurement, how to improve matters.

I would be delighted to be able to congratulate the Minister on an entrepreneurial step by increasing the allowance and removing the threat and hassle of NICs for more employers. I know that he shares my passion for easing barriers to growth and I see this as a new barrier that he could mitigate.

I very much look forward to hearing my noble friends Lady Noakes and Lord Londesborough and I am sorry that my noble friend Lord Ahmad of Wimbledon cannot be here this afternoon. We all feel the same way about the importance of cherishing the enterprise spirit and will welcome a constructive discussion

[Baroness Neville-Rolfe]
on what more can be done to ease the pressure on small businesses. The Chancellor's speech today and the long-term nature of most of her growth drivers strengthen the case for a concession on this now. I beg to move.

Lord Londesborough (CB): My Lords, I shall speak to Amendments 22, 39 and 53 in my name in this group, to which the noble Baroness, Lady Kramer, and my noble friend Lady Neville-Rolfe have added their names. I shall also speak to Amendments 6 and 33, tabled by my noble friends Lady Neville-Rolfe and Lady Noakes respectively.

Rather than taking a sectoral approach, about which others spoke passionately last week, my three amendments focus on the size of businesses and organisations impacted by the measures in the Bill, specifically those categorised as small businesses, which means that they employ between 10 and 50 full-time staff. I should again declare my interests as set out in the register, as I advise and invest in a number of businesses of this size, predominantly start-ups and scale-ups. These are the companies that grow and create jobs at the fastest rate and, through their size and agility, seize the nettle of productivity. If I may mix my metaphors for a moment, these are the acorns that seek to become unicorns or, at the very least, sturdy oaks.

The Department for Business and Trade reports that there are some 220,000 businesses across the UK that employ between 10 and 50 staff—that is 4.3 million of the 28 million jobs in the private sector and they generate £780 billion in annual turnover. However, this group involves not just fast-growing early-stage start-ups but a huge swathe of family and local businesses spread across the country and, indeed, businesses that have been struggling to keep their heads above water in what have been five very difficult trading years.

While the Government have sought to protect the majority of our micro-businesses, those employing between one and nine staff, from rising NICs, they have left all other small businesses exposed to these sudden and dramatic increases. In terms of impact, the Government tell us that 250,000 employers will see their NICs decrease, 940,000 will see theirs increase, while about 800,000 employers will see no change. This has allowed the Government to claim that the majority of employers will see no increase. With respect, that is deeply misleading. The question that matters is what proportion of jobs will attract increased national insurance contributions. I ask the Minister that question. Can he confirm, if he does not have the numbers at hand, that in fact the number is close to 80%?

I turn to the financial impact of Clauses 1, 2 and 3 to small businesses. For businesses of 25 staff paying the national full-time median salary, which is put at £37,000 by the ONS, their NICs bill will rise from £90,000 to £110,000. That is an increase of more than 20%.

However, most small businesses, given their nature and stage of development, pay less than the median national average. For them, the increases get even steeper. For those employing 25 staff and paying an average salary of £25,000, as is common out in the regions, their NICs bill will rise by no less than 30%. For those employing 50 staff at that salary, they face an eye-watering 33% increase. As we know, the main culprit for those outsized increases is Clause 2: the brutal and, in my view, economically illiterate drop in the per-employee threshold from £9,100 to £5,000. Ironically, this hits the lowest-paid jobs the hardest. In short, it is a regressive tax.

Then we come to retail and hospitality, with thousands of outfits that rely on part-time shift workers. For those employing 20 part-timers, typically earning £300 per week, their NICs bill goes up by an extraordinary 70%. I will stop there with the examples but noble Lords, including the Minister, will be delighted to know that I have here all the spreadsheets to prove it; I will happily share them out later. In the interest of transparency, on the impact for 5 April, I strongly suggest that the Government have the honesty to publish these figures.

These increases are of course bad news for the working person, especially the 4 million of them who work in small businesses. They rather grate against Rachel Reeves's statement this morning about kick-starting the economy. Let me turn to my Amendment 22, which seeks to address this in what I hope noble Lords will agree is a measured, proportionate way to help protect our small businesses. In short, the per-employee threshold would remain at £9,100 for those employing fewer than 25 staff, while those employing fewer than 50 but more than 25 staff would see their threshold reduced to £7,500. Somewhat reluctantly, I have left the £9,000 threshold for all businesses employing more than 50 staff.

By my calculations, the nominal cost to the Treasury of this key amendment would be less than £2 billion—that is, to support and sustain 4 million jobs and almost £800 billion in turnover. I humbly suggest that this amendment would more than pay for itself in economic growth and increased revenues to the Exchequer. Commencing Clause 2 without undertaking a full impact assessment on small businesses—addressed by Amendment 33 in the name of the noble Baroness, Lady Noakes, which I fully support—strikes me as reckless.

I turn now, much more briefly, to my Amendment 53, which addresses the increase in the employment allowance. Clause 3 is designed to soften the increase in NICs from Clauses 1 and 2. It offsets the costs but, having crunched the numbers, it does so only for those employing seven staff or fewer. My Amendment 53 would raise the employment allowance from £10,500 to £15,000 for all small businesses employing fewer than 25 staff. This would help around 200,000 businesses across the country. I estimate that the cost to the Treasury would be less than £1 billion. Again, I argue that such an amendment would more than pay for itself in the medium term.

I hope that the Minister will carefully consider the amendments in this group, given the severity of these increases to SMEs and the potential damage to both jobs and economic growth. I have spoken to Amendments 22, 39 and 53.

Baroness Noakes (Con): My Lords, I have Amendment 33 in this group; I thank my noble friends Lady Neville-Rolfe, Lord Ahmad of Wimbledon and Lord Howard of Rising for adding their names to it. As my noble friend Lady Neville-Rolfe said, my noble friend Lord Ahmad

of Wimbledon is unfortunately unable to join us for the early part of this Committee. He very much regrets that he is not able to take part because he cares a lot about the fate of small and medium-sized businesses.

My amendment would delay the commencement of the Bill, and therefore the extra national insurance contributions, until the tax year after an impact assessment focusing on the impact of the Bill on smaller businesses has been published. My amendment is similar to Amendment 59, tabled by the noble Baroness, Lady Kramer, which was debated on our first day in Committee. Amendment 59 required an ex-post impact assessment, while mine is on an ex-ante basis. Amendment 59 also used a rather broad definition of SMEs, including those with employees of up to 250; my amendment is more granular and focuses on the smaller end of the SME spectrum, which is where most SMEs are.

4.30 pm

As we know, there is no impact assessment with this Bill. It is a well-accepted principle that, when the Government put forward legislation, they are expected to make sure that Parliament has the information it needs to scrutinise the legislation. The Leader of the House in the other place recently wrote, in response to a Written Question:

"The Government is committed to ensuring Parliament has the information it needs to hold the Government to account and to understand the impact of legislation. When a bill is published the Explanatory Notes include information regarding any financial implications".

The Explanatory Notes refer to the tax information and impact note, which we discussed on our first day in Committee. I do not think that any noble Lord who commented on the note then, other than the Minister, regarded it as remotely adequate, because it simply did not give sufficient analysis of the impact of the Bill. The Minister bravely called the note a detailed assessment and asserted that the Government would not publish anything else. That is no way to treat Parliament.

I believe that a full impact analysis should have been prepared, given the potential impact of the national insurance changes on employment costs and levels, prices, profit margins, and of course growth. All the business groups are saying that the impact of the national insurance changes on businesses will be significant and negative. There will be impacts on many businesses of all sizes, but in particular, as we have heard, on small and medium-sized businesses, which are what my amendment focuses on. The OBR has made calculations of the direct and indirect effects of the Bill, to work out the benefit to the public finances. However, as we debated on the first day in Committee, that analysis is at a macro level and does not cast light at all on the impact on different sizes or types of businesses.

HMRC has given numbers, which the noble Lord, Lord Londesborough, cited earlier; they are regularly trotted out by Ministers to give the impression that the impact of these changes is rather benign because of the large numbers that will either have no impact or make some gain. However, we have no more granular analysis than these three large numbers. I am fairly sure that the HMRC numbers do not factor in the increases to the national living wage, which, especially for younger workers, will have a very big impact when that uplifts wages, and therefore on the amount of national insurance that will be collected. I am sure that the figure of 250,000 that will be affected is an understatement, but we have no way of telling because we do not know any of the assumptions underlying the numbers that we have been given.

It is a bit difficult to make sense of the HMRC figures. They add up to a little over 2 million employers paying secondary national insurance contributions. The most recent ONS survey data, from January last year, shows that the total business population includes 5.5 million businesses, of which 4.1 million are sole traders —or at least they have no employees, so we presume that they are sole traders. That leaves only 1.4 million businesses with employees, rather than the 2 million in the HMRC analysis.

I do not know what the cause of that is—it may be to do with incorporated sole traders, but we do not have any information. Could the Minister shed any light on those figures and tell us whether any further analysis can be shared with the Committee? In particular, I want to ask the Minister whether there is any further analysis of the 250,000 businesses that are expected to pay more national insurance contributions as a result of the Bill. According to the ONS data, there were 264,000 businesses with more than nine employees, so I agree with the noble Lord, Lord Londesborough, that most employers in the category of those who will be affected negatively by this Bill are employers in businesses with more than nine employees. That means that huge numbers of small and medium-sized businesses are caught by the changes, with, at best, only micro-businesses escaping a negative impact.

I have tabled my Amendment 33 simply to try to find out the impact on different sizes of business, through three categories of turnover—£1 million, £5 million and £10 million. The £1 million aligns with the new Companies Act definition of a micro-business. According to the ONS analysis of businesses, as amplified by Department for Business and Trade data, businesses that have between one and nine employees have an average turnover of only £600,000, well below the Companies Act micro-business level. The next category, which is the 10 to 49 employees range, has an average turnover of £3.5 million, so all those plus some more would fall into my £5 million threshold. The £10 million threshold would include a fair chunk, but by no means all, of the larger categories of SMEs. That is really what we need to try to find beneath the analysis. I do not much mind whether we get analysis by number of employees or by turnover bands; the important thing is that the Government analyse and publish the effect on different sizes of business.

There is a good reason to focus on smaller enterprises, even though these changes impact all sizes of business—mainly because smaller businesses find it so much tougher to cope with additional costs, because they have far fewer options. Having a smaller workforce, of, say, 12 to 15 employees, makes it hard to implement changes involving staff cost savings without impacting operational effectiveness. We know the category of these businesses with fewer employees is where we find start-ups, which we hope will eventually get themselves through to scaling up, because that is what we require for growth to come through to the economy. If we are

[Baroness Noakes]
harming these businesses at the beginning of their lives, that will have a knock-on effect on the growth of the UK.

We need a lot of questions answered about what is happening in those segments of the business community. If the Government have that sort of analysis, they really ought to share it with Parliament. Indeed, if they have the analysis, and if they get their skates on and publish it fairly promptly, my amendment would not even delay the implementation of the national insurance changes. If they cannot provide the analysis, however, the Government need to ask themselves whether they are right to pursue this policy choice without understanding the detailed impacts—and Parliament needs to consider whether the Bill should come into effect in an information void.

Lord Eatwell (Lab): My Lords, with respect to all the amendments in this group, with the exception of that of the noble Baroness, Lady Noakes, I repeat what I said last time: these amendments are designed to increase the complexity of the system and that is a very bad idea. I can assure noble Lords that, right now, tax-avoidance accountants are sharpening their pencils with glee at the possibility of more complexity being introduced into this structure. It is a very bad idea and we should not be doing it.

If we want to support small business, we should do it directly by deciding what subsidies or benefits should be given. Playing around with the tax system or, in this case, the national insurance system, is a bad idea. I will not say this again, because we have a series of other attempts to increase complexity coming in later amendments—so, please, let us not do this. It is bad for the tax system, bad for the national insurance system and a bad way to achieve the goals set out.

I now turn to the important amendment from the noble Baroness, Lady Noakes. The problem with it is that it is seriously underspecified. She does not say whether the examination of the effects of the national insurance changes should take place in the context of the pre-government Budget situation, or should take account of some measures in the Budget or of the Budget as a whole. If we take the Budget as a whole, the examination by the OBR shows that employment will increase over the relevant period. What the noble Baroness is doing is taking just one part of the actual economic package represented by the Budget and saying, "Let us look at this in isolation, even though this part funds the other part"—the expenditure decisions of the £26 billion injection of demand into the economy in the next fiscal year.

In that context, this amendment is seriously underspecified and impractical. We need to understand whether she wishes to look at just one side of the equation, how revenue is raised, or the other, how revenue is spent. Surely the correct thing to do is to put both together to see the overall impact of the policy represented by the Budget. I am afraid that the amendment is unsatisfactory, in that it is seriously underspecified.

Baroness Noakes (Con): I will briefly respond to that. I am asking for an impact assessment of the Bill. The Bill does not incorporate the whole Budget; it incorporates one policy decision, which is the focus of my amendment. It is clear that I am open to drafting suggestions. I have already spent some time with the noble Lord today in another committee on drafting improvements and I am sure that, between us, we could come up with some better words.

Lord Howard of Rising (Con): My Lords, I support Amendment 33 in the name of my noble friend Lady Noakes and to which I have added my name. I declare my interest as an employer.

It is incredible to me that His Majesty's Government should be seeking to impose an increase in national insurance for employers without taking a proper look at what the effect will be. The extra costs will be difficult to cope with for all businesses, but disproportionately so for small businesses. They lack the flexibility and the ability to manoeuvre that can exist in larger corporations. This will be especially true for smaller manufacturing businesses, which are being hammered by the Government from more than one direction.

The noble Lord, Lord Livermore, was good enough to say that it is reasonable to set out the rationale for the points we want to make. In my view, this is important, as the increase in national insurance comes on top of many other things that impede business. By itself, it might be bearable, in so far as any tax is bearable, but, on top of everything else—some of which I will mention—it is a significant problem, especially for those smaller companies that this amendment is about.

Before going into the detail of my arguments, I wish to endorse the comments made by noble Lords—most recently the noble Lord, Lord Eatwell—that exemptions that complicate tax structure are a bad thing in principle. However, as my noble friend Lady Noakes pointed out on the first group of amendments, there are cases where they are justified.

One reason why the proposed increase in national insurance will be particularly difficult for smaller manufacturing businesses, and why an impact assessment is needed, is electricity and gas costs in this country, which, roughly speaking, are double those of our competitors in Europe. This is caused by the lunatic rush to net zero which, among other things, has nearly destroyed the steel industry, which is now on its last legs.

4.45 pm

Only recently, Ineos closed its ethanol refinery plant in Grangemouth, losing 80 jobs directly and a further 500 indirectly. Sir Jim Ratcliffe argued that high energy costs and carbon taxes are destroying the chemical industry in this country. Ineos commented that energy costs are five times higher in Britain than in the USA. How can British industry survive in the face of this and other government-inspired difficulties? It cannot. I just hope that the Government will wake up to this while there is still something left.

Another reason why the impact assessment is needed for smaller businesses is the increase in the minimum wage, which I spoke about at Second Reading. This not only affects those on minimum wage but has a significant impact on salaries at all levels. Your skilled worker will wish to maintain the difference in salary

from less-skilled workers; he or she will wish to keep the differential that learning more difficult skills and hard work have achieved. With sophisticated computer-controlled machinery nowadays, greater knowledge and technical ability is required on the factory floor than is commonly supposed or has previously been the case.

Against the background of these and many other burdens, the Government now propose to increase national insurance paid by employers. The cost of this compounds as the salary increases triggered by the minimum wage come into play. The proposed increase in national insurance for employers of 1.2% is on top of those pay increases. It is just worth pointing out that, although everybody talks about 1.2%, in fact the increase in employers' national insurance is nearer to 9%. All businesses will suffer from this increase. Only last week, Sainsbury's announced massive redundancies, and there is a steady stream of reports of other similar but less headline-grabbing redundancies.

As I said earlier, this is particularly onerous for smaller businesses, where their size limits their ability to cope with and adjust to this extra cost. In some cases, it will be the final straw and a business will close. The impact assessment is urgent. As this very moment, many boardrooms will be considering whether to continue manufacturing in this country or whether it would be better to import from abroad, where they can buy the product for less than the cost of manufacturing here.

Our competitors overseas do not have to carry the burdens that I have mentioned, nor many others that I have not mentioned. Nor do they have to face the many rules and regulations, a lot of which—however well intentioned—do more harm than good, and act as a ball and chain on virtually all aspects of industry and commerce in this country, from banking to the smallest one-man band.

Earlier, the noble Lord, Lord Eatwell, commented that the OBR has a less pessimistic view of the effect of the proposed increase in national insurance for employers than has frequently been expressed. The OBR, in my view, has the outstanding ability consistently to get things wrong and still be treated with respect and admiration and referred to in hushed tones. It is an act of genius—how does it manage to achieve this when its forecasts are so frequently more wrong than right?

One should not forget how this tax—and, au fond, national insurance is a tax—will have a detrimental effect. That is why this amendment is being tabled in respect of smaller companies.

The argument in favour of the tax is, as the noble Lord, Lord Eatwell, mentioned earlier, that an extra £26 billion of spending will be introduced into the economy and that this will increase the demand, so reducing unemployment. Defending this principle, the noble Lord pointed out that the vital issue is what the money is used for. With respect to him, money passing through the Government's hands is not spent as wisely, as effectively and with the same discipline as in the private sector. In the private sector, if you get something badly wrong, you go bust; in the public sector, there is no such immediate discipline.

Lord Forsyth of Drumlean (Con): You get a knighthood.

Lord Howard of Rising (Con): As my noble friend says, you get a knighthood—possibly even a barony. If you get something wrong, throw more money at it until it becomes an embarrassment that can no longer be hidden and hushed up. HS2's original budget was £37.5 billion. Only when the estimated cost has risen to £90 billion—and counting—is the project being reined in. The idea of spending £100 million on a bat shelter defies the imagination. I mean: who could have thought of that one?

As economists are being quoted, might I quote Professor Milton Friedman? He said:

> "If you put the federal government in charge of the Sahara Desert, in five years there'd be a shortage of sand".

What the Government should do is what anybody in this Room, faced with the same problem in their own life—too much spending and not enough income—would do: cut spending to solve the problem. Given that that is unlikely to happen, will His Majesty's Government carefully consider what they are doing and try to reduce some of the negative consequences of this increase in national insurance for employers? A sensible first step would be to prepare a proper impact assessment for those small companies, often described as the engine of the economy.

Lord Sharkey (LD): My Lords, we have a lot of sympathy for the amendments in this group. My noble friend Lady Kramer has added her name to Amendment 22.

It is absolutely right that we should be concerned about the effects of the proposed NICs rise on small businesses. These businesses are at the heart of our economy. As the noble Lord, Lord Ahmad of Wimbledon, said several Prime Ministers ago:

> "There are over 5.7 million Small to Medium Enterprises in the UK. They are the engine of growth in our economy, driving innovation and greater productivity, finding solutions and creating jobs".

In fact, our SMEs provide 16.6 million jobs—60% of the total number in the United Kingdom. Their total turnover is estimated at £2.8 trillion. They are in many ways more important than much larger businesses—certainly when it comes to providing jobs—but they are probably more vulnerable than large businesses to these NIC changes, with less ability to absorb increased costs. The SME landscape is very varied, but it seems vital for us to be able to assess the likely effects of the proposals before us on different sizes of SMEs.

That is why I note in particular Amendment 33, in the name of the noble Baroness, Lady Noakes. As she explained, this amendment proposes an impact assessment of the provisions in Clause 2 on employers with an annual turnover of less than £1 million, less than £5 million and less than £10 million before the changes in the clause can be brought about; these are probably the sizes of business that are most likely to have difficulty dealing with the additional costs imposed by this Bill. It would have been good to have had such an impact assessment before these debates, but Amendment 33 would go some way to putting that right, as the noble Lord, Lord Londesborough, remarked—pace the charge of underspecification from the noble Lord, Lord Eatwell. Perhaps the Minister could provide us with more granular estimates of the effects of Clause 2 on the smaller SMEs even if he cannot, or will not, provide us with the traditional, full and necessary impact assessment.

Lord Blackwell (Con): My Lords, I would like to put this discussion in the context of the profitability of the small businesses that we are talking about. The noble Lords who proposed these amendments have effectively made the point that many of these small businesses will be the engine of growth—the acorns that will develop and be the big businesses of the future. In successful small businesses, profitability varies tremendously, depending on the sector and capital intensity, but it would not be unusual for a business of this scale to have a net profit margin of around 10%. However, in some sectors, such as retail, hospitality and construction, that margin may be as low as 2% or 3%. When you are talking about adding 1% to the cost of employment, where the employment may be a significant part of the turnover, you can see that the impact on the net profit margin is potentially devastating, particularly since, in many cases, the percentage increase in their national insurance bill will be larger than 1%.

Clearly, we must be particularly concerned about start-ups because they are not yet successfully established trading businesses. They may have to undergo a number of years of losses before they get to that position. They accumulate those losses and they have to pay interest on those losses and, projecting forward, the additional costs may well tip the balance on whether those profitability equations earn an adequate return on capital to make the investment worth while.

Amendment 6 proposes to exempt businesses with a turnover of below £1 million. Obviously, that is a broad category to cover. We do not know exactly how many people are employed in such businesses but, as a rough proxy, the number of people employed in businesses with less than 50 employees is 47% of the entire UK workforce. We are talking about a significant part of the workforce being impacted by these changes, potentially in a significant way.

I heed the message from the noble Lord, Lord Eatwell, that we should not be complicating the tax system, but the only reason why we are discussing these amendments is the proposal to increase national insurance. If the Minister does not want to accept a broad exemption for small businesses, it would be helpful to the Committee if the Government could suggest amendments that would exclude those businesses that we are particularly concerned about—the start-ups and those on narrow profit margins—and see if there is a way in which to ensure that the engines of growth in this sector are not destroyed or damaged.

Lord Forsyth of Drumlean (Con): My Lords, I just want to follow up on that excellent point made by my noble friend. It is a long time since I ran a small business, but I can still remember the feeling of fear as to whether, as one started up, one was going to have enough to meet the payroll at the end of the month. There is pressure on client and other businesses and there are risks, and events can drive you off course. When you have produced your budget for the year and are reliant on certain things happening, out of a blue sky—actually, the Labour Government did not come out of a blue sky; that was obviously going to happen—you suddenly have to find all this extra money. The impact is harder on the smallest businesses of that kind. It is hard to quantify and saps the enthusiasm and drive among entrepreneurs when they are faced by this.

I am very supportive of the Chancellor of the Exchequer's determination to get growth in this country and the way she is going about it. However, as has been pointed out by several noble Lords—the noble Lord, Lord Blackwell, put it most crisply—small businesses are the ones that will become big businesses; they are the ones that will create the wealth, while the large businesses will shed labour. We keep being told how AI will mean that those businesses will be laying off labour. However, the small businesses are the ones that will be using artificial intelligence, if you believe it will be such a big change. They are the ones that will develop and use AI, but they are also being hammered and will find themselves facing great difficulty.

It is also the case that small businesses find it hardest to get support from the banks, because, increasingly, the large clearing banks are not interested. As we have heard in the Financial Services Regulation Committee, they are increasingly not interested in supporting SMEs. If the Chancellor's determination is to get growth, hobbling small, embryo businesses is not a smart idea, if you are taking at least a longer-term view of three to five years.

5 pm

I was struck by what the noble Lord, Lord Eatwell, said about simplification; I completely agree with him. In 2006, I did a tax commission report, while we were in opposition, for George Osborne and the then leader of the Opposition, David Cameron. In fact, Gordon Brown did quite a good job in introducing some of our recommendations, but that is another story. The point is that the report recommended setting up the Office of Tax Simplification. By the time the Treasury had finished with it, it was completely emasculated and unable to do its job.

As the Minister must know, the Treasury loves thinking up new ways of increasing revenue and plucking the goose. However, with this, we are getting pretty close now to the position where the goose is showing severe signs of illness and fatigue. Of course, the noble Lord is right about simplification, but it is not right to argue that my noble friend's amendments are complicating the tax system. On the same basis, the Government's own proposal to increase the employment allowance, it could be argued, will increase the complexity of the tax system. If you want simplification, lower the rate and do not have an employment allowance; I would agree entirely with that.

The noble Lord, Lord Eatwell, went on to suggest that it was a mistake to reduce the burden on small businesses, because of what was said by the OBR, which my noble friend Lord Howard of Rising was less than flattering about. I say in its defence that anyone who thinks that they can make predictions about what will happen to the economy, or about the effects of taxes in the current period of great global volatility, is on to a loser; it is extremely hard. Any Government who decide to outsource their strategic planning to other bodies, such as the OBR, will come a cropper. One of the extraordinary things about the Government's whole approach has been to outsource power. I always think of the Labour Party as being against contracting out, but it has contracted out so much of the policy-making in the Treasury and is

relying on the OBR. Who is the OBR? I am sure that it has very able people, but, as my noble friend pointed out, its track record is not exactly brilliant.

I will return to the noble Lord, Lord Eatwell, and his basic argument. He stated that the OBR has said that the overall impact of these Budget proposals will be to increase employment. That is quite a stretch, if you believe it. I find it difficult to understand, first, how it could say that and, secondly, how it could believe it. How can the Government believe that, given all the signs as to what is going on in the economy?

The proposition of the noble Lord, Lord Eatwell, is that the Government taking money out of the pockets of the people, and then spending it as they see fit, will produce more jobs and wealth than leaving it in the pockets of entrepreneurs and small businesses, which will use that money and drive it in a competitive environment. His proposition is that civil servants telling Ministers to invest in particular projects will produce a better result than people spending their own money. I find that very difficult to believe, but that was the proposition that the noble Lord, Lord Eatwell, put to us.

But he is right that we should look at this in a broader context. He argued that we should not look at this in a narrow context, and he is absolutely right about that. We should look at it in the broader context of this national insurance imposition on small businesses, on top of everything else—on top of the family businesses and the changes that have been made to inheritance tax, which will create huge problems for businesses. I should perhaps declare an interest: I am a director of a fifth-generation family business, where all the shares are held by family members after five generations. Bringing in inheritance tax diverts capital away from investing in growing the business, and it is yet another burden on top of the national insurance increases, which in the case of Denholm's amount to about £2 million.

There is another impact. Thinking back to meeting that payroll at the end of the month, I say that it is not just the national insurance but also that the payroll has gone up because of the national minimum wage. Where will that money come from in a market that is dead and where growth has ground to a halt? We hear about the £20 billion black hole and all the mistakes the previous Government made, but we are where we are now. I find it difficult to understand how small businesses can cope with that, on top of more coming down the line—

Lord Howard of Rising (Con): Given what my noble friend has said, would he agree with what I said earlier: that, actually, the money does not come back into the economy and that, when it is taken out, those companies that have been hit so hard end up going abroad? It becomes so much cheaper and easier to manufacture abroad that, looking at it from a wider perspective, it is completely negative.

Lord Forsyth of Drumlean (Con): I completely agree with my noble friend. Actually, it is worse than manufacturing going abroad. Just think of this: where are the sorts of areas of business, in terms of distribution or marketing, where people are employed who are not particularly well paid but on whom there will be a big impact from this national insurance cost on the employers? They are in places like call centres. Suddenly you find that you get a huge additional bill for running your call centre, which you may be required to do as a matter of government regulation or for all kinds of reasons—it may not be directly related to your product. So what will you do? You will outsource it to India or some other country. The jobs will go, because it will be much cheaper. The quality may not be the same, but it might be the difference between surviving and not. So, as the noble Lord, Lord Eatwell, pointed out, this national insurance thing has to be seen in the round. Then add all the other things that are going up: the energy costs, which are going up—

Baroness Neville-Rolfe (Con): That is 10 minutes.

Lord Forsyth of Drumlean (Con): It may be 10 minutes; I will sit down and then I will get up and make my speech again, if the noble Baroness likes. It is advisory.

There are energy costs that people are faced with, the impact of increasing regulatory burdens and the fact that people are just giving up. The lack of an impact statement, which seems to be becoming a habit for this Government, is a major criticism. They have already got into difficulty due to not doing this. They have had to revise the proposals they put forward for non-doms because they suddenly discovered that the impact of their policy would actually reduce revenue, so they had to change it. Had they done a proper impact statement, they would never have made that mistake—and there are other examples.

So these amendments are important, and I hope the Minister will take these arguments on board and think again.

Lord Leigh of Hurley (Con): My Lords, I apologise; I was not in the country to be present during Second Reading, although I did have the chance to discuss this with the noble Lord, Lord Londesborough, while we were supporting a much smaller economy than our own.

I support all the amendments in this group. I will speak later on the impact on the charities sector, in particular on social care homes, but I will concentrate now on the effect on business, in particular small business.

Small business is, of course, notoriously difficult to determine. There are all sorts of definitions of small business all over the legislation. The definitions that have been proposed are perfectly adequate. Companies House calls businesses small if their revenue is less than £10.2 million and they have fewer than 50 employees, and adds some balance sheet footing restrictions. Micro companies, however, are those that make less than £632,000.

One of the problems with the amendments—that can, as my noble friend Lady Noakes said, be revised—is how the Government will work out which companies are eligible for this reduction. As we know from our work on the Economic Crime and Corporate Transparency Bill, Companies House does not require disclosure of revenue for these small companies, particularly if the balance sheet and employee numbers are lower.

[Lord Leigh of Hurley]

The numbers are there in HMRC but, as we have discovered, HMRC will not release them. This could of course be self-selecting.

I have to disagree with the noble Lord, Lord Eatwell—I say this as a qualified tax accountant who is always happy to sharpen his pencil—that there will be any money in this for tax accountants trying to find wiggle room. These proposals are the simplest and most effective way to reduce costs for small companies. The proposal that the noble Lord suggests—I think I quote him—of "subsidies or benefits" is much more complicated and dangerous. I accept that research and development tax credits do a good job, but subsidies and benefits for small companies in place of reducing national insurance would be a far greater administrative burden, in my opinion.

These amendments directly affect small businesses. As we have heard from a number of people, they will suffer because higher employment costs lead to lower hiring capacity and potential job costs. This will lead to lower wages, which will lower morale and lead to higher wages, with pressure on employers. It leads to less investment and growth. The inevitable lower profits, which I think my noble friend Lord Forsyth indicated, means that covenants are at risk, which is a real issue for small businesses because banks are not sympathetic to this issue.

I too declare an interest: like my noble friend Lord Forsyth, I started a business. I had one partner and one assistant, and I too had sleepless nights about how we were going to survive and pay the payroll. We have 220 employees now, but my experience makes me very concerned for the survival of small companies. It has to be said that, although the Government Front Bench in the other place have many skills, abilities and experiences, none of them has started a small business. None of them knows and understands the pressures the small business men and women face. The risk of starting a business means that they have typically put up money secured on their home and left gainful employment so to do.

I urge the Front Bench here to listen to those who have been through that and adopt the sensible suggestion to conduct a proper assessment of the implications of what has been proposed. As my noble friend Lord Forsyth said, there are clearly economic challenges, but there are other ways of sorting them. The best, in my opinion, is to think about the 9 million people who are economically inactive. Steps taken to get the economically inactive into employment will dramatically improve the economy, whereas constantly justifying everything by the infamous £22 billion black hole does not lead to a sensible discussion.

Andy Haldane said that the black hole event was

"unnecessary and probably unhelpful economically".

The aforementioned OBR has said that

"it was unable to confirm chancellor Rachel Reeves' claim that she inherited a £22bn 'black hole' in the public finances from the previous administration".

To be fair, the Chancellor's claim that the Treasury had not been transparent about the pressures on the public finances resonates, but the chair of the OBE himself said that he

"could not endorse the £22bn 'black hole' figure specifically".

Mr Hughes told a press conference a few months after the Budget that it was simply "impossible to say".

I refer your Lordships to an article in the *Financial Times* in which Mr Hughes "noted that other measures" the Chancellor

"had included in her estimate of the £22bn 'black hole'"

included

"her own £9.4bn uplift to public sector pay"

without any productivity gains. The article went on to say that, sadly,

"the Treasury has failed to fully explain how it arrived at the £22bn number"—

I know that explanations have been given, but I do not think that they are satisfactory—

"declining to answer a Financial Times freedom of information request on the subject".

5.15 pm

What is the effect on the economy now? Well, less than three months after the Budget, a report from the respected insolvency practitioners Begbies says that it has seen the number of companies in critical financial distress climb by 50% to 48,000 businesses. Consumer-facing sectors in particular have highlighted the concerning picture in the UK economy. Sectors that are served by small businesses, such as hotel accommodation, show an increase in financial distress of 83%, while the leisure and cultural sector shows an increase of 76%. General retailers—they include small shops, such as sweet shops and so on—show an increase of 47%; and it is 37% for food and drug retailers. These are all very worrying states of financial health.

Lord Forsyth of Drumlean (Con): I am following what my noble friend is saying carefully. He mentioned the number of people who are apparently economically inactive, as well as the great pressure that there is on low-margin hospitality businesses. What does he think is the likelihood of this measure resulting in larger numbers of people working in the black economy and the Government getting no tax receipts whatever? My noble friend will remember, from being on the Economic Affairs Select Committee's Finance Bill Sub-Committee, the horrors that occurred with the loan charge: employers were asking people to be treated as if they were self-employed through agencies, which resulted in people getting enormous, life-changing bills. To what extent does my noble friend think that this imposition of costs will actually create all of these problems, to the disadvantage of the Treasury and many other people?

Lord Leigh of Hurley (Con): I am grateful to my noble friend for that comment, because it is clearly the case. Every single one of my corporate clients has told me that they have had to reforecast and rebudget with lower profit. Every single one has said that they are going to take steps to shave that back, and that those steps will include lowering their employment bill: they will either sack people, reduce hours or not recruit. Will that drive people into the so-called black economy? I cannot honestly answer that because I do not know, but the point is that none of us knows. This is why an impact assessment is so desperately needed before dangerous steps are taken to pressurise British business into—

The Deputy Chairman of Committees (Viscount Stansgate) (Lab): I am sorry to interrupt the noble Lord but, as Members may have noticed, there is a Division in the Chamber. The Committee stands adjourned until 5.28 pm.

5.18 pm

Sitting suspended for a Division in the House.

5.29 pm

The Deputy Chairman of Committees (Viscount Stansgate) (Lab): My Lords, we will resume the Committee. The noble Lord, Lord Leigh, has the floor.

Lord Leigh of Hurley (Con): My Lords, I think that I had reached the conclusion of my remarks, which is that I support these amendments. I particularly support impact assessments.

Before I sit down, I just make the comment that it is somewhat strange to note that we were voting on something in the Chamber of the House relating to boxes in the Royal Albert Hall, but we are deprived of the opportunity to vote on the matter of national insurance rises for every company in the UK. That seems to me to be somewhat absurd.

Baroness Kramer (LD): My Lords, I stand as a winding speaker but also as someone who attached their name to Amendment 22 from the noble Lord, Lord Londesborough, which I think gets to the heart of the problem that we have with this Bill. To me, the most pernicious measure has been the dropping of the threshold, which has meant that trapped into employers' national insurance contributions are the lowest paid and the part-timers. There is a disadvantageous impact on small businesses in hospitality and tourism, which are the backbone of so many communities and employ so many people for whom other work is very difficult to find. That makes it a really significant amendment, and I was very glad to attach my name.

I talked on an earlier set of amendments, essentially, about small businesses but also, more broadly, about tourism, hospitality and part-timers. I will not repeat that; the Committee has listened to me once on those issues and certainly does not need to hear me twice. I just make a small comment on why I am particularly concerned about the approach to small businesses, which is that it seems to me that the Government have put in some protections for what are genuinely micro-businesses but do not use "micro" and instead keep using "small". The noble Lord, Lord Londesborough, identified the benchmark, which is about seven employees. Then you can start to do better under the changes that the Government have made. However, every time I read about the growth agenda, it requires the upscaling of our small businesses. This, in many ways, has been the British disease.

I was looking at reports from the ScaleUp Institute, which obviously does excellent surveys so you can get a granular feel of what is happening with many of these businesses. Most of them state that the first problem in scaling up is talent, but the second problem is access to finance. For a company that will now have to take on board additional costs—about £1,000 or more per employee—this will exaggerate that problem of access to finance. Many of them will now have to find finance in order to be able to cover the working capital that is engaged in paying higher employers' national insurance. The noble Lord, Lord Forsyth, in his excellent and interesting Second Reading speech, covered some of the issues associated with that credit.

Lord Forsyth of Drumlean (Con): It was not a Second Reading speech; I was addressing the issues in the amendment.

Baroness Kramer (LD): We will have to beg to differ on that.

I think that the Minister will turn around and say that a great deal is being done for small businesses that want to upscale and that we should look at the British Business Bank. We are talking about an entity that is so small that it really cannot meet this need, so there is a very big problem here to be addressed. It seems to me that the way in which the national insurance contributions increase will work will knock back the effort that has to be made to help people get through what is often known as the credit valley of death, so that they can go from being small to the thriving, upscaled businesses that we need to drive the growth that we need.

Baroness Lawlor (Con): My Lords, I come in just to endorse what my noble friend Lady Noakes said about small businesses and indeed to support these amendments generally. I will speak on my own set of amendments later on with respect to impact assessments.

I founded a small business. Yes, it was a not-for profit-business—Politeia, which is a think tank—but, in 1995, we went through the phase described so well by my noble friend Lord Forsyth of wondering how we would meet employer payroll at the end of every month. From a comfortable position now looking back, we are still not exactly in a rosy situation because, every time policy changes or there are external shocks such as Covid, we face more costs. It is difficult to see how any small business needing to make a profit can do so and expand.

In my case, as someone involved in running a small business, I would say that we have a done a lot of good. It is a not-for-profit charitably funded think tank, but we train graduates and even young people coming straight from school who are finding their place in the job market. We have always paid slightly over the minimum wage once they get on to the payroll, and they go on to do great things: they join the Civil Service; they join the public sector; or they get training contracts and continue working with us, because it helps them to pay the fees for the next phase. We will have to think about that model, because they are going to cost a great deal more. Some of the senior staff earn much more decent salaries than perhaps even the people who founded the organisation do, and we will have to rethink the senior and experienced team because of the enormous hit that we are taking. That is not to mention all the other costs in the Budget.

From the perspective of a very micro-business, this will have serious consequences. I speak as somebody still involved in running it and raising the money.

[Baroness Lawlor]
Noble Lords will know that people's spare money that goes to think tanks such as mine will cease and those people will have to cut their own jobs—that is where the funding comes from. I urge the Government to think again about the proposal from my noble friend Lady Noakes and all the other excellent proposals in this group of amendments.

Baroness Neville-Rolfe (Con): My Lords, I thank all noble Lords who have contributed to this valuable debate, especially those such as my noble friend Lady Lawlor who have run small businesses. Having heard the concerns from noble Lords across the Committee and from across the sectors, I hope that the Minister will consider these amendments very seriously before we get to Report.

We know that this jobs tax will be bad for small businesses. The Government have not provided sufficient information in the light of all the calls from hard-pressed businesses, so more detailed information is necessary. SMEs are more vulnerable, as the noble Lord, Lord Sharkey, said. Even covenants are at risk, as we heard from my noble friend Lord Leigh. The noble Baroness, Lady Kramer, rightly talked about scale-ups being knocked back because of the problems that they are facing. I was particularly interested to hear from the noble Lord, Lord Londesborough, and to see his amendments. He had some very telling questions based on SMEs and on particular examples. I think that the Minister and the Treasury should properly examine some of his spreadsheets and, indeed, some of the other examples raised today, such as by my noble friend Lord Howard of Rising, who rightly talked about international competitiveness, and my noble friend Lord Blackwell, who made a telling comment about the lower-margin sectors, start-up and scale-up.

It was notable that, in her growth speech today, Rachel Reeves had little to say about small businesses and the difficulty that these NICs changes have placed on them. As my noble friend Lady Noakes said, we are imperilling their success—their survival, even, in some cases—and the scale-ups that we need for growth. I detected a good deal of support for her amendment, so I hope that the Minister will bear that in mind. As I have explained, the Chancellor's speech strengthens the case for an exemption or a concession to help some or all of our smallest businesses to survive and to thrive. I very much hope that the Minister will be able to respond positively.

The Financial Secretary to the Treasury (Lord Livermore) (Lab): My Lords, I am grateful to all noble Lords for their contributions during this debate. I turn first to the amendments tabled by the noble Baroness, Lady Neville-Rolfe, and the noble Lord, Lord Altrincham, which seek to exempt from the employer national insurance rate rise employers with an annual turnover of less than £1 million, and the amendments by the noble Lord, Lord Londesborough, the noble Baronesses, Lady Neville-Rolfe and Lady Kramer, seeking to limit or remove the reduction in the secondary threshold by business size. Clearly, these amendments would have cost implications for this Bill, necessitating either higher borrowing, lower spending or alternative revenue-raising measures.

I agree very much with the noble Baroness, Lady Neville-Rolfe, and the noble Lord, Lord Sharkey, that small businesses are the heart of our economy. The Government are aware of the pressures on small businesses, which is why we are taking action as part of this Bill to protect the smallest businesses by increasing employment allowance from £5,000 to £10,500. This means that, next year, 865,000 employers will pay no national insurance at all. More than half of employers will see no change or will gain overall from this package, and employers will be able to employ up to four full-time workers on the national living wage and pay no employer national insurance.

The Government have also taken steps to strengthen small businesses' ability to invest and grow. This includes freezing the small business multiplier, permanently reducing business rates for retail, hospitality and leisure properties from 2026-27 and publishing the *Corporate Tax Roadmap* to provide stability and certainty within the tax system for businesses across the economy.

I should also note, as my noble friend Lord Eatwell said, that creating new thresholds or rates based on the size of a business would introduce distortion and additional complexity into the tax system, and could disincentivise small businesses from growing by creating a cliff edge in the tax system.

I turn now to the amendment tabled by the noble Baroness, Lady Neville-Rolfe, and the noble Lord, Lord Altrincham, seeking to limit the reduction in the secondary threshold to £7,500 rather than the proposed £5,000. A smaller reduction in the secondary threshold, as is proposed by this amendment, would not raise the level of revenue required to fix the foundations and invest in our public services. It would mean higher borrowing, lower spending or alternative revenue-raising measures.

I now turn to the amendment tabled by the noble Baronesses, Lady Noakes and Lady Neville-Rolfe, and the noble Lords, Lord Ahmad of Wimbledon and Lord Howard of Rising, which would prevent commencement until an impact assessment is published for small businesses of various sizes. The revenue raised from the measures in this Bill will enable the Government to repair the public finances while protecting working people and rebuilding our public services, including the NHS. Delaying commencement of this Bill would put this vital revenue at risk.

As I have already noted in the previous session of this Committee and, as the noble Baroness, Lady Noakes, mentioned, an assessment of the policy has already been published by HMRC in a tax information and impact note. As the noble Lord, Lord Londesborough, said, that assessment set out that employers' national insurance changes

"will impact around 1.2 million employers. Around 250,000 employers will see their Secondary Class 1 NICs liability decrease and around 940,000 will see it increase. Around 820,000 employers will see no change. Overall, more than half of businesses with NICs liabilities next year will either gain or will see no change in their secondary Class 1 NICs liabilities".

I listened carefully to the specific examples given by the noble Lord, Lord Londesborough. He asked for some specific figures, which I am afraid I am told are not available because the liability is on employers, not employees. As such, the data is not collected in the format that the noble Lord asked for.

Further, the OBR's *Economic and Fiscal Outlook* sets out the expected macroeconomic impact of the changes to employer national insurance contributions on employment, growth and inflation. The Government and the OBR have, therefore, already set out the impacts of the policy change. This approach is in line with previous changes to national insurance and previous changes to taxation, and the Government do not intend to provide any further impact assessments.

After the previous session of the Committee, I looked back at comparable tax measures over the past 14 years to check that I was correct in saying that the assessment that we are providing is in line with what was provided on those previous occasions. I found four such measures of an equivalent size: the health and social care levy; the increase in the corporation tax main rate to 25%; the income tax threshold freezes of the previous Government; and the increase in the VAT main rate to 20%. I looked at all those and I am absolutely satisfied that what we are providing on this occasion is, in fact, more information than was provided on any of those occasions. In fact, on the occasion of the increase in VAT to 20%, no impact assessment was published at all.

Having studied those, I am very confident that what we are now providing is absolutely consistent with what previous Governments have provided, in terms of impact assessments, on all previous such equivalent occasions. I do not know whether noble Lords opposite, when they were in government, objected to the impact assessments that were put out on tax measures, but I am very confident that these are absolutely in line with what was put out in the past. As a result, the Government have no intention to provide any further impact assessments.

5.45 pm

Baroness Neville-Rolfe (Con): On impact assessments, I think I am well known for my requesting them—I even voted against my own Government on one occasion—because they are very important and helpful. I do not think that the Minister has yet answered, although he may go on to do so, the point that my noble friend Lady Noakes made about the effect of adding in the minimum wage to the impact note that was produced. That would probably increase the figures, as she suggested; and cost benefit and transparency are very helpful. We have another amendment on this, and we will return to the charge, but I am very disappointed that there is no willingness to look at the specific examples from the noble Lord, Lord Londesborough, on the technicalities, which seem to merit some attention from the Government. I think that the Government must share our concern that we minimise the effect on small businesses as far as we can, which is why I am trying to be constructive in today's Committee.

Lord Livermore (Lab): I will simply restate my point to the noble Baroness: the approach that we are taking is absolutely in line with the approach taken to previous changes in national insurance and previous changes to taxation, and the Government do not intend to provide further impact assessments.

Lord Forsyth of Drumlean (Con): I am most grateful to the Minister for giving way. I am slightly surprised, having listened to so many of his speeches since the general election, that he is holding up the practice of the previous Government as a standard by which he should be judged.

I asked specifically about the new proposals in the Budget for non-doms, which have turned out to be disastrous in terms of the number of people who have left, and which have forced the Chancellor to make changes. Does he not recognise that, had an impact statement been done, they might have discovered what the impact would have been? That is for the benefit not just of the Opposition but of the Government themselves. Accountability strengthens Governments; it does not weaken them. Can he not see that the idea of producing impact statements is absolutely central to the whole process of accountability and prevents the Government making disastrous mistakes of the kind that is proposed in this Bill?

Lord Livermore (Lab): I dispute the noble Lord's description of the non-dom policy and the impacts that it has had. A tax information and impact note was put out alongside that policy, so we actually did put out an assessment alongside it.

Lord Forsyth of Drumlean (Con): I am of course very familiar with that, but it was wrong, was it not? It was not an effective impact statement; otherwise, it would not have been necessary to change the policy.

Lord Livermore (Lab): We have not changed the policy; we have made the policy easier to use. The policy is absolutely as it was at the Budget, as is the amount of revenue that we are scoring from it. An impact assessment was put out alongside that. My point is that what we are doing on impact assessments, on all the taxes that the noble Lord mentioned, is absolutely in line with what all previous Governments have done on impact assessments. We are content that that is a sufficient amount of information, and we do not intend to put out any further impact assessments.

Finally, I turn to the amendments tabled by the noble Lords, Lord Londesborough and Lord Altrincham, and the noble Baroness, Lady Neville-Rolfe, which seek to increase the employment allowance for small businesses. Again, the proposals in these amendments would create additional costs, necessitating either higher borrowing, lower spending or alternative revenue-raising measures.

The Bill already seeks to protect the smallest businesses and is significantly increasing the employment allowance from £5,000 to £10,500. This means that, next year, 865,000 employers will pay no national insurance at all, and more than half of employers will see no change, or gain overall, from this package. For the reasons I have set out, I respectfully ask noble Lords not to press their amendments.

Lord Londesborough (CB): I thank the Minister for his comments, but I am disappointed and, frankly, baffled that the Treasury can tell us specifically—he repeated these figures—how many employers are impacted by the national insurance increase, yet there is a curious resistance to answering my specific and fair question: what percentage of jobs will attract an increase in national insurance contributions?

[Lord Londesborough]

In October, the Department for Business and Trade helpfully provided a sectoral breakdown, by company size and number of jobs, under each category. It is fairly simple maths to come out with a reasonable estimate. This is in the interests of transparency; I am not trying to nail the Government here. Everyone should be able to understand across our economy, as we all share an interest in trying to generate economic growth, how many jobs are impacted. "Working people" is a favourite phrase that we keep hearing; how many of their jobs will be impacted?

If the Minister cannot produce the figures today, which I would respect, I request just a few minutes of research between the Treasury and the Department for Business and Trade. I believe that these figures could be produced very simply and that they would be very helpful in looking at the impact of this Bill. I cannot understand the resistance to it.

Lord Livermore (Lab): I am grateful to the noble Lord for his follow-up points. As I have said, we are not able to provide him with those figures and that remains the position.

Lord Leigh of Hurley (Con): I asked for an impact assessment on the National Security and Investment Bill, and none was forthcoming, but this is in respect not to tax but to social security. Therefore, there are no precedents.

Lord Livermore (Lab): I disagree with the noble Lord. The previous Government's health and social care levy is a very direct precedent.

Baroness Neville-Rolfe (Con): I beg leave to withdraw the amendment.

Amendment 6 withdrawn.

Amendment 7

Moved by ***Baroness Bakewell of Hardington Mandeville***

7: Clause 1, page 1, line 1, at end insert—

"(A1) In section 9(1A) of the Social Security Contributions and Benefits Act 1992, after paragraph (aa) insert—

"(ab) if the employer is a specified employer under subsection (1B), the specified employer secondary percentage;"

(A2) After section 9(1A) of that Act insert—

"(1B) A "specified employer" means a farmer.

(1C) For the purposes of this Act, the specified employer secondary percentage is 13.8%.""

Member's explanatory statement

This amendment provides that farms would continue to pay contributions at current rates.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I will speak to Amendments 7 and 66 in my name. I apologise for not being able to speak at Second Reading. Much in my general points will have been said by many others previously.

Farmers provide a vital role in the country. They grow crops, keep stock, protect land and have engaged with the change from BPS to ELMS, with many farmers seeing biodiversity on their farms increase as a result. Farming is not a career choice for the faint-hearted. The early, dark and cold mornings, the late nights at harvest time and a seven-day week, often for 52 weeks of the year, take their toll. But farmers are essential to food supply.

Amendment 7 is intended for farmers who, on a small farm with a low income, still have to pay national insurance, as would any other low-wage employers. The vast majority of farm businesses are small, with a farmer and a small number of family members. These family members are either paid employees on PAYE or partners in the family business, which pulls them into self-employment and payment of NI through that route.

Class 2 contributions are at a flat rate and used to be charged on self-employed people. From April 2024, self-employed people no longer have to pay them. The self-employed farmer therefore does not have to pay class 2 contributions, but has to pay class 4 contributions on their profits—if there are any.

The next group of farmers employs a small number of people—one or two workers—on PAYE with the usual NI implications. Some farmers with a small number of workers employ the workers as contractors, who work on multiple farms during the season or week. I ask the Minister whether some farms might actually see a saving in NI contributions, as the threshold for small businesses was increased. Would this help the sole or family farmer?

There is, of course, another group of large farms that employ significant numbers of people, many of which will be impacted by the NI increases: dairy farms; horticultural businesses; pig and poultry enterprises; and large arable and livestock farms. These larger farms are profitable and may be able either to absorb the additional cost of the NI rise or to pass it on. It is those farms in the middle range that are likely to struggle and may not survive in their current form.

I came here this afternoon from a meeting discussing the horticulture sector. We were informed that the rise in wage rates, coupled with the NI contributions rise, will cost members of Horticultural Trades Association £134 million. This was causing considerable concern around how the industry would cope. The Horticultural Trades Association has a considerable number of garden centres in its membership.

I shall now move on to Amendment 66. My very real concerns are for those in the food supply chain. In the meat industry, ignoring retail, the total additional cost is in the order of £160 million a year: £60 million is down to wage increases and £100 million to national insurance. In some supply chains, employment costs are huge. For example, in the beef industry, the cost of labour on a farm to produce cattle is not in itself huge but the labour costs in killing, processing and transporting the cattle and meat are significant. The national insurance change for employers and employees in the supply chain will put financial pressure on these businesses, which include meat processors, vegetable packers and dairy processors. The costs imposed on them will inevitably trickle down to the farm gate as the supply chain looks to recover the money from farmers.

The same can be said for retailers. Farmers will be squeezed. Retailers are not making money on basic foodstuffs; they make their money on cornflakes, cereals and similar products. There will be huge pressure on food prices and food supply chains. Some businesses—mainly the medium-sized operations—will go under. The larger ones will pass on the increase and survive. The smaller farmer, by adding value and providing niche products, may survive. The small business threshold is helpful. Such businesses often employ only one person; the national insurance goes down in this case.

The employment costs on most family farms are not the big cost. Apart from in the meat industry, where costs are in the supply chain, the other farming sections with large on-farm costs include dairy farms and those engaged in horticulture. In the latter case, workers who plant crops then pick them when they are ripe represent a significant cost. Not all crops can be harvested by machinery. There will always be a role for a real person to be involved in the horticultural side of produce—often a seasonal worker.

When making an alteration to the financial employment arrangements, which could have a significant impact on those employed, it is always prudent to review the impact of the policy change. It will not be acceptable to say at a later date, "Oh, we didn't realise how this change would affect certain sections of society". Amendment 66 asks for a review of the effect on farming, which includes those in the supply chain as well as those working on farms. The effect of the increase in national insurance is going to be considerable; a review will be essential to measuring the impact accurately. I realise that the Minister is not engaged in farming, but I hope that he will be able to make the case for these two amendments to his colleagues in the Treasury. I beg to move.

Lord Howard of Rising (Con): My Lords, I rise to speak to Amendment 36 in my name. I declare my interests as a farmer and an employer. I have already spoken about a lot of what is relevant to this amendment in an earlier stage, so I will spare your Lordships from any repetition.

Farming is a difficult business with unpredictable factors that do not appear in every business: weather; insect life; the ability of animals to damage themselves, and so on. Of course, the most difficult thing of all is the uncertainty of what they will receive for their product. Commodity prices vary greatly, not only from year to year but in the time between the planting and harvesting of a crop. The Government have already hit farmers with the 20% inheritance tax on agricultural land. To burden them now with an increase in national insurance contributions is brutal.

6 pm

It is not as if farming is, generally speaking, a profitable business. I farm because the tenant who farmed my land could no longer afford to pay the rent, as farming was no longer profitable enough—it was not viable. My noble friend Lord Blackwell referred earlier to margins; they are pretty thin in farming. Of course, in my case, it may have been that the land was not high-quality enough, but that is a reflection on the state of farming today. In some parts of the country where the land is particularly fertile, farmers find it easier to make a reasonable income, despite the difficulties, but that is only in certain parts of the country.

The costs for farmers have gone up steadily in recent years, year on year, for fuel and fertilisers and so on. Feed goes up regularly, but the price of the end product tends to go down. Anyone who has watched Jeremy Clarkson's programme on farming will have seen a graphic illustration of the difficulties that farmers face. Farming is, as much as anything, a way of life. To add this burden is unfair. I urge the Minister to carry out an impact assessment to assess properly whether agricultural employees should be exempted from this increase.

Baroness Neville-Rolfe (Con): My Lords, I speak to Amendment 50 in my name, which would increase the employment allowance for farms from £10,500 to £20,000 and help to ease the very real cash-flow problems that many farmers now face. I would like to understand both the cost to the Exchequer and the plans that the Government have to ease pressures on the farming industry. This is vital to increasing self-sufficiency in food in these troubling international times.

I speak with some knowledge of the Wiltshire countryside, where I was brought up and retain a small and partial interest, set out in the register, in a couple of fields, let to a neighbour, on what was our family farm. My father's business sadly went into insolvency in the 1960s. The farm was sold and the stock auctioned off—a very difficult day. I fear it is something that we may see more of again. As the noble Baroness, Lady Bakewell, said, farming is not a career choice for the faint-hearted.

I am grateful to my noble friend Lord Howard of Rising for tabling Amendment 36, which I fully support. It is intended to ensure that the Government publish a full impact assessment of the effect of this Bill on farms with regard to both the NICs costs and, separately, any offset for the increased employment allowance. Given the difficulties that farmers are facing on inheritance tax, fertiliser tax and the post-CAP changes to support, this is the least that the Government should do.

The noble Baroness, Lady Bakewell, in her compelling assessment of the squeeze on farmers, comes at the issue from a slightly different angle and suggests a review of the impact of the policy change, which is also worth considering. However, we would have to wait six months, by which time decisions on NICs, IHT and the fertiliser tax might be irreversible.

It has been made abundantly clear by now that this Government do not understand the importance of Britain's farmers. The 2024 Labour Party manifesto claimed:

> "Labour recognises that food security is national security",

yet, since entering into Government, they have demonstrated the opposite. The Autumn Budget included a multitude of measures that will hammer farmers. The changes to agricultural property relief and business property relief could affect 33.5% of all farm holdings in the UK, according to the Treasury's own figures. The vast majority in terms of numbers are small, family-run farms and, as we have discussed elsewhere, the Government need to think again about the right IHT thresholds.

[Baroness Neville-Rolfe]

The Government have also introduced carbon pricing on imported fertilisers through the UK carbon border adjustment mechanism, which will increase the cost of fertiliser that farms depend on to ensure adequate crop yields—up from approximately £25 a tonne to £75 a tonne. They have axed the rural services delivery grant introduced by the previous Government, meaning that rural councils will have less money to tackle the issues facing farms and rural communities. Given the already exorbitant costs facing farms, these measures could lead many to ruin. That goes back to my own experience in the 1960s and the excellent points made in the debate led by my noble friend Lord Leicester in December.

Above all, the proposals are putting a chill on rural communities, which are asking themselves why they elected so many Labour MPs and are writing to them, or getting on their tractors, to explore their discontent.

Lord Livermore (Lab): My Lords, I am grateful to all noble Lords who have contributed to this debate. I will turn first to the amendments tabled by the noble Lord, Lord Howard of Rising, and the noble Baronesses, Lady Bakewell of Hardington Mandeville and Lady Kramer, which require impact assessments of this Bill on farms.

The Government, of course, recognise and greatly value the important role played by the farming sector. We carefully consider the impact of all policies, including the changes to employer national insurance. Indeed, as we have previously debated, an assessment of the policy has already been published by HMRC in the tax information and impact note, including impacts on the Exchequer, the economy, individuals, households, families, equalities, businesses including civil society organisations, and details of monitoring and evaluation. Further, the OBR's *Economic and Fiscal Outlook* sets out the expected macroeconomic impact of the changes to employer national insurance contributions on employment, growth and inflation. The Government have, therefore, already set out the impacts of this policy change. This approach is in line with previous changes to national insurance and previous changes for taxation, and the Government do not intend to publish further impact assessments.

I now turn to the amendments tabled by the noble Baroness, Lady Bakewell of Hardington Mandeville and Lady Kramer, seeking to exempt the salaries of farmers from the increase in employer national insurance, and the amendments tabled by the noble Baroness, Lady Neville-Rolfe, and the noble Lord, Lord Altrincham, seeking to increase the employment allowance for persons employed on farms. This amendment would reduce the revenue raised from this Bill and require either higher borrowing, lower spending or alternative revenue-raising measures. I also note that creating new thresholds or rates based on the sector of a business would introduce distortion and additional complexity into the tax system.

Despite the difficult fiscal situation, the farming and countryside programme budget has been protected at £5 billion across the across the next two years. This includes the largest ever proportion of the Budget directed at sustainable food production and nature recovery in our country's history. This will accelerate the transition to a more resilient and sustainable farming sector, support investment in farm businesses and boost Britain's food security. The Secretary of State for Defra has also set out the Government's long-term vision to make farming more profitable. This includes reforms such as using the Government's purchasing power to buy British food, planning reforms to speed up the delivery of farm buildings and other infrastructure that support food production, and work to ensure supply chain fairness.

For the reasons that I have set out, I respectfully ask noble Lords to withdraw or not move their amendments.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I thank the Minister for his response. The impact assessment needs to go further than farms and cover the supply chain. I am sure he will be aware of that in six months' time. I thank noble Lords who have taken part in this short debate.

Amendment 36 of the noble Lord, Lord Howard of Rising, is also about making an assessment of the impact of the rise in national insurance. The noble Baroness, Lady Neville-Rolfe, talked about raising the employment allowance to £20,000. I have some sympathy with that.

I am disappointed that the Minister is unable to agree to my amendment, which would make a considerable difference to small farms. However, I can see that he is not going to change his mind, and I beg leave to withdraw the amendment.

Amendment 7 withdrawn.

Amendment 8 not moved.

Amendment 9

Moved by ***Lord Altrincham***

9: Clause 1, page 1, line 1, at end insert—

"(A1) In section 9(1A) of the Social Security Contributions and Benefits Act 1992, after paragraph (aa) insert—

"(ab) if the employer is a specified employer under subsection (1B), the specified employer secondary percentage;"

(A2) After section 9(1A) of that Act insert—

"(1B) A "specified employer" means a person employing an individual who is aged under 21.

(1C) For the purposes of this Act, the specified employer secondary percentage is—

(a) 13.8% in respect of any employees under the age of 21 at the start of the tax year;

(b) 15% in respect of all other employees.""

Member's explanatory statement

This amendment would ensure that employers would continue to pay the current rate of National Insurance for staff under the age of 21.

Lord Altrincham (Con): My Lords, Amendments 9, 10 and 11 concern young people, and I thank the noble Baroness, Lady Neville-Rolfe, for adding her name to the former.

In previous groups of amendments, we discussed economic forecasting and the estimates made by the Government and the OBR, which the noble Lord, Lord Eatwell, referenced, and some of the predictions that surround this policy. The predictions estimate that, in aggregate, 50,000 jobs may be lost. These three amendments concern hundreds of thousands of young people—actual real people; they are not in aggregate in any way. They are a particularly vulnerable part of the current employment market, because hundreds of thousands of young people are not in work, and the numbers are getting worse.

Last summer, 870,000 young people aged 18 to 24 were not in employment, education or training. To give a sense of proportion to the number of 870,000, it is more than one whole cohort. Most of us in this Room were born in much larger cohorts, but the cohort sizes for people in their 20s are around 700,000. The number of NEETs in that group—people who are currently not in employment—is more than one whole cohort's worth, and that is the age group that should otherwise be in secondary or higher education. Unemployment, which is obviously measured differently, is already running at 12% for people in their 20s. So we are talking about an exceptionally vulnerable group of people in the population, who are currently struggling to enter the market for jobs and who need either part-time work or a first job; they are not doing too well. This policy is coming in at a time when there is a very large number of very vulnerable young people.

Amendment 9 seeks to ensure that individuals under the age of 21 will continue to pay the current national insurance rate of 13.8%. This amendment inserts a provision into the Social Security Contributions and Benefits Act 1992 defining a "specified employer" as one who employs individuals aged under 21 at the start of the tax year. This is a useful and proactive measure for two key reasons. First, it supports employers in taking on young workers without an additional financial burden. Secondly, it helps young people gain the experience they need to start their careers, thus addressing the long-term challenges they face in the job market. Before I move to Amendment 10, bear in mind that this amendment concerns people who are 21 and under. I ask noble Lords to pause for a second to reflect on that part of the population. We are asking for a little caution in approaching people who are 21 and under, who are often looking for their first job.

Amendment 10 extends the benefit to those who are under the age of 25, further strengthening this approach. Under this amendment, employers would pay a reduced rate of 13.8% for employees under 25, while the standard 15% rate would apply to employees above this age. The reduced national insurance rate lowers the overall cost of employing younger workers, making it more affordable for businesses to offer opportunities to this age group. This is especially important for small and medium-sized enterprises, which may have limited resources and may not have been able to participate in various apprenticeship schemes. By extending this financial benefit, we would help to create more opportunities for young people, while also supporting businesses that are committed to developing the next generation of workers. Again, I ask noble Lords to pause to reflect that we are talking about people who are 25 and under, and to consider the essential intergenerational unfairness of landing this tax rise on people in this age group.

The third amendment, Amendment 11, extends the beneficial approach even further by including young adults under the age of 28. Under this amendment, employers would pay a reduced national insurance rate of 13.8% for employees under the age of 28, while the standard rate of 15% would apply to all those above that age. In supporting Amendment 11, we are not just addressing youth unemployment but making a statement about the importance of providing young people with the opportunity to gain the experience that they need to build a successful career and contribute meaningfully to the economy.

6.15 pm

These amendments address a problem of youth unemployment that has been growing for a while. There have been multiple policy interventions in apprenticeships to help young people into work but, astonishingly, participation in apprenticeship schemes, some provided with significant taxpayer support, has been falling. The number of young people starting in an apprenticeship in 2016 was around 500,000, but, after multiple policy initiatives, that number has fallen below 350,000 a couple of years ago. There seem to be lots of reasons for this, including a changing culture of employment, some complexity in the schemes and a tendency to use training for older people, but one way or another that means that young people are not getting help into the workforce.

It is, therefore, to the credit of the Government that they have brought forward a national skills strategy and plans for Skills England as well as the *Get Britain Working* White Paper. Those initiatives all address the issue of getting young people into work, but this Bill —alas—presents a more challenging and dissonant approach to employment that could easily undermine the Government's own national skills strategy. There is essentially a dissonance in the Government's own policy for young people, which on the one hand focuses on helping young people into work and on the other hand takes a very strong action that will make that hard to achieve.

These amendments would help to bring the Bill in line with government action in favour of young people. They would help the Government to stabilise the labour market, given other economic pressures, and of course help young people to develop a prosperous future. I ask the Minister to consider these amendments carefully.

Lord Sharkey (LD): My Lords, these amendments address very important issues. As noble Lords who attended the Committee last week will be aware, we on these Benches have taken an approach to the Bill aiming to exclude certain sectors from the Government's rise to employers' national insurance contributions—sectors that we feel will be particularly impacted by the change.

The amendments in this group follow the same structure as our earlier amendments, exempting employers of young people in various age groups from the proposed rise in employers' national insurance contributions. We touched at least tangentially on that and on some

[Lord Sharkey]
of the concerns raised about youth employment when we debated amendments last week, tabled by my noble friend Lady Kramer, relating to part-time workers and to the hospitality and tourism sectors. For many young people, part-time work is the entry point into the world of work. A career in hospitality is often the first step on the career ladder for many young people entering the job market.

According to data commissioned by that well-known authority, the British Beer & Pub Association, pubs currently provide jobs for more under-25s than they ever did, with 350,000 people in employment in that sector. The association estimates that, to keep employing that same number of under-25 year-olds, the NICs liability for employers will increase from £82 million to £153 million.

I shall not repeat the points made in our debate last week, but I urge the Minister to address further some of the possible unintended consequences that the measures in this Bill might result in, as employers in these sectors look at ways in which to offset the additional costs that they will have to endure—perhaps instituting hiring freezes or freezing pay rates—and especially and specifically the impact that will have on young people seeking to enter employment for the first time. An impact assessment would have been very helpful, as would the application of the mechanism contained in Amendment 33 from the noble Baroness, Lady Noakes, which we discussed earlier this evening.

In the regrettable absence of an impact assessment, it would be entirely proper to postpone the NIC provisions until the Government make more age threshold granular data available to help to assess the effect of the measure on young people. I heard the Minister's unequivocal refusal to provide any more impact assessments, and I expect that we will hear it again in Committee and on Report.

Lord Blackwell (Con): My Lords, I want to add to the comments made by my noble friend Lord Altrincham in introducing these amendments. He spoke of a large number of young people who are not in economic activity, full-time education or training. Labour market statistics are notoriously difficult to interpret, as we know, but, if you take the unemployment rate he quoted—around 14%—we know that, in addition, a worryingly large number of people in this age group are also on long-term sickness benefits. All of them could be in productive work, with the right support and encouragement.

A number of Members of this Committee are also members of the House of Lords Economic Affairs Committee, which recently did a review of this area. Some of the evidence that we took made the point that, once a young person moves on to long-term benefits without ever having had meaningful employment experience, it becomes increasingly difficult for them to get work. They become stranded in a benefit life, which is not only wasteful for them but a huge cost to the taxpayer.

In stressing the importance of making it economically attractive for employers to take on young workers such as these, I wonder whether the Government should consider going further than these amendments: not just retain the existing levels of national insurance contributions for employers for this age group but reduce the national insurance contributions of young workers to give an additional incentive to help them, at this early stage in their lives, into a meaningful working career.

Lord Livermore (Lab): My Lords, I am grateful to all noble Lords who have taken part in this debate. I will address the amendments tabled by the noble Lord, Lord Altrincham, and the noble Baroness, Lady Neville-Rolfe, which seek to exempt the salaries of young people from the increase in employer national insurance.

An employer national insurance relief is already available for the earnings of those aged under 21 and for apprentices aged under 25, meaning that employers are not required to pay national insurance contributions up to £50,270 for these groups. Despite the challenging fiscal inheritance that this Government faced, we are maintaining these important reliefs for under-21s and apprentices under 25; they are not changing as a result of this Bill. Creating other thresholds and rates based on the age of staff would add additional complexity to the tax system. These amendments would introduce new pressures that would have to be met by more borrowing, lower spending or alternative revenue-raising measures.

The noble Lord, Lord Altrincham, mentioned NEETs. I completely agree with him, but the situation that this Government inherited is completely unacceptable. That is why, at the Budget, the Government announced £240 million to fund 16 pilot projects across England and Wales in order to improve the support available to the economically inactive, the unemployed and people who want to develop their careers. This will include eight youth guarantee pilots to test new ways of supporting young people into employment or training.

It is also why, in the spring, the Government will bring forward a welfare reform Green Paper. I have read with interest the proposals mentioned by the noble Lord, Lord Blackwell, from the Economic Affairs Committee of your Lordships' House; I hope that many of them will feature in that Green Paper. For now, given the points that I have set out, I respectfully ask the noble Lord to withdraw his amendment.

Lord Altrincham (Con): I beg leave to withdraw my amendment.

Amendment 9 withdrawn.

Amendments 10 and 11 not moved.

Amendment 11A

Moved by ***Baroness Bennett of Manor Castle***

11A: Clause 1, page 1, line 1, at end insert—

"(A1) In section 9(1A) of the Social Security Contributions and Benefits Act 1992, after paragraph (aa) insert—

"(ab) if the employer is a specified employer under subsection (1B), the specified employer secondary percentage until 6 April 2026 (after which the relevant percentage is as determined by the rest of this subsection);".

(A2) After section 9(1A) of that Act insert—

"(1B) A "specified employer" means a charity.

(1C) For the purposes of this Act, the specified employer secondary percentage is 13.8%.""

Baroness Bennett of Manor Castle (GP): My Lords, I tabled my Amendment 11A after our extensive discussion, on the previous day of Committee, about the impact of the national insurance rise on charities. As I prefaced in my presentation last time, it started with a CEO of a significant charity, who came to me and said, "If we could have one year to sort things out first, we would just about be able to cope with this, but the speed with which this increase in costs is happening is more than we can cope with".

I apologise that there is no Member's explanatory statement on this amendment—that is entirely my fault—but I lay out for clarity that it is intended to delay, for charities, the increase in the employers' national insurance contribution by one year.

It is interesting that, earlier today, I was hosting an event launching a report on debanking in Muslim charities and its impact on charitable activities. There was much discussion at this event about the many difficulties that charities currently face, but the top one that was listed—after the issue under discussion—was the national insurance rise and the speed with which it is hitting charities.

I note some of the figures around this. The sector has said that the cost to charities will be about £1.4 billion. Research from 400 charities by the Charity Finance Group shows that 87% are concerned about being able to afford this increase. Some 27% of organisations running charity shops say that this increase is likely to result in closures of charity shops; those are the Charity Retail Association's figures. We are often concerned about what is happening on our high streets, and there is perhaps concern about the dominance of charity shops, but if they close, we will just have even more empty shops on our high streets—as well as the loss to charities in terms of the services they provide and the funds raised.

Let me give one example of this, which was reported by ITV. The CEO of the Little Miracles charity, which helps 50,000 families that have children with life-limiting disabilities, said that this measure will cost that charity a minimum of £24,000. It is a small local charity with about 670 volunteers, so finding that sum of money is a really big challenge for that organisation.

It is worth noting that one of the reports from the West Lothian Voluntary Sector Gateway told the local council:

"This wholly unexpected cost will inevitably place additional financial pressures on already stretched Third Sector and social enterprises locally".

That unexpected, sudden arrival is really the issue there. The National Council for Voluntary Organisations wrote to the Chancellor. In response to its suggestion that charities should be exempted, Rachel Reeves said:

"The government has committed to provide support for … public sector employers",

given the rising costs, but for no one other than the public sector. It is worth considering that the combination of austerity and ideology has meant that, for many services, the slack in much of the provision that used to be picked up by public services has now been picked up by the charitable sector. It is then being hit again with this cost.

This amendment is quite moderate and small-scale. I do not have the capacity but perhaps the Minister could tell us what the one-year cost would be. I note what the cost will be if charities have to deal with this sudden increase in costs when they are facing so many other pressures. I beg to move.

Baroness Sater (Con): My Lords, I rise to speak to my Amendment 32. I refer your Lordships to my registered interests, in particular my roles with charities. The purpose of my amendment is to deal with the huge concerns we are hearing from across the sector and elsewhere, as the noble Baroness just mentioned, as well as the impact of the increase in employers' national insurance on both the charity and voluntary sectors and the services that they deliver.

The sector is telling us that these increases will force many to reduce staff, cut salaries, scale back their services and, in some cases, consider closure. The increases will adversely affect the support that they give to people and their communities, which is why my amendment asks for the much-needed impact assessment. Had the Government already prepared the impact assessment—and I do not accept that the impact note to which the Minister has referred provides the evidence needed—they might already have accepted the need to make exceptions to the charitable sector.

Many noble Lords have spoken with passion about the negative effect of the increases in national insurance on the charitable sector. I am very aware that the Government have not been able to move on any of the requests at the moment. At the risk of repetition, up and down the country the voluntary sector is feeling the strain. Its representatives, such as the National Council of Voluntary Organisations, the NCVO, have already voiced concerns in their open letter to the Chancellor, highlighting that this increase will add an additional £1.4 billion in unwelcome and unsustainable costs, as the noble Baroness, Lady Bennett of Manor Castle, said.

6.30 pm

As the joint NCVO and ACEVO statement says:

"The knock-on impact it will have on individuals, communities and local economies who rely on us will be devastating".

Charity Finance Group, which represents over 1,450 charities, has also voiced its concerns. In a survey of charities, 87% are worried about their ability to absorb the additional costs and 67% indicated that they are likely or very likely to cancel expansion plans, new staff and services. It could also force organisations to relinquish public service delivery contracts, further straining public services, which cannot be good for the Government.

The burden of these increases, with little time to prepare, means that there is a need for many organisations to cut or reduce their services, which will impact individuals, communities and local economies. The NCVO has passed on to me some anonymised concerns raised by their charities, including large and small

[Baroness Sater]
ones from around the country: a domestic abuse charity operating in the north of England reported that it will have to consider laying off staff to accommodate the increases; and a large drug and alcohol charity that supports and cares for over 200,000 adults and young people each year, in communities across England and Scotland, through teams of medics, psychiatrist nurses and volunteers, will expect to pay an additional £5.2 million. Their services help to reduce demand on hospitals and primary care and reduce pressure on the criminal justice and prison systems.

A charity leader from a local health and social support charity said:

"There is no choice but to use reserves and consider cuts to essential services/supports, when requests for help are increasing".

Finally, a local Age UK charity reported:

"We will have to start closing services ... we have absolutely nothing left to trim".

We know that Marie Curie and Mencap have said that they will have to find huge amounts of money in the following year. Sarah Elliott, CEO of NCVO, has been very vocal in saying that charities across the country are in a dire situation, juggling a triple threat of rising demand, escalating costs and falling funding.

An increase in national insurance will place another strain on charities, so it feels extremely counterproductive for the Government to implement the increases. Imagine the burden falling on the Government should the services provided by these charities cease. Why exempt the public sector but not exempt charities and the vital partners that willingly and at no or little cost to the Government provide services of such value?

The flood of initial calculations and evidence from the sector and powerful appeals from noble Lords is stark: the Bill will have a destructive and long-term structural impact on the sector. I know that the Minister does not want to jeopardise the charity and voluntary sector, so I make a plea and urge him to relook at the devasting impact that these increases will have on our valuable, passionate and hard-working charity sector. If the Government fail to provide an exemption, or at least consider concessions to help continue to deliver the vital services that are so desperately needed, they will leave many vulnerable people in dreadful circumstances.

My noble friend Lady Noakes on the first day of Committee commented that this is a

"blunt instrument to raise taxes, so we are faced with a problem".

The problem is that this blunt instrument is

"bludgeoning whole sectors of our community".—[*Official Report*, 21/1/25; col. GC 351.]

I could not agree more.

The increase in national insurance gives us no option but to consider an exemption to give relief to the sector to prevent the huge damage to employment coming down the line. I am not trying to complicate things by requesting this, as the noble Lord, Lord Eatwell, suggested earlier; I am just saying that we are trying to save an awful lot of jobs and charities from going under.

I ask the Minister to let me know if the impact statement has ever been completed. When is it likely to be published? I have little doubt that this assessment will assist His Majesty's Government to reconsider the exemption or, at the very least, help support the sector. I cannot stress enough the urgency for the Government to reconsider or delay these increases, as we are already hearing that services in this sector are going to be cut and jobs lost. It is already a reality.

We have heard over the past two days the damaging effects of the increases on many sectors. I hope that we will see some more movement from His Majesty's Government and their position in relation to charities and the voluntary sector, and that the impact statement will be published. If not, I might have to bring this issue back on Report.

Lord Leigh of Hurley (Con): My Lords, I support all the amendments in this group. I spoke in respect of small businesses and, as the Minister will have detected, I was upset about the effect that the NI increases will have on small businesses. I would not say that I am upset about the effect that it will have on charities: I am angry and disappointed. The Labour Government have dramatically let down charities and they should know better. The total increased cost of employers' NIC is estimated at £1.4 billion a year to the charity sector alone. Those are not my figures; they are from the highly respected aforementioned NCVO, with which I have worked in the past.

I have done a lot of work in the charity sector. I formed the committee to look at fundraising abuses, working with the NCVO, from which the fundraising regulator came about. I chair four charities in the United Kingdom. I work for a number of other charities, as indeed do other noble Lords in this Room.

For example, every year I run 10 miles for WaterAid. One of the noble Lords present in this Room supports me, for which I am grateful. Every year, I raise £50,000. I have raised £0.5 million for WaterAid in total. The entire benefit of my fundraising for WaterAid has been wiped out by the national insurance increase. The whole purpose of the fundraising for so many people is wasted, gone, because the money has gone to the Government for the purpose of raising revenue, which I understand is perfectly reasonable. But surely the Government could be more intelligent and sympathetic to charities in seeking to raise revenue. I know that the Minister is driven by empirical statistics.

Baroness Sater (Con): Can I just follow up the point that my noble friend raised about fundraising? When we start to lose staff and people in the charity sector, and in charities as a whole—charities are people, after all—we will not have the ability to raise the funds that were assisting the Government to provide services. So it is a double whammy: charities will not only lose money through paying increased national insurance but lose money that they would fundraise to help support them.

Lord Leigh of Hurley (Con): I am most grateful to my noble friend Lady Sater for underlining my point. It is exactly that. People will turn to me and ask, "Well, why should I give to you, Lord Leigh, and your fundraising efforts, because the Government are going to take away much more?"

According to the Charity Commission website, there are 5,435 charities with an income between £0.5 million and £1 million. On average, they make a surplus of just

over £13,000 and employ about 12 people. So the increased cost caused by the raise in the NI for people on the minimum living wage, which is a large proportion of such people, will be £997. There are some heroic assumptions in this, but it is not unreasonable to say that the cost to these charities, on average, will be just over £12,000, which wipes out almost their entire surplus.

I accept that those charities will receive employment benefits, so let us look at some of the larger charities. There are 6,000 charities in the £1 million to £5 million range. Interestingly, they raise a total of £13 billion and spend a total of £12 billion, most of which is on salaries. On average, they employ some 35 people and the surplus is just over £19,000. The extra cost to them will be £35,000, which will not just wipe out their entire surplus but push them into deficit.

There are only 1,200 charities with income in the £5 million to £10 million range, and they employ an average of 104 people, so the extra cost to them of the NI burden is £103,000. Their average surplus is £47,900. Once again, their surplus will be completely wiped out and, thanks to the imposition of these extra costs, they will make a loss.

As my noble friend Lady Sater said, the NCVO wrote to the Chancellor, and I note that its letter was signed not just by the NCVO but by 7,360 charities. It employs over 1 million people. Charities deliver benefits to the public sector of some £17 billion a year, so this is distressing, to say the least. My noble friend raised a number of specific charities; she mentioned a local Age UK, with which I do not have any connection. Age UK states:

"This particularly impacts organisations that employ significant numbers of low paid staff … Local Age UKs are warning that these changes will significantly impact their ability to provide essential services to vulnerable older people, particularly in underserved areas".

In turn, this will have

"a knock-on effect on older people's health and wellbeing, increasing demands on our already hard-pressed health and social care services".

I made the point earlier—it was a political point—that the Labour Front Bench does not have as much business experience as it might, although it has many other attributes and qualities. It has a strong and close connection and experience with the charitable sector; there is a good relationship. So why on earth would the Government not accept these amendments to help the charitable sector and save it from these disastrous costs?

Baroness Lawlor (Con): Will the noble Lord comment on a different service that charities provide? For instance, my think tank has often been contacted by government departments asking to have a run of research on, say, intellectual disability and its cost. When I ask the official why they want that, they say, "It would be a very good study, but we couldn't do it for less than—", and they tell me the astronomical sum of money that it would cost them to do the same study.

Time and time again, we have demands for all kinds of work, which we have done and published, because we can do it, and we can get the best people to do it. People will give their expert advice and analysis for free. The Government, of whatever complexion, will then benefit. Why have this Government and other Labour Governments not done this? It is like cutting off your nose to spite your face.

Of course, I do not think for moment that the noble Lord, Lord Leong, on the Front Bench opposite, does not have business experience, but charities save taxpayers money and provide the Government with many different types of services.

Lord Leigh of Hurley (Con): I thank the noble Baroness, Lady Lawlor, for that. One of the four charities that I chair is a think tank, so I totally agree with her. In this country, the Charity Commissioners are particularly effective and very good at clamping down on organisations that are not proper charities. So we can be comfortable that any organisation registered with the Charity Commissioners as a charity is bona fide and generates good work, as the noble Baroness said.

I urge the Minister to have a deep think about this and consider an additional exemption for the private sector. An exemption has already been made for the public sector, so it is doable.

Lord Jackson of Peterborough (Con): My Lords, I support the amendments in the name of the noble Baroness, Lady Bennett of Manor Castle, and my noble friend Lady Sater. It is a pleasure to follow my noble friend Lord Leigh of Hurley.

6.45 pm

Almost 20 years ago in the other place, I led a very lonely campaign—in fact, I was the only Member of Parliament who was interested in it—for the fortification of basic foodstuffs with folic acid, to prevent the almost entirely preventable tragedy of hydrocephalus and spina bifida. I did that with the support of my local charity, then called the Association for Spina Bifida and Hydrocephalus, or ASBAH, which subsequently became the charity called Shine. I got an enormous amount of support from that charity—and, lo and behold, through many public health Ministers, many different Governments and many different spending rounds, 17 years later or thereabouts we actually achieved our aim to have those foodstuffs fortified to prevent those tragedies.

My point is that it was not me in Parliament or even the relatively well paid supporters or management of the charity that were the real backbone of the campaign—it was actually the volunteers and the relatively low-paid workers who, for instance, staffed the helpline to help parents who had to deal with the everyday tragedy of having children who had spina bifida, with caring responsibilities for children who were doubly incontinent and had mobility problems.

I should say at the outset that I am inordinately proud to play a very small part as chairman of fundraising for the WheelPower charity, for wheelchair sport. Over the years, it has been a great benefit to me personally to have been able to work with charities. For instance, I worked with Sue Ryder in raising capital funding for the new hospice in Peterborough at Thorpe Hall. We raised more than £100,000 over five years. In Peterborough, we were lucky to have some superb charities, the Leprosy Mission and Kidney Research UK being two.

I implore the Minister to look at these amendments. They are fair amendments—they are not political grandstanding amendments but practical amendments. As my noble friend Lord Leigh said, exceptions have been made for public sector entities, and I do not think

[Lord Jackson of Peterborough]
that it is beyond the wit of Ministers and the brains in the Treasury to extend that, even if it means just having an exemption for a period, whether that is a year or 18 months, as my noble friends and the noble Baroness, Lady Bennett, have said.

This has come so quickly for many charities, which do not necessarily have the management infrastructure to be able to ameliorate these fiscal changes very quickly. Therefore, many of them will have to look to bigger charities to help them or get in professional help to cope with the significant changes around letting people go or making people redundant and not employing new people. That will be very difficult, and it will detract from the core functions of those charities. That is my concern: it is that the excellent work being done by so many hundreds and thousands of charities across the country will almost turn into a cul-de-sac, with some very difficult decisions to be made around cutting budgets and core services to some of the most vulnerable people in the country, such as children who are carers for sick parents, who may be terminally ill, and for people with cancer. Those are the particularly difficult cases that those charities are helping with.

The charities would like to have an opportunity to work with other agencies to ameliorate these issues and develop a properly co-ordinated plan. At the moment, because this is coming very quickly, they have not been able to work on a plan with, say, their local authority, their local clinical commissioning body or the bigger local charities such as the citizens advice bureau and other NHS entities. They would be able to do that if the Government were minded to accept a delay.

I am not a Pollyanna; the Government have to raise money to deliver public services and they have to make decisions. We are hopefully not in the realm of reciting the £22 billion black hole. I have heard it so many times from the Minister. He is a very clever man but, nevertheless, even he reiterates the line occasionally.

Baroness Noakes (Con): Occasionally? It is more than occasionally.

Lord Jackson of Peterborough (Con): I am getting gently heckled by my noble friend Lady Noakes. It may be more than occasionally. On a serious point, we know that some taxes are easy to raise quickly; one is fuel duty and this is another. I implore the Minister that this will have real consequences for many years. It is having consequences now in displacement activity that is not going to the most vulnerable people.

I know that the Labour Party would not inflict that sort of upset on people; most people in the Labour Party are decent and community minded, and want to do the best for the local community. I know, having served with Labour Members of Parliament in the other place, that they care about their local community and their constituents.

I would just ask the Minister to think about this again, particularly this case of people who are trying to do their best for their fellow citizens. All these amendments are extremely compelling, so I ask him to reconsider. It will not show weakness, but will show strength, magnanimity and the ability to govern wisely. I think he should consider pushing that forward because it is the right thing to do.

Lord Blackwell (Con): My Lords, I will not repeat the powerful arguments that have been made for this set of amendments, but I would like to put the argument in stark terms. What is exceptional about most charities is that they do not have the ability to raise revenue by selling more and putting up prices. Some do, but many are not commercial enterprises. In effect, since those charities can raise this money only through additional fundraising, the Government are saying to charities, "We want you to go out and solicit more contributions from philanthropists to pay for government services". If the Government went out to the public and said, "This is what we're going to do", I wonder how many people would think that a sensible policy.

Baroness Kramer (LD): My Lords, I will be very brief, because these Benches spoke extensively on charities in an earlier grouping, where the amendment would have overturned the change that the Government are introducing. I particularly want to pick up the amendment from the noble Baroness, Lady Bennett, because, like others, I am very conscious that, of the charities that I have talked to, a fundamental part of their problem is that they cannot turn around and respond quickly enough to a measure that is being introduced so quickly. I am not up on all the rules of the Charity Commission, but I suspect that it would frown greatly on a charity spending when there is no clear funding mechanism coming in to replenish its resources. I think that there is a requirement to have several months' contingency on the books, so there is a real problem here for many charities in having to turn around very quickly.

One of the amendments deals with increases in the employment allowance. That runs into a problem that the Government could help us with. It is my understanding that an entity that sells 50% of its services to the public sector does not qualify for employment allowance, so there will be many charities that are excluded from any benefit that is offered under that amendment. I wonder if the Minister could help us to get a better grip on that, because I think we have all struggled with understanding the application of those rules.

My last point did not occur to me until I started reading the input from various charities. A number of charities that have been able to survive and are fairly confident about their funding will now find themselves in a position where they need to battle and compete for grants. Some of the very smallest charities are concerned that they may get excluded from the grant offering because charities with a bigger reach are now turning to those particular pots. I am not sure whether the Government considered that as they put together this picture.

Lord Altrincham (Con): This is an interesting set of amendments, given that, in essence, through this policy the Government are looking to take £1 billion out of the charity sector to fund public services, when the charity sector obviously provides public services—so it is a uniquely baffling government initiative. We on these Benches absolutely support the comments made by the noble Baroness, Lady Bennett, on Amendment 11A and by my noble friend Lady Sater on Amendment 32.

I speak to Amendment 52, in my name and that of my noble friend Lady Neville-Rolfe. This amendment would increase the employment allowance for charities

from £10,500 to £20,000 to assist with the burden being placed upon charities. It is a probing amendment, and I would like to understand the cost that this would have for the Treasury and the plans the Government have to support the sector with the increased costs and the rise.

The remarkable comments made by the National Council for Voluntary Organisations, and its estimate that this will cost the sector £1.4 billion every year, has been referenced in this debate by my noble friend Lord Leigh and others. It would leave charities in a position where they are unable to absorb the costs and will, as a result, be forced to reduce the number of services they provide. In essence, as we talked about on day 1 in Committee, these services are public services. Charities in this country have become quasi-public service providers in the last 20 years, and it is most unlikely that, in pulling back services, those services would not have to be provided by the Government elsewhere. It is therefore most unlikely that the Government will not wear the costs of this change. It is naive to assume that charities provide some other service that is not a public service or a substitute for a public service.

The Government will be well aware of the severe issues that charities are facing, following the open letter from the NCVO to express concern that three out of four charities will have to withdraw from public service delivery or are considering doing so. This is an extraordinary way to treat a sector that would provide a public service. In fact, the Government have accepted the principle that the delivery of public services should not face this tax, following the exemption of both the Civil Service and the NHS. What justification does the Minister therefore have for the exemption of some providers of public services but not charities? Charities provide close to £17 billion in public services every single year, and the services they provide are invaluable to communities across the country, so a failure to protect them would be devastating.

I support my noble friend Lady Sater's Amendment 32 and recognise the importance of the Government fully assessing the impact that this tax increase will have on the sector. The Government owe it to charities to fully consider the impact that this will have across the sector and, as such, I hope the Government will consider both Amendments 32 and 52 very carefully as we progress.

Lord Livermore (Lab): My Lords, I am grateful to all noble Lords who have contributed to this debate. I will address the amendments tabled by the noble Baronesses, Lady Bennett of Manor Castle and Lady Neville-Rolfe, and the noble Lord, Lord Altrincham, which seek to maintain the rates of employer national insurance for charities at 13.8% and increase the employment allowance specifically for charities from £10,500 to £20,000. The Government of course greatly value the vital work that charities do in this country, and I have listened carefully to all the points that have been raised in this debate.

It is important to recognise that all charities benefit from the employment allowance, which the Bill more than doubles from £5,000 to £10,500. This will benefit charities of all sizes, particularly the smallest charities. The Government also provide wider support for charities via the tax—

Baroness Kramer (LD): Is the Minister saying that there is a misunderstanding? Where charities are providing services to the public sector above 50% of their revenue, I think, they are ruled out of claiming employment allowance. I do not understand the intricacies of that, but there is something there.

Lord Livermore (Lab): That would be a misunderstanding, yes. I just repeat that all charities benefit from the employment allowance, which this Bill more than doubles from £5,000 to £10,500.

The Government also provide wider support for charities via the tax regime. This tax regime is among the most generous in the world, with tax reliefs for charities and their donors worth just over £6 billion for the tax year to April 2024. Providing further relief for the sector would have additional cost implications and would require either more borrowing, lower spending or alternative revenue-raising measures.

7 pm

I turn to the amendment tabled by the noble Baroness, Lady Sater, which seeks to prevent commencement of this Bill until an impact assessment is published for charities. The Government carefully consider the impacts of all policies, including the changes to employer national insurance. Indeed, as I have said previously and as we have debated on other groups today, an assessment of the policy has been published by HMRC in a tax information and impact note, including impacts on: the Exchequer; the economy; individuals, households and families; equalities; businesses, including civil society organisations; and details on monitoring and evaluation. The Government do not intend to publish any additional impact assessments. Delaying introduction of the Bill in this way would also have cost implications that would undermine the purpose of the Bill.

Given the points that I have set out, I respectfully ask noble Lords not to press their amendments.

Baroness Bennett of Manor Castle (GP): My Lords, I thank all noble Lords who have taken part in this rich and frequently passionate debate, and I thank the Minister for his answer. I think that I will cross-reference something that the noble Baroness, Lady Sater, said, which is that charities are helping vulnerable people in dreadful circumstances. We have been talking about charities as organisations and institutions, but, ultimately, at the end of the line are those vulnerable people. The noble Lord, Lord Altrincham, made the point that those vulnerable people will still be there with their needs; if the charity closes down or cuts back its services, the Government will have to pick up the slack at that point. The Minister said that, if any of the measures proposed in this group of amendments were introduced, the Government would have to lower spending. But that would mean that they would have to raise spending on things they are not spending on now because the charities would not be providing it. We are in a circular situation, with all the disruption that happens as people lose jobs, organisations close down and things have to be recreated. That is the situation that we are in.

There were many contributions, so I will not go through them in length, but there are a couple of points that I want to raise. The noble Lord, Lord Leigh of Hurley, spoke about his brave, regular running commitments.

[Baroness Bennett of Manor Castle]
To build on what he said, we know that what encourages people to give to charities is the sense that their money will be directly used to help the relevant people. Of course, when we are talking about something like WaterAid—speaking as someone who is passionate about antimicrobial resistance and maternal health—it is absolutely crucial. People want to see it providing the services and, if they do not see that, and they hear all the talk about this, maybe they will not donate, because they will feel like they are just giving money to the Government. That is a further damaging factor for charities and their fundraising.

The noble Lord, Lord Leigh, also spoke about sacking fundraisers. If one of the things that we are talking about—what my amendment aims to get to—is to delay so that charities have a chance to prepare. If there is not that delay, however, and there is an emergency that has to be dealt with now, you of course do not want to cut the direct service providers who care for those vulnerable people. Fundraisers, therefore, are the obvious people to sack, but the long-term consequences are obvious.

Lord Jackson of Peterborough (Con): Does the noble Baroness agree with me that one of the other cumulative problems is the national living wage? We all agree that it should be increased to help low-paid people, but accommodating that for small charities—with an increase in national insurance charges plus the encumbrance of paying the national living wage—will be very difficult, particularly for homelessness charities, for instance. The Government's strategic aim is to reduce homelessness, but this will put huge pressure on charities such as Crisis and Shelter.

Baroness Bennett of Manor Castle (GP): In responding to the noble Lord, I can only applaud the increase in the national minimum wage—indeed, I would encourage it to be significantly higher. None the less, the noble Lord's point about the situation for charities is entirely accurate.

The noble Lord, Lord Jackson, said something earlier—and the noble Baroness, Lady Lawlor, backed this up—about how many ideas the Government end up delivering actually start with small, campaigning charities. They save the Government having to do the work because, when there is a problem and something really needs to be done about it, they do all the work on what needs to be done about it.

Obviously, I will withdraw my amendment at this stage, but it is clear that we will come back to this issue on Report. I am still quite dedicated to the idea of at least delaying the measure, which would not interfere with the Government's long-term economic plans but would give charities time to adjust. On the £1.4 billion, the Government could save that much in the extra spending that they will have to make if they insist on collecting that money, so it all balances out.

Baroness Sater (Con): I totally agree, but there will be charities going bust in the next six months. I know that we want to delay it, but there is an urgency in saying, "This is going to be really detrimental, and that knock-on effect is going to be huge". That is why I cannot quite understand why we have not had a detailed assessment statement—and why I am asking for it—because surely this would come through in that detailed statement.

Baroness Bennett of Manor Castle (GP): I agree with the noble Baroness and support her amendment. I have already reflected on the lack of a proper impact statement in many different areas; I would entirely back the noble Baroness's approach. We need to understand what is happening, but we have two things here: giving charities time to deal with it, and understanding what we are doing. We may well end up coming back to both of those things on Report, but in the meantime I beg leave to withdraw my amendment.

Amendment 11A withdrawn.

Amendment 12 not moved.

Amendment 13

Moved by ***Baroness Neville-Rolfe***

13: Clause 1, page 1, line 7, at end insert "or on the day after an impact assessment is published assessing the impact of the provisions in this section on jobs, wages, inflation and growth, whichever is later"

Member's explanatory statement

This amendment would prevent commencement of this section until a full impact assessment is published, noting the impact note of this policy that was published on 13 November.

Baroness Neville-Rolfe (Con): My Lords, I start by thanking the Minister for his clarification on the full availability of the employment allowance in respect of charities; he agreed to look into this on day 1 of Committee. The query also related to GPs and dentists, where they were mainly involved in public work; clearly, clarity on those would be helpful too.

In moving Amendment 13, I am particularly grateful for the support of my noble friends Lord Altrincham and Lady Lawlor. My amendment would require the Government to publish comprehensive impact assessments and reviews of the impact of the planned jobs tax. This is the Budget measure with much the most impact on business and the private sector. We know just how burdensome it is from the screams of business and charities. It is vital that the Government calculate and share the impact on jobs, wages, inflation and, above all, growth—the Government's stated prime mission.

There are established procedures for impact assessments on Bills. Despite the Minister's resistance, I believe that it is a dereliction of duty not to have provided fuller details of the Bill's various impacts. When we debated the Bill at Second Reading, my noble friend Lady Sater, who has just left, asked the Government about plans to publish a full impact assessment. In response, the Minister said:

"The tax information and impact note was published on 13 November, alongside the legislation when it was introduced".—[*Official Report*, 6/1/25; col. 602.]

I have to say, although it is now available to the Grand Committee, the Printed Paper Office had to do quite a lot of online research after Second Reading to find me a copy. Curiously, it did not seem to have been delivered to it in the normal Bill bundle.

I can understand why there was not a huge rush to make it available. I am afraid that it is a very limited document, to say the least. The note includes no detailed assessment of the impact of the national insurance charge on a number of very important areas—not even a split into three between the effect of the increase to 15%, the new threshold of £5,000 and the revenue cost of the rise in the employment allowance. There is no information on the bureaucratic costs in respect of new personnel for whom NICs will be payable. We must have more detail from the Government before this Bill is considered on Report.

I note that, in response to intense questioning from the Opposition, in a parliamentary reply the Government split the £23.7 billion cost of NICs in 2025-26 into £11.1 billion related to the rise to 15% and £17.2 billion from lowering the threshold to £5,000. This demonstrates that the biggest hit in the Budget relates to the lower paid and part-timers, groups they feign to care a lot about. That is exactly the concern of many of us, including the charities that were the focus of the last group. There is no figure given for the rise in the employment allowance, but I calculate from the available data that it will be £4.6 billion in the first year. Perhaps the Minister could confirm that, or correct me. Could he also put on record the three-way split for the five years addressed in the impact note—in a letter to the Committee, if need be?

My Amendments 13 and 26 call for an impact assessment of the Bill's impact on jobs, wages and growth. My Amendments 62, 63 and 64 call for a separate review of the impact of this legislation on employment, as well as on jobs, wages and inflation, and another on economic growth. While the Government are leaving us in the dark on the detailed effects of their jobs tax, the Office for Budget Responsibility has said that the national insurance changes alone will reduce labour supply by 0.2% and add 0.2 percentage points to inflation by 2029-30. Does the Minister believe that this assessment is accurate, particularly in the light of subsequent developments and the extraordinarily negative response to the NICs changes across the country? If the Government do not accept the OBR's figures, can the Minister tell the Committee what his own figures say about the specific impact on jobs and inflation?

At Second Reading, the Minister was also questioned about the impact on businesses. Rather than giving us a detailed answer, we heard the same line from the department that 940,000 employers will pay more in NICs contributions through the jobs tax. If the Committee is to make progress on the Bill, it would be helpful to know exactly which sectors the Treasury expects to be hit hardest and what proportion of employers in those sectors are expected to see their liabilities increase. That is what Amendment 61 requires.

The Government owe it to Parliament and employers and employees in different sectors to explain much more clearly what the effect of the jobs tax will be. Where will it bite, who will it bite, and which sectors will be worst affected? It is a long list—some have already been discussed today—but, looking forward, we are interested in GPs, dentists, social care providers, hospices, small businesses, early years care providers, universities, charities, farms, retail and hospitality. There may be others, but the NICs changes are a blunt instrument, and we need a review clause of the kind that we have seen in other Bills, because of their scale, importance and bluntness. I especially look forward to hearing from my noble friend Lady Lawlor on the employment aspects.

Finally, I draw the Committee's attention to the Government's own *Guide to Making Legislation* which states:

"The final impact assessment must be made available alongside bills published in draft for pre-legislative scrutiny or introduced to Parliament".

I know that the Treasury has its own rules and does not like to be held to account on finance matters. However, given the enormous effect that the Bill will have on so many businesses, it seems inappropriate that the Government have not published a full assessment in this case, in the same way that they do with other Bills. The decision not to publish an impact assessment is hardly in line with the commitment made by the Leader of the House of Commons in a Written Answer of 17 January. This was a refreshing approach by the new Government, overtaking the practice of the previous Government. In that Answer, she wrote:

"The Government is committed to ensuring Parliament has the information it needs to hold the Government to account and to understand the impact of legislation".

Transparency is the route to better government, and it is a pity that the full rules for impact assessment on Bills, with an independent Regulatory Policy Committee review, do not apply to the Treasury. I beg to move and look forward to other contributions.

Baroness Lawlor (Con): My Lords, it is a great pleasure to follow my noble friend Lady Neville-Rolfe, and I support her amendment. My amendments in this group are Amendment 15 to Clause 1, on the increase in the rate of secondary class 1 contributions; Amendment 37 to Clause 2, on the lowering of the threshold for secondary class 1 contributions; and Amendment 57, on increasing employment allowances and removing the £100,000 cap. They are aimed at ensuring that an adequate impact assessment is made available to both Houses of Parliament for each of the proposed changes before the Act comes into force and after it has been in operation.

7.15 pm

I echo the sentiments of everyone who has spoken here, and those of my noble friend Lady Noakes, who has proposed Amendment 33, and of my noble friend Lord Londesborough, because of the need to know the effect not just on employers in some detail but on jobs. Unlike the impact assessment that the Government have given, which includes the number of employers affected, we need to know the category of business size, the number of employees, the cost to the employer and the estimated effect on levels of employment and wages. There is a clear need for this.

I am grateful to the noble Lord, Lord Livermore, for his most courteous and detailed replies but, in the end, I wish the Government would take a leaf out of his book and do what he says. We need detailed replies, and the document of 14 November or the HMRC's costing issued on 18 December are very thin gruel. We can look at what they say, and see that they

[Baroness Lawlor]
draw on the Autumn Budget, the OBR's analysis and the other information given by HMRC, about numbers affected and estimated costs—but they have not been borne out by the subsequent evidence.

The Government and other official predictions were as follows: 940,000 employers will see an increase, 250,000 a decrease and another 820,000 no change. Employers will have to pay for updating software and become familiar with change. The changes will raise £23.7 billion in 2025-26, rising to an estimated £25.071 billion in 2029. Output, the Government suggest, will decrease by 0.1%. The following is a rather dire prediction, even on the Government's terms: the increased business costs will lead to lower wages; 0.2% will be added to CPI inflation in the near term, and employers will pass on part of the cost. The impact on individuals will depend on employers' behavioural response. The figures refer to the OBR's October 2024 economic and fiscal outlook on households and families. This simply tells us that, depending on employers' behavioural response, individuals may be impacted indirectly by changes to secondary class 1 NIC rates, secondary thresholds, and so on. We do not have any specific information. Indeed, since then, official figures have suggested that the sums raised by this tax raid will not bring in anything like the £23.8 billion estimated for 2025-26 or the £25.7 billion in 2029. On account of behavioural changes, the indirect consequences of wages, and the impact on labour supply and profits, the gain will be a mere £16 billion in 2029.

These figures have been published, but they probably still underestimate the yield because of behavioural changes and job losses. In all this, we therefore need a more detailed picture and breakdown before the Act comes into operation. We also need a review at that point, because we are talking about people's jobs, growth in this country, and the ability, as the Minister continues to say, to pay for the kind of public services that people want and of a standard that they need. Therefore, the information needs to be more specific and nuanced than what has been offered so far.

Different categories of businesses will be affected differently. In the case of the sole trader, there is no distinction between the business and the employer, including the sole proprietor, who employs others—and many do. There are 198,000 sole proprietors who are also employers, out of around 3.1 million—56% of the total. How many of them will see their payroll tax go up? To what extent will the employment allowance off-set some of the cost and by how much? Given the significant and disproportionate costs of compliance on small businesses, how will they cope and will they be given help towards compliance and accessing the employment allowance? Accountancy, legal and advice fees will also take a hit, the charges that small businesses will pay for existing services from professional people will go up and therefore the whole payroll overhead will go up. This does not take into account the other costs implied in the Budget.

We do not have this estimate nationally, other than the 940,000 that, we hear, will lose out. However, we have heard about the impact on different groups: hospitality, retail and hairdressing. In all three, part-time and entry-level workers form a significant proportion of the workforce. In hospitality alone, UKHospitality found that one in five of the sector's workforce—around 774,000 people—will move into the new employer NIC threshold for the first time under the Chancellor's proposals, resulting in an extra cost of £l billion. The sector, which covers hotels, restaurants, cafes, pubs and nightclubs, believes that the changes will have a disproportionate effect on hospitality, given the high proportion of part-time and flexible working. Staff not eligible for employer NICs will drop from 1.2 million to just 450,000, resulting in increased costs. I am afraid that employers have already begun preparations to cut jobs and investment, and to raise prices. Three-quarters of a million people will be brought into this employer tax for the first time.

Retailers have warned of closures. They estimate an impact of £7 billion in extra costs, due to the whole Budget, as they grapple with higher national insurance contributions and other measures. Many are household names and very big employers, such as Amazon UK, Tesco, Next and Asda. The British Retail Consortium warns that job losses, price rises and shop closures will be inevitable. It points out:

> "The impact of the Budget NIC threshold change is particularly acute given retail employs large numbers of people in entry-level and part-time roles".

These are the lowest entry-level people, who need the training of their first-time job to make their way in the sector. I meet them every night in the supermarket, and they are making their way thanks to starting at the bottom, moving up to management and moving on.

The British Hair Consortium, another consortium with different working practices, found that 20% of hair salons were considering closure within 12 months, while most were thinking about switching to a self-employed model to deal with the cost increases. In the nursery sector, it is the same; nurseries are saying that they will cut places and jobs, and that some will close.

To conclude, part-time workers and entry-level juniors will lose their jobs because of the lower threshold, and new jobs that might have been created will not be. Entrepreneurs have talked about stopping and stalling new outlets that they were proposing; there are many stories about and accounts of this. All this suggests that the reduction in productivity output will be less than the 0.1% estimated by the Government. In short, if the Bill as it stands becomes law, working people, their families, jobseekers and entrepreneurs—indeed, the whole economy—will suffer. With a more revealing and detailed economic analysis before and after it takes effect, it is my hope that the Government will think again about this disastrous move on tax rates, which will put so many jobs at risk.

Lord Londesborough (CB): My Lords, I will speak briefly as I put my name down in support of Amendment 62 in the name of the noble Baroness, Lady Neville-Rolfe. I could have—indeed, I should have—done so for Amendments 61, 63 and 64 as well.

I continue to use the word "baffled" about the Government's apparent resistance to impact assessments, which are so crucial if you are to have joined-up thinking on the Government's economic growth strategy. As we know, rather worryingly, we lost 47,000 people off the payroll last month. I just raise this point in

relation to the Government's White Paper, *Get Britain Working*, which has some ambitious and laudable aims. Specifically, the headline bullet is that the aim is to take 2 million people out of welfare and into work. Put another way, the aim is to reduce the economic inactivity rate of our working-age population from the current 25% to 20%. Of course, the question is: where will those 2 million jobs come from? Who will create them? The answer is the private sector; that is the assumption.

When you come back to impact assessments, you have to ask how private sector employment will be impacted by not just the rise in national insurance contributions but the increase in the national minimum wage and the upcoming anticipated restrictions being brought in by the new Employment Rights Bill. All these factors boil down to the importance of assessment. If we have a lack of assessment, we greatly reduce the chances of the Government achieving their aims. So, again, I ask the Government to embrace accountability through Amendments 61, 62, 63 and 64.

Lord Blackwell (Con): My Lords, I will make a brief comment on these amendments. In the Committee's discussions so far, the noble Lord, Lord Eatwell, has made great play of the fact that the OBR suggested that the overall Budget measures would increase employment. The noble Lord is not in his place but, if he were, I am sure that, as an economist, he would agree that it is important to have the right counterfactual. Of course, what the OBR was not looking at in the Budget was the exact impact of taking the £20-odd billion from the national insurance rise and spending that money. It was looking at spending a lot more money; the Government are raising expenditure by £142 billion over the next five years, in excess of what they are raising in additional taxation.

7.30 pm

It would be a very strange set of government measures that spent £142 billion over five years without it having some impact on employment, but that is not a correct way of looking at the impact of this measure on employment, which, as many noble Lords have said, will be negative in the private sector. So, in effect, what we are seeing in this Budget is a reduction of jobs in the private sector in order to fund a significant increase in jobs in the public sector.

That is bad for two reasons. First, productivity in the public sector is very bad at improving over time. In fact, most estimates suggest that, over the past 20 years, productivity in the public sector has declined, however you measure it, whereas productivity in the private sector—particularly in manufacturing and industrial services—continues to rise. We know that, without growing productivity in the economy, we cannot have growth.

The other reason why it is bad—even though, of course, we need good public services—is that a growing, healthy and prosperous economy has to create wealth before it spends it. If you spend the money before you have created the wealth and erode the wealth-creating private sector in order to spend money, you create a less successful and less prosperous economy.

So it is important that we have a proper analysis of the employment impact of these measures that looks specifically at the impact on the private wealth-creating sector, as distinct from additional jobs in the public sector, however needed they may be. It is important that we do not simply take the assurance of the noble Lord, Lord Eatwell—that more jobs will be created overall—as a vindication of the fact that this has no impact on employment.

Baroness Noakes (Con): My Lords, I want to comment briefly on whether we should have impact assessments, which has been a theme running through a number of amendments.

I know that the Minister has his set formula, which he will repeat again now. When he responded to the earlier amendments, he talked about finding precedents for not having impact assessments. I will go back and look at the details of those in *Hansard*, but, from memory, none of those changes produced the outcry that these sets of changes have produced. Businesses, charities and hospices are all telling us that this is a major disaster. So I believe that his precedents are not on all fours in this particular case; we ought not to be fobbed off by the fact that the Treasury has, over time, found it inconvenient to produce impact assessments. I cannot think of anything quite as damaging in the past to large sectors of the employed population and their employers, so we should not regard the Minister's set formulation as an end to the story on impact assessments.

Lord Leigh of Hurley (Con): I just ask: what are the Government afraid of? This is a sensible suggestion about assessing what the effect might be of an enormous change to every business and charity organisation in the country. If it is such a good thing—we are told that it is—verify it.

Baroness Kramer (LD): My Lords, I shall be extremely brief. It must be galling for the Minister to sit here and be lectured by the Conservative Benches because he and I so often tried to obtain information and were consistently denied it. The noble Baroness, Lady Noakes, asked why there was not a greater outcry. Everybody just got so used to being denied information.

I am sure that the Minister will also be able to cite many economic crises when information was not provided—I have to say, the silence on the Conservative Benches in not calling out for that information was very loud, if I can put it that way. I am sure that, if the Conservatives were back in government again, we would get the same absence of transparency and limitations on information. There are perhaps two honourable exceptions—the noble Baronesses, Lady Noakes and Lady Neville-Rolfe—who stood out against their party when every other voice was one that co-operated in that silence.

That silence was part of the reason why there was so much mistrust of the Conservative Government in the end; it was part of their undermining. As the Minister and his Government start to look at reform, which they are looking at more generally—particularly in dealing with the Civil Service—looking for opportunities for transparency would be a really positive move. With information, we stand on more secure ground. Will he consider that? I have asked him that before.

[Baroness Kramer]

It is realistic to understand that we are unlikely to get impact assessments ahead of the actions that the Government contemplate doing in the next few weeks, or just in the next couple of months, but post reviews are at least a place to begin. They shed light, and they help both the Government and Parliament to understand where things have been effective and where they have not. If the Minister feels that he cannot accept these kinds of requests for immediate impact assessments, will he consider seriously the various requests made in other groupings for post-facto analysis and review?

Baroness Neville-Rolfe (Con): My Lords, I shall just say this briefly: we need more transparency on such a major policy change, but we are not getting it. There is a large negative impact on business and charities, which is—I agree with my noble friend Lady Noakes, a fellow-in-crime in asking for impact assessments—unprecedented. As my noble friend Lord Blackwell said, we are seeing a shift in jobs from the private sector to the public sector, which we fear is bad for jobs, productivity and growth. That is why we need to find a way of getting better assessment and having a process for review.

Lord Livermore (Lab): I am grateful to all noble Lords who have contributed to this debate. The noble Baroness, Lady Neville-Rolfe, and the noble Lords, Lord Altrincham and Lord Londesborough, have tabled amendments that seek to delay the commencement of this Act until a further impact assessment is conducted on the economy. The noble Baroness, Lady Lawlor, has tabled an amendment that would delay commencement until a report is laid detailing the impacts on businesses of different sizes and on employment and wages.

As I have said previously, the revenue raised from the measures in this Bill will enable the Government to repair the public finances while protecting working people and rebuilding our public services, including the NHS. Delaying commencement of this Bill would put this vital revenue at risk and would require either more borrowing, lower spending or alternative revenue-raising measures. That is not the Government's intention.

The Government do not believe that there is a need, as set out in these amendments, for further impact assessments on different sectors and economic indicators. As we have debated in previous groups today, as is the case with all tax policies, the Government have already published an assessment of the policy in the tax information and impact note. This includes impacts on the Exchequer; the economy; individuals; households and families; equalities; and businesses, including civil society organisations—as well as details on monitoring and evaluation. The tax information and impact note clearly sets out that around 250,000 employers will see their secondary class 1 national insurance contributions liability decrease, while around 940,000 will see it increase and around 820,000 employers will see no change.

The noble Baronesses, Lady Neville-Rolfe and Lady Lawlor, asked for specific additional detail. The noble Baroness, Lady Neville-Rolfe, asked in particular for a breakdown of the three lines of each of the three measures. My honourable friend the Exchequer Secretary to the Treasury has provided that information via various Written Answers. On 29 November, he published an estimate of the cost of the increase to the employment allowance at £3.6 billion. On 23 January, he published via a parliamentary Question the estimated revenue from increasing the rate at £12.4 billion and from reducing the secondary threshold at £18.6 billion. Beyond that, the Government have set out the impact analysis of this Bill that they intend to set out, in line with previous changes to taxation, and they do not intend to publish additional data or assessments.

Baroness Neville-Rolfe (Con): It would be helpful if he could write to clarify these figures. There have been figures made available, but they have not been made available to the Committee. They were made available in the other place in answer to some questions. The least he could do is write to the Committee with what figures there are, explaining how the splits work and giving that helpful figure on the employment allowance.

Lord Livermore (Lab): The noble Baroness says that it is the least that I can do; I have actually just read out the figures to the Committee. I think that is providing the information that she asked for. If she did not hear it, I am more than happy to set it out in a letter to her so that she can read it. As I say, they have been published in Written Answers and I have just read them out to the Committee, so I am not sure that her phrase "the least I can do" is appropriate in this instance.

As the noble Baroness, Lady Neville-Rolfe, also said, the OBR's economic and fiscal outlook already sets out the expected macroeconomic impact of the changes to employer national insurance contributions on employment, growth and inflation. The Government and the OBR have therefore already set out the impacts of this policy change. The information provided is in line with other tax changes, and the Government do not intend to publish further impact assessments. Given the points that I have made, I respectfully ask noble Lords to withdraw or not to press their amendments.

Baroness Neville-Rolfe (Con): I beg leave to withdraw my amendment.

Amendment 13 withdrawn.

Amendment 14

Moved by ***Baroness Monckton of Dallington Forest***

14: Clause 1, page 1, line 7, at end insert "or on the day after an impact assessment is published assessing the impact of the provisions in this section on persons who provide transport for children with special educational needs and disabilities, whichever is later"

Member's explanatory statement

This amendment, and two others in the name of Baroness Monckton of Dallington Forest, would prevent commencement of this Act until an assessment of the impact of the policy on persons who provide transport for children with special educational needs and disabilities is published.

Baroness Monckton of Dallington Forest (Con): My Lords, in moving Amendment 14, I will also speak to Amendment 27 in my name. I thank my noble friends Lady Neville-Rolfe and Lady Barran for their support.

These amendments would prevent commencement of this Act until an assessment of the impact of the policy on persons who provide transport for children with special educational needs is published. Those who provide transport for people with special educational needs provide a service that is very often not understood by those who are not in that position and do not have children who have a real problem getting to school. These companies that provide daily transport to children are now facing a rise in their employment costs. It is typical for drivers and their assistants to work for three and half hours a day, which brings them into this new threshold where the increased rate of employer national insurance will apply.

The sum of £515 million previously mentioned as being put aside for councils is to offset the national insurance contributions for their own employees. This sum would not offset the indirect costs of council services delivered by private providers. Councils have a statutory duty to provide these services. If private transport is no longer financially viable because of the new rules, the councils will have to re-tender thousands of contracts. I know at first hand, from my own experience of running a charity, how long it takes even to get a normal DBS check. We will be in a situation where some children will not be able to get to school until all these checks and balances have been done and the forms have been filled in.

This transport is an absolute lifeline—I know that is a hackneyed phrase—to parents. It enables them to continue working, as they do not have to drive the frequently very long distances that some of these children have to be taken to get to the nearest school that can accommodate their needs. Some parents who live near us in East Sussex told me of the enormous difference that it has made to them as a family. Before they had access to this transport, both parents worked, but one had to stop working in order to drive the child backwards and forwards to school. However, then they got access to the transport, and the father said to me that, for the first time, he did not have to worry about his child. He could go back to work and could become the person he was before he had a disabled child. That portion of his day spent in the office was absolutely invaluable to him.

My own daughter had somebody who drove her to school every day: Terry Heseltine. I spoke to him today because what I had not realised is that 90% of his work is spent driving children with acute and complex needs to school, along with an assistant. He said to me, "For many, this is the only way that they can get to school. Most of these parents do not have cars". These children, who are often violent and display unruly behaviour, would have no other way of getting to school. We cannot let down this group of vulnerable people and their exhausted parents. These amendments are important because the increased cost of this policy on those who provide transport for children with special educational needs could result in job losses, reduced services and an unimaginable nightmare for these children and their families. I beg to move.

7.45 pm

Lord Ahmad of Wimbledon (Con): My Lords, I support my noble friend's amendment and will speak briefly.

The Minister in the other place said that the Department for Education made an assessment of the impact of the rise in NICs on special educational needs. Bearing in mind the debate that we have already had on the lack of impact assessments, if an assessment has been made, it should be shared. We have already seen the disproportionate impact of VAT on independent schools and the impact that it is having on children with special educational needs. Again, this is tantamount to a double whammy. These children are among the most vulnerable in society.

I reflect on my time as a councillor in my local authority many years ago: the vital link and lifeline that these drivers provide, as my noble friend Lady Monckton has articulated so passionately and poignantly, are essential. I also reflect on the statement made by the Chief Secretary in the other place, which said that, when we are pursuing economic growth, these changes must permeate every element of society—I paraphrase—and every part of our country. How can impacting the most vulnerable contribute to any kind of sensible understanding of growth?

I was a Minister for a long time; perhaps that is why I am not counted alongside the dynamic duo, on my side of the Committee, of my noble friends Lady Neville-Rolfe and Lady Noakes. I say this to the Minister: one thing that Ministers in your Lordships' House do is listen—the Minister is doing that—but that listening also turns into action. Many vulnerable groups, including those highlighted by my noble friend, are being impacted. As a minimum, surely we need engagement at this stage. After all, that is what we are all about: scrutiny, listening, reviewing and ensuring that, when it leaves the House, legislation is in a better state than when it got here. I appeal to the Minister, as a minimum, to engage and listen to some of these groups that my noble friend highlighted. Perhaps, through his intervention, the Government will think again.

Viscount Goschen (Con): My Lords, the Committee is very much in the debt of my noble friend Lady Monckton for her having raised this important issue this afternoon, because it presents a microcosm of all the arguments around the Bill. It is a narrowly focused amendment that draws the Committee's attention to one narrow measure—one small, but very important, part of our national life. It is therefore incumbent on the Minister to give a substantive answer, not just "We don't do further impact assessments", because I am not sure that there is widespread belief in the country about the impact assessment that the Treasury notes has been made. I do not believe that that gives sufficient confidence. It is a short, high-level note and, at the bottom of the electronic page, it asks, "Did you find this page helpful: yes or no?" I think that most Members of the Committee would reply in the negative.

It is important for the Minister to listen to an illustration of the effect that this Bill will have, as we have heard in previous groups of amendments, on the wider growth of our economy as well as on extremely vulnerable people, as was illustrated by my noble friend's amendments. I very much look forward to the Minister's detailed and substantive answer.

The Lord Bishop of Southwark: My Lords, I will speak to Amendment 67, which stands in my name. It is supported by the noble Lords, Lord Alton and Lord Forsyth of Drumlean, whose names were not entered in time for the Marshalled List.

I agree with much of what the noble Baroness, Lady Monckton of Dallington Forest, said in support of Amendments 14 and 27, in her name, and others concerning the provision of transport for children with special educational needs and disabilities—many years ago, my identical twin brother was one of them. My amendment has the same intention, albeit a slightly different effect.

When I raised my concern at Second Reading, the Minister, in response, referred to both the increased settlement overall for local government in the coming financial year and to the extra £515 million to cushion local authorities against the impact of national insurance changes. I wrote to the Minister on 10 January about my concern that such funding did not cover contracted-out services, and I have yet to receive a reply—hence my amendment, which is now before the Grand Committee.

The Local Government Association on 28 November stated that the measures that the Government seeks

"will lead to a £637 million increase in councils' wage bills for directly employed staff, and up to £1.13 billion through indirect costs via external providers including up to £628 million for commissioned adult social care services".

It is therefore clear that the concerns that I laid before your Lordships' House on 6 January are well founded and remain current.

The transport provision for children with special educational needs and disabilities is, of necessity, a very labour-intensive one. It also requires dedicated recruitment, since not any driver will do, and in some cases a passenger assistant is also required. As we have heard, the children involved place enormous value on continuity and trust. Hence, it is key that they trust the staff who serve them in this way and, once that trust is established, that these are the people with whom they routinely deal. It is hard to describe the anguish that will result if contracts become unviable, or the additional pressures this will place on parents. There will be inevitable breaks in education, which can easily affect the rest of an individual's life.

Noble Lords resident in North Yorkshire, the West Riding, north Lincolnshire or South Yorkshire may have seen the regional news bulletin, "ITV Calendar (North)", on 22 January, just a few days ago. Its first and main news item was this very issue, setting out, with some of the people affected, what the impact would be. It is hard not to sympathise with, for example, the bewilderment of the mother of a mute child at the very real likelihood of the loss of her son's provision.

I accept that Governments take tough decisions and that there is a burden to public service borne by those who serve us in this way. However, in this instance, the chief burden and distress—the overwhelming hardship—will be borne by SEND children and their parents. As this is a situation brought into being by the Government, it is appropriate to look to His Majesty's Government for a solution, and I would be happy not to press the amendment if they were to proffer a remedy such as ring-fenced funding.

Unlike Amendments 14 and 27, my amendment, which requires the Government to review and estimate the impact on the SEND transport sector in each of three tax years, and to state what remedy might be applied, includes the ameliorating provisions of Clause 3. However, as your Lordships will have established and the Minister knows, that clause will not be the remedy here. I beg to move.

Baroness Bennett of Manor Castle (GP): I rise briefly to offer the Green group's support for all these amendments. Perhaps the right reverend Prelate's amendment gives the Government a way forward that does not interfere with the general progress of the Bill but any of these would do.

I am going to make two quick points. First, I note the briefing I received from the chair of the Licensed Private Hire Car Association's SEND group, setting out the points that have been made on how it is desperately concerned and the chaos that this national insurance rise has the potential to cause it.

Secondly, I point out that the Children's Wellbeing and Schools Bill is in the other place. There, the Government are trying to deal with, help and support children with special educational needs and disabilities, and their parents, through that Bill. Then we have this Bill, which is undoing, and creating further risks and damage. It is useful to set those two against each other. In your Lordships' House, we often hear expert testimony about how difficult life is for children with special educational needs and disabilities and, of course, their families and parents. This is—I am going to use an informal term—such a no-brainer to sort out.

Baroness Kramer (LD): My Lords, I shall speak briefly. If I had spotted the amendment of the right reverend Prelate the Bishop of Southwark in time, I would have signed it because it makes absolute sense. There is a pressure created, when one knows that a review is coming afterwards, to think through actions now. All in this Committee recognise that this Bill deals with the weakest of the weak. As there are two Bills, this one and one in the other place, either of which could be used to manage a remedy, I should have thought the Government might have been able to see a way through this.

I wanted to mention a procedural thing, just as a comment on the statement made by the right reverend Prelate the Bishop of Southwark. I hope that he realises that if he does not withdraw his amendment at this stage, he will not be able to bring it back on Report. Some people are not clear on that element of the procedure, so I mention it simply in case it guides what he might wish to do.

Baroness Noakes (Con): His amendment is Amendment 67, so he is not going to be moving it until day four.

Baroness Kramer (LD): He said, "I beg to move".

Baroness Noakes (Con): He cannot move it.

Baroness Kramer (LD): Problem solved; I am back in my place. Those are the only comments that I wanted to make.

Baroness Neville-Rolfe (Con): My Lords, I also support Amendments 14 and 27, tabled so movingly by my noble friend Lady Monckton of Dallington Forest, and Amendment 67, spoken to by the right reverend Prelate the Bishop of Southwark, with additional and disturbing evidence on this vital issue. I am sorry that my noble friend, Lady Barran, who leads for the Opposition on education, is not able to be here. She is detained elsewhere. But I know she is concerned, as one would expect, about the thousands of SEND children who might be left without transport. The amendments concern transport providers for children with special educational needs and disabilities. The providers play a pivotal role in ensuring that children with special educational needs and disabilities can access education and other vital services.

A way must be found in the Bill or elsewhere to deal with the devastating impact on those transporting such children. Most of those drivers, as we have heard, work only 3.5 hours a day, according to the SEND group of the Licensed Private Hire Car Association. They will be caught by the lower NICs threshold, which we have been discussing in other amendments.

The potential impact is not a hypothetical concern; it is another good example of the perverse effects that we are seeing. Mencap, a charity that supports such individuals and families with these disabilities, has shown that the rise in national insurance contributions could force it to close at least 60 of its essential services. Those include running residential services for people with learning disabilities, offering advice on issues such as education and employment, as well as offering support for carers, a very important matter. This charity is facing an additional £5.3 million in annual costs due to the effects of the Budget.

I ask the Minister to look into the various points that have been made today, to undertake a proper assessment of the impact and cost to the sector, and to come forward with amendments or other concessions to ensure that transport providers are not put in a position where they can no longer meet the needs of these vulnerable children—that would be wrong.

8 pm

Lord Livermore (Lab): My Lords, I am grateful to all noble Lords who contributed today. I have of course listened very carefully to all the points made.

I will address the amendments tabled by the noble Baronesses, Lady Monckton of Dallington Forest, Lady Neville-Rolfe and Lady Barran, and the right reverend Prelate the Bishop of Southwark about the impact of the Bill on persons who provide transport for children with special education needs and disabilities. I will endeavour to get the right reverend Prelate an answer to his letter as quickly as possible; I apologise to him for not having replied sooner.

The Government of course carefully consider the impact of their policies, including these changes to employer national insurance. As I noted previously, an assessment of the policy has already been published by HMRC in its tax information and impact note.

On the specific issue of the provision of transport for children with special educational needs and disabilities, the Government are committed to improving provision in mainstream state schools, while also ensuring that state special schools can cater to those with the most complex needs. At the Budget, the Government announced a £1 billion uplift in high-needs funding, and £740 million into creating more inclusive specialist places in mainstream schools and undertaking the adaptations that may be required in mainstream schools to make them more accessible. The aim is to reduce the cost of transport, because far too many children are being transported to other local authorities, over a large distance and time, as they cannot be educated locally.

There are several ways in which a local authority can fulfil its requirements to provide free school transport to eligible children, including those with special educational needs, disabilities or mobility problems. At the Budget and as part of the recent provisional local government finance settlement, the Government announced over £2 billion of new grant funding for local government in 2025-26. This includes £515 million to support councils with the increase in employer national insurance contributions.

This £515 million of additional funding has been determined based on a national assessment of the costs for directly employed staff across the public sector. However, this funding is unring-fenced, and it is for local authorities to determine how to use this funding across relevant services and responsibilities. This is part of an overall increase in additional grant funding for local authorities in 2025-26 of over £2 billion, resulting in an estimated 3.5% real-terms increase in core spending power.

Given the points I have set out, I respectfully ask noble Lords not to press their amendments.

Baroness Monckton of Dallington Forest (Con): My Lords, I am grateful for all the thoughtful contributions to this debate, and I thank the Minister for his comments. I urge him to consider the amendments we have been debating and to understand the essential services provided by the SEND transport sector. It is wonderful that he is putting more money into the schools, but if these children cannot get there, it will not really work. However, for the moment, I beg leave to withdraw my amendment.

Amendment 14 withdrawn.

Amendment 15 not moved.

Clause 1 agreed.

Clause 2: Secondary threshold for secondary Class 1 contributions

Amendments 16 and 17 not moved.

Committee adjourned at 8.04 pm.