PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

(Except clauses 7 to 18, 41 to 44, 65 to 81, 129, 132 to 136 and 144 to 154 and schedules 2, 3, 11 to 14 and 18 to 22)

Fourth Sitting

Tuesday 5 July 2016

(Afternoon)

CONTENTS

Clauses 64 and 82 agreed to.
Schedule 15 agreed to, with amendments.
Clauses 83 to 110 agreed to, some with amendments.
Adjourned till Thursday 7 July at half-past Eleven o'clock.
Written evidence reported to the House.

PBC (Bill 001) 2016 - 2017

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 9 July 2016

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The Committee consisted of the following Members:

Chairs: SIR ROGER GALE, † MR GEORGE HOWARTH

† Argar, Edward *(Charnwood)* (Con)
† Atkins, Victoria *(Louth and Horncastle)* (Con)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Boswell, Philip *(Coatbridge, Chryston and Bellshill)* (SNP)
† Burns, Conor *(Bournemouth West)* (Con)
† Cadbury, Ruth *(Brentford and Isleworth)* (Lab)
† Cooper, Julie *(Burnley)* (Lab)
Donelan, Michelle *(Chippenham)* (Con)
† Dowd, Peter *(Bootle)* (Lab)
† Frazer, Lucy *(South East Cambridgeshire)* (Con)
† Gauke, Mr David *(Financial Secretary to the Treasury)*
† Hall, Luke *(Thornbury and Yate)* (Con)
† Hinds, Damian *(Exchequer Secretary to the Treasury)*
† Long Bailey, Rebecca *(Salford and Eccles)* (Lab)
† McGinn, Conor *(St Helens North)* (Lab)
McDonnell, John *(Hayes and Harlington)* (Lab)
† Mak, Mr Alan *(Havant)* (Con)
† Matheson, Christian *(City of Chester)* (Lab)
† Merriman, Huw *(Bexhill and Battle)* (Con)
† Mullin, Roger *(Kirkcaldy and Cowdenbeath)* (SNP)
† Quin, Jeremy *(Horsham)* (Con)
Streeting, Wes *(Ilford North)* (Lab)
† Stride, Mel *(Lord Commissioner of Her Majesty's Treasury)*
Tolhurst, Kelly *(Rochester and Strood)* (Con)

Matthew Hamlyn, Marek Kubala, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 5 July 2016

(Afternoon)

[Mr George Howarth *in the Chair*]

Finance Bill

(Except clauses 7 to 18, 41 to 44, 65 to 81, 129, 132 to 136 and 144 to 154 and schedules 2, 3, 11 to 14 and 18 to 22)

Clause 64

Taking over payment obligations as lessee of plant or machinery

2 pm

Question proposed, That the clause stand part of the Bill.

Rebecca Long Bailey (Salford and Eccles) (Lab): I covered most of the points relating to this clause when discussing previous clauses. I am concerned that it is another example of complex arrangements being created for the purpose of, among other things, avoiding liability to pay corporation tax. Will the Minister confirm what specific activity has prompted these proposals?

The Financial Secretary to the Treasury (Mr David Gauke): It is a pleasure to welcome you back to the Chair, Mr Howarth. Let me say a word or two about the clause in response to the hon. Lady's question.

Clause 64 makes changes to prevent tax avoidance by ensuring that tax is chargeable upon any consideration received in return for agreeing to take over tax-deductible lease payments. Leasing of plant and machinery plays an important role in UK business by providing a means of access to assets for use in commercial activities. There may be a number of different reasons for choosing to lease plant and machinery—for example, where the assets are required for only a relatively short period, where a lease meets the requirements of the business's cash flows, where the business does not have the funds to buy the asset outright or where the asset is of a type typically leased rather than bought.

The person who leases plant and machinery—the lessee—for use in their business is entitled to tax deductions for the rents payable under the lease. Her Majesty's Revenue and Customs has become aware of arrangements relating to the transfer of a lessee position in an existing lease. In those arrangements, the existing lessee transfers its right to use the leased plant or machinery, together with the obligation to make the lease payments, to another person. The new lessee will use the plant or machinery in its business and claim tax deductions for the lease rental payments.

However, the arrangements for transfer also involve the new lessee or a connected person receiving a consideration in return for the new lessee agreeing to take over from the existing lessee. That is done in such a way that there is no charge for tax on that consideration. The new lessee is able to get tax deductions for rental payments, some or all of which are funded by the non-taxable consideration received. That is an unfair outcome, and in a number of examples seen by HMRC it is clearly part of a tax avoidance scheme.

It is right that where a person meets tax-deductible payments not from their own resources but out of an otherwise non-taxable consideration received for agreeing to take over those payments, that consideration should be taxed in full. The changes made by the clause will ensure that where a person takes over a lessee under an existing lease, obtains tax deductions for payments under that lease and, in return, receives a consideration, such consideration is chargeable for tax as income.

The changes proposed will ensure a fair outcome for tax purposes for such arrangements. No longer will it be possible for tax-deductible lease payments to be funded by untaxed considerations received for the transfer of responsibility to make those payments. The expected yield to the Exchequer over the scorecard period from the changes is £120 million. I therefore hope the clause will stand part of the Bill as a way of preventing businesses from gaining an unwarranted tax advantage.

Question put and agreed to.

Clause 64 accordingly ordered to stand part of the Bill.

Clause 82

Inheritance tax: increased nil-rate band

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

Government amendments 13 to 19.

That schedule 15 be the Fifteenth schedule to the Bill.

Mr Gauke: Clause 82 and schedule 15 ensure that the residence nil-rate band for inheritance tax will continue to be available when an individual downsizes or ceases to own a home. The clause builds on the provisions in the Finance Act 2015, which introduced a new residence nil-rate band, by creating an effective inheritance tax threshold of up to £1 million for many married couples and civil partners by the end of the Parliament, making it easier for most families to pass on the family home to their children and grandchildren without the burden of inheritance tax.

The combined effect of this package will almost halve the number of estates expected to face an inheritance tax bill in future. The Office for Budget Responsibility now forecasts that 33,000 estates will be liable for inheritance tax in 2020-21. As a result of this package, 26,000 estates will be taken out of inheritance tax altogether and 18,000 will pay less.

We recognise that people's circumstances change as they get older and that they may want to downsize or may have to sell their property. We do not want the residence nil-rate band to act as a disincentive for people thinking about making such changes. That is why we announced in the summer Budget that anyone who downsizes or ceases to own a home on or after

8 July 2015 will still be able to benefit from the new residence allowance. Clause 82 and schedule 15 allow an estate to qualify for all or part of the residence nil-rate band that would otherwise be lost as a result of the downsizing move or disposal of the residence.

The extra residence nil-rate band or downsizing edition will only be available for one former residence that the deceased lived in. Where more than one property might qualify, executors of an estate will be able to nominate which former residence should qualify. The approach reduces complexity and ensures flexibility in the system.

The Government have tabled seven amendments to schedule 15 to ensure that the legislation works as intended in certain situations that are not currently covered by the downsizing provisions. Amendment 15 caters for situations in which an individual had more than one interest in a former residence, to ensure that they are not disadvantaged compared with those who owned the entire former residence outright. Amendment 16 clarifies the meaning of disposal in situations where an individual gave away a former residence but continued to live in it. Amendment 19 ensures that where an estate is held in a trust for the benefit of a person during their lifetime, a disposal of that former residence by the trustees would also qualify for the residence nil-rate band.

Amendments 13, 14, 17 and 18 make minor consequential changes to take into account the other amendments. Clause 82 and schedule 15 will help to deliver the Government's commitment to take the ordinary family home out of inheritance tax by ensuring that people are not disadvantaged if they move into smaller homes or into care. That commitment was made in our manifesto and I am pleased to deliver it fully with this clause.

Rebecca Long Bailey: As we have heard from the Minister, clause 82 and schedule 15 provide that the inheritance tax transferrable main residence nil-rate band will apply to an estate even when somebody downsizes. As the *Tax Journal*'s commentary on the Bill concisely explains, schedule 15 in particular contains provisions to ensure that

"estates will continue to benefit from the new residence nil rate band even where individuals have downsized or sold their property, subject to certain conditions. The residence nil-rate band is an additional transferable nil rate band which is available for transfers of residential property to direct descendants on death. The additional relief will be available from 6 April 2017 and the relief for downsizing or disposals will apply for deaths after that date where the disposal occurred on or after 8 July 2015."

My hon. Friend the Member for Hayes and Harlington and I tabled amendments to leave out clause 82 and schedule 15 today—we will therefore oppose the clause—although they were not selected for debate.

The Government's objective seems to be that

"individuals may wish to downsize to a smaller and often less valuable property later in life. Others may have to sell their home for a variety of reasons, for example, because they need to go into residential care. This may mean that they would lose some, or all, of the benefit of the available RNRB. However, the government intends that the new RNRB should not be introduced in such a way as to disincentivise an individual from downsizing or selling their property."

If we go back a couple of steps, at summer Budget 2015 the Government announced that there would be an additional nil-rate band for transfers on death of the main resident to a direct descendant set at £100,000 and subject to a taper for an estate with a net value of more than £2 million. The band will be withdrawn by £1 for every £2 over the threshold. During the passage of the Finance Act 2015, which introduced the additional nil-rate band, the Opposition spokesperson, my hon. Friend the Member for Worsley and Eccles South (Barbara Keeley), stated:

"We have been clear that we believe that the focus of tax cuts should be on helping working people on middle and low incomes and on tackling tax avoidance…the Treasury has admitted that 90% of households will not benefit from the Government's inheritance tax policy, so we should be clear about the part of society we are talking about."

She went on:

"The priority for the Government, we believe, should be helping the majority of families and first-time buyers struggling to get a home of their own. That is why Labour voted against the Government's inheritance tax proposals in the July Budget debate. The Treasury estimates that the changes to inheritance tax will cost the Exchequer £940 million by 2020-21—nearly £1 billion."–-[*Official Report, Finance Public Bill Committee,* 17 September 2015; c. 56.]

I echo those comments in the light of the measure today. We simply do not believe that expanding the conditions in which inheritance tax is not payable should be a priority for the Government. As my hon. Friend said at that time, this measure will cost nearly £1 billion by 2020-21. That is a vast amount of money that could be better spent supporting those on middle and low incomes who are struggling to get by.

As with so many measures in the Bill, the Government are prioritising the wrong people, with tax giveaways for the wealthy, such as this measure, and cuts to capital gains tax, at a time when they were considering taking billions away from working people through cuts to tax credits and disability payments. Not only do we disagree with the principle of this tax giveaway; we are also concerned that the legislation is badly drafted. A similar outcome could be achieved through a simpler mechanism. The Chartered Institute of Taxation has said:

"It appears to us that the legislation in Schedule 15 as currently drafted is deficient in one particular respect in that no provision has been made for downsizing when the home is held as a trust interest (for example, and especially, an Immediate Post-Death Interest ("IPDI")). The typical scenario would be that the home (solely owned by husband) was left on a life interest basis to his widow, with remainder over to his children. The widow goes into care and the trustees wish to sell the property. An IPDI is becoming increasingly common to safeguard the interests of children from a first marriage when their parent enters into a second."

Will the Minister clarify what will happen in that instance?

I will touch briefly on Government amendments 13 to 19, which according to the Minister's helpful letter of 30 June make a number of technical amendments to ensure that the legislation operates as intended in a limited number of specific circumstances that are not currently covered by the downsizing provisions. I am glad that the Government are taking steps to improve the legislation, but I cannot see how the amendments address the concerns outlined by the Chartered Institute of Taxation.

The Opposition do not feel that these measures, which expand the number of situations in which inheritance tax is not due, are a priority, given the apparent funding constraints we often hear about from the Government. We will therefore oppose clause 82 and schedule 15.

Roger Mullin (Kirkcaldy and Cowdenbeath) (SNP): It is a pleasure to serve under your chairmanship yet again, Mr Howarth. I congratulate the hon. Lady on the clear case she has made. We shall also oppose this measure.

I have one question for the Minister. He mentioned that 26,000 would be taken out of the tax altogether and 18,000 would pay less because of this change. Will he clarify how many of those are in Scotland and the north of England, compared with some of the richer parts of the country? I think that would be informative. Secondly, this is the wrong initiative at the wrong time, and it is targeted at the wrong people. That is why we will oppose it.

2.15 pm

Mr Gauke: I am disappointed that this clause and the approach that the Government are taking do not have cross-party support, but I am sure that my hon. Friends on the Government side will support the measures.

The first point I have to make in response to the criticism of the clause is that, of course, the Government were elected and one of our manifesto pledges was to take forward measures to take the family home out of inheritance tax. We also have to bear it in mind that not doing anything on inheritance tax is not a neutral option, because the consequence of leaving inheritance tax alone is that, in a period in which property prices increase, more and more households and estates fall within inheritance tax and inheritance tax receipts will go up. It is worth pointing out that inheritance tax receipts in cash terms will continue to be higher under this Government than at any time since the introduction of inheritance tax in 1986, including the period of the last Labour Government between 1997 and 2010, when receipts peaked at £3.8 billion in 2007-08. Let us remember that.

Regarding the impact of not doing anything, do remember that relatively modest properties have increased in value. In 2015, the average house price in London was £552,000 and in the south-east it was £375,000. That means that relatively modest households were potentially finding themselves with an inheritance tax bill, which had not previously been the case under Governments of different colours.

Some technical points were made by Opposition Members. I was asked whether the downsizing rules will apply when the former house was held in a trust. Amendment 19 caters for such situations. The measure will apply only where the former home was held in a type of trust that was set up for the benefit of a person during their lifetime and that person had a right to the trust assets. It does not apply to former homes held in discretionary trusts because they would not qualify for the residence nil-rate band in those circumstances.

I was asked whether the estate would qualify for the allowance if the home is left in trust for a spouse and on their death passes to the children. The answer to that is no. If the home is transferred on death to a life interest trust to the benefit of the surviving spouse, the deceased's estate will not qualify for the residence nil-rate band because the home is not inherited by a direct descendant at that time. However, the unused portion of the residence nil-rate band can be transferred to the surviving spouse's estate to be used on their death. If the home subsequently passes to a direct descendant on the death of the surviving spouse or life tenant, their estate will be eligible for the residence nil-rate band.

In terms of exact numbers for the United Kingdom, I do not have those numbers; I will have to write to the hon. Member for Kirkcaldy and Cowdenbeath. However, it is the case that there are beneficiaries of this policy throughout the United Kingdom.

Kirsty Blackman (Aberdeen North) (SNP): We are not denying that there will be people who will benefit from not paying tax or from paying less tax, but in places in Scotland you can get a castle for £1 million—albeit a small castle—and that is in no way, shape or form a family home, and it should not be classed as such.

Mr Gauke: I come back to what I was saying earlier, namely, that doing nothing will mean that many properties, often relatively modest properties, will fall within the inheritance tax bands. Doing nothing will mean that a tax that I think most people in this country would support, on the basis that it is designed for the very wealthy, would apply to people who would not necessarily have had high incomes in their lifetimes. That creates a sense of unfairness. There are certainly parts of Edinburgh where relatively modest properties are of such a value as to create concerns about inheritance tax.

Christian Matheson (City of Chester) (Lab): If the Minister is concerned about rising property prices and an overheating housing market driving more people into inheritance tax bands, perhaps he should do something about the housing market—rather than fiddling around with the tax bands—for example, by building more houses for rent and cooling the housing market in that way.

Mr Gauke: I very much support the idea that we need to build more homes. As a Government, we have done so. We are a Government who have changed many of the planning rules. We are a Government who announced a substantial housing package in the autumn statement. This Government are doing much to improve house building in this country. Indeed, the number of building starts last year was high, which is encouraging.

To conclude, the measures before us are a sensible further step to meeting our objective of taking the family home out of inheritance tax. They will also ensure that there is no impediment to people downsizing, creating difficulties in the housing market. I hope, notwithstanding the objections from the Opposition, that clause 82 and schedule 15 will stand part of the Bill.

Question put, That the clause stand part of the Bill.

The Committee divided: Ayes 11, Noes 9.

Division No. 2]

AYES

Argar, Edward
Atkins, Victoria
Burns, Conor
Frazer, Lucy
Gauke, Mr David
Hall, Luke
Hinds, Damian
Mak, Mr Alan
Merriman, Huw
Quin, Jeremy
Stride, Mel

NOES

Blackman, Kirsty	Long Bailey, Rebecca
Boswell, Philip	McGinn, Conor
Cadbury, Ruth	Matheson, Christian
Cooper, Julie	Mullin, Roger
Dowd, Peter	

Question accordingly agreed to.

Clause 82 ordered to stand part of the Bill.

Schedule 15

INHERITANCE TAX: INCREASED NIL-RATE BAND

Amendments made: 13, page 440, line 45, leave out "section 8H(4A) to (4F)" and insert "sections 8H(4A) to (4F) and 8HA".

Amendment 14, page 441, line 39, leave out "section 8H(4A) to (4F)" and insert "sections 8H(4A) to (4F) and 8HA".

Amendment 15, page 445, leave out lines 26 to 37 and insert—

'(4B) Where—

(a) the person—

(i) disposes of a residential property interest in the nominated dwelling-house at a post-occupation time, or

(ii) disposes of two or more residential property interests in the nominated dwelling-house at the same post-occupation time or at post-occupation times on the same day, and

(b) the person does not otherwise dispose of residential property interests in the nominated dwelling-house at post-occupation times,

the interest disposed of is, or the interests disposed of are, a qualifying former residential interest in relation to the person.

(4C) Where—

(a) the person disposes of residential property interests in the nominated dwelling-house at post-occupation times on two or more days, and

(b) the person's personal representatives nominate one (and only one) of those days,

the interest or interests disposed of at post-occupation times on the nominated day is or are a qualifying former residential interest in relation to the person."

Amendment 16, page 445, line 37, at end insert—

'( ) For the purposes of subsections (4A) to (4C)—

(a) a person is to be treated as not disposing of a residential property interest in a dwelling-house where the person disposes of an interest in the dwelling-house by way of gift and the interest is, in relation to the gift and the donor, property subject to a reservation within the meaning of section 102 of the Finance Act 1986 (gifts with reservation), and

(b) a person is to be treated as disposing of a residential property interest in a dwelling-house if the person is treated as making a potentially exempt transfer of the interest as a result of the operation of section 102(4) of that Act (property ceasing to be subject to a reservation)."

Amendment 17, page 445, line 43, after "be" insert ", or be included in,".

Amendment 18, page 446, line 3, at end insert

", and

(c) before the person dies."

Amendment 19, page 446, line 6, at end insert—

"8HA "Qualifying former residential interest": interests in possession

(1) This section applies for the purposes of determining whether certain interests may be, or be included in, a qualifying former residential interest in relation to a person (see section 8H(4A) to (4C)).

(2) This section applies where—

(a) a person ("P") is beneficially entitled to an interest in possession in settled property, and

(b) the settled property consists of, or includes, an interest in a dwelling-house.

(3) Subsection (4) applies where—

(a) the trustees of the settlement dispose of the interest in the dwelling-house to a person other than P,

(b) P's interest in possession in the settled property subsists immediately before the disposal, and

(c) P's interest in possession—

(i) falls within subsection (7) throughout the period beginning with P becoming beneficially entitled to it and ending with the disposal, or

(ii) falls within subsection (8).

(4) The disposal is to be treated as a disposal by P of the interest in the dwelling-house to which P is beneficially entitled as a result of the operation of section 49(1).

(5) Subsection (6) applies where—

(a) P disposes of the interest in possession in the settled property, or P's interest in possession in the settled property comes to an end in P's lifetime,

(b) the interest in the dwelling-house is, or is part of, the settled property immediately before the time when that happens, and

(c) P's interest in possession—

(i) falls within subsection (7) throughout the period beginning with P becoming beneficially entitled to it and ending with the time mentioned in paragraph (b), or

(ii) falls within subsection (8).

(6) The disposal, or (as the case may be) the coming to an end of P's interest in possession, is to be treated as a disposal by P of the interest in the dwelling-house to which h P is beneficially entitled as a result of the operation of section 49(1).

(7) An interest in possession falls within this subsection if—

(a) P became beneficially entitled to it before 22 March 2006 and section 71A does not apply to the settled property; or

(b) P becomes beneficially entitled to it on or after 22 March 2006 and the interest is—

(i) an immediate post-death interest,

(ii) a disabled person's interest, or

(iii) a transitional serial interest.

(8) An interest in possession falls within this subsection if P becomes beneficially entitled to it on or after 22 March 2006 and it falls within section 5(1B)."—*(Mr Gauke.)*

Schedule 15, as amended, agreed to.

Clause 83

INHERITANCE TAX: PENSION DRAWDOWN FUNDS

Question proposed, That the clause stand part of the Bill.

Rebecca Long Bailey: The Minister will be pleased to hear that I do not have many comments on this clause, which provides that inheritance tax will not be charged if a person leaves unused funds in a pension drawdown

[Rebecca Long Bailey]

fund when they die. In April 2015, the Government introduced changes to pension tax rules allowing people to access their pension funds flexibly from the age of 55. That flexibility, and an increase in drawdown arrangements, means that the inheritance tax charge will potentially apply to more people. The changes, which the Opposition supported at the time, meant that pensioners could access as much of their pension pots as they wanted, without having to buy an annuity. That meant, however, that if people became entitled to the funds but did not actually draw on them before death, the money would be subject to inheritance tax at the usual rate. According to the explanatory notes, that was not the original policy intention, so the clause has been introduced to correct things. The Opposition supported the changes to pension tax rules so will not be opposing the clause.

Mr Gauke: As we have heard, clause 83 makes changes to ensure that when an individual dies, unused funds in a drawdown pension are not treated as part of their estate for inheritance tax purposes. Without the clause, a small number of pensions would be liable for inheritance tax in some circumstances, which was not our intention.

As the Committee will be aware, funds that remain in a pension scheme do not traditionally form part of a deceased's estate and are generally exempt from inheritance tax. Nevertheless, under the current tax rules, in a small number of circumstances undrawn pension funds are unintentionally caught. For example, if an individual has designated funds for pension drawdown and then passes away without having drawn down all those funds, an inheritance tax charge may arise.

The Government introduced changes to the pensions tax rules from April 2015 that allowed more people to flexibly access their pension funds from age 55. That flexibility means that the inheritance tax charge might apply to more people who pass away leaving undrawn funds in their pension scheme. It was not intended that an IHT charge should arise in such circumstances; the clause ensures that it will not do so. It changes the existing rules so that an inheritance tax charge will not arise when a person has unused funds remaining in their drawdown pension when they die.

The changes will be backdated and will apply for deaths on or after 6 April 2011, so that they include any charges that could arise from the time when the general rule ceased to apply. The minor changes made by the clause will help to maintain the integrity and consistency of the pensions system while supporting those who have worked hard and saved responsibly throughout their lives. I commend the clause to the Committee.

Question put and agreed to.

Clause 83 accordingly ordered to stand part of the Bill.

Clause 84

Inheritance tax: victims of persecution during Second World War era

Question proposed, That the clause stand part of the Bill.

Kirsty Blackman: I am pleased that this clause has been included in the Bill. It seems to be a sensible measure, and I am pleased to note that there will be the ability to tidy up afterwards if anything else needs mopping up. The Scottish National party welcomes the clause.

Mr Gauke: I thank the hon. Lady for her support. I would expect such a measure to have the support of the whole Committee. As the Prime Minister said on National Holocaust Day,

"whatever our faith, whatever our creed, whatever our politics"

it is right that the whole country should stand together to remember the

"darkest hour of human history."

To that end, the Government have committed to building a national memorial in London to show the importance that Britain places on preserving the memory of the holocaust.

The clause provides further reassurance and certainty to holocaust victims by placing on a statutory footing their right not to pay inheritance tax on the compensation they receive as a result of their persecution. I am proud that the Government have extended the inheritance tax exemption even further to include a one-off compensation payment for the victims who endured such an unimaginable trauma in their childhood. I am delighted that the clause has cross-party support.

Question put and agreed to.

Clause 84 accordingly ordered to stand part of the Bill.

Clause 85

Inheritance tax: gifts for national purposes etc

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

Government amendments 122 to 126.

Clause 86 stand part.

Mr Gauke: Clauses 85 and 86 make a number of changes to ensure that certain tax reliefs available for objects of national heritage continue to be appropriately targeted and that those objects remain accessible for the nation to enjoy. The first change, clause 85, ensures that legislation keeps pace with the way museums are structured. Clause 86 will regulate the interaction of estate duty and inheritance tax for many objects of national, historic and cultural value and will enable HMRC to take appropriate action in the event of such an object being lost.

2.30 pm

It might be helpful if I explain briefly how the current exemption works for museums and galleries. To encourage gifts and bequests to public collections, those gifts and bequests are currently exempt from inheritance and capital gains tax if they are accepted by the receiving public institution. In addition, existing rules allow private owners to sell their heritage chattels to public institutions in the UK rather than on the open market, where there is a real risk that the chattel will go abroad. The acquiring UK institution maintains and preserves the chattel and displays it for the ongoing benefit of the UK

public. In 2015-16, heritage property with a total value of more than £33 million was sold tax free to such bodies. Without that support, magnificent items such as the Wolsey Angels, which were recently acquired by the Victoria and Albert Museum, would have been lost to the nation.

The criteria for deciding whether a museum or gallery is eligible for the reliefs have changed little since the introduction of inheritance tax in 1984. However, recent changes in the way local authorities administer their cultural services have caused many museums and galleries to fall outside the advantageous tax provisions currently provided by the legislation. That has happened at a time when those advantages are needed to encourage individuals to donate or sell to such bodies in order for their collections to grow for the public's enjoyment. Devolving a museum from direct local authority control allows it more independence in pursuit of preserving and displaying its collection, freeing the museum from the wider corporate and political issues. However, without changes to the legislation, sales of assets to those entities that would previously have qualified for relief will no longer qualify. It is therefore essential to ensure that the legislation is updated to reflect the way the sector operates.

Clause 85 amends schedule 3 to the Inheritance Tax Act 1984 to include collections that have in the past been maintained by local authorities but now operate under, for example, independent charitable trust status. The clause will also transfer from HMRC to the Treasury the power to approve other national institutions. That change is being made to reflect the fact that the Treasury is directly accountable to Parliament and has responsibility for allocating the culture budget to the Department for Culture, Media and Sport.

I will turn now to clause 86. Inheritance tax was introduced in 1984 and replaced capital transfer tax, which in turn had replaced estate duty in 1975. The current inheritance tax legislation provides a conditional exemption where an item is of pre-eminent quality. The exemption is available for either inheritance tax or capital gains tax and allows the charge to be deferred, provided that certain conditions are met. If any of the conditions are breached or the asset is sold, tax becomes payable. The exemption applies to lifetime transfers and gifts and exists to prevent certain assets that are considered to be of national importance from being sold off and potentially leaving the country.

HMRC has been aware of a growing number of cases in which conditional exemption from an IHT charge is sought solely in order to substitute a lower rate of IHT for a higher rate of duty. That practice allows individuals to benefit from a lower rate of tax, at 40%, under the inheritance tax regime, rather than the estate duty, which would have been up to 80%. It therefore seems that in some circumstances the current legislation is used merely as a tax planning tool and not to ensure the preservation of objects of national heritage importance. In addition, there is currently no legislation in place in a majority of cases to allow HMRC to raise a charge when the owner of an estate-duty-exempt object loses or misplaces it as a result of their negligent actions. I am sure that all members of the Committee will agree that such practices should no longer continue and the Government need to take action now.

Clause 86 amends existing legislation on estate duty to stop individuals from using the provisions to pay inheritance tax at a lower rate than estate duty would be payable. That will ensure that the exemption is used as intended: to preserve objects of national heritage rather than as a tax-planning tool. The change will also bring legislation in line with provisions for lifetime transfers, where HMRC can elect for either an inheritance tax or estate duty charge. The second change will bring in a charge on objects that were exempted from estate duty but have subsequently been lost. The definition of loss will include theft and destruction by fire, although HMRC will have the discretion not to impose a charge when such a loss is not attributable to the negligence of the owner.

I turn now to the five amendments that the Government have tabled to clause 86. They are being made in response to comments we received following publication of the Finance Bill in 2016 and will ensure that the legislation works as intended. Amendment 122 clarifies that when an item is lost, HMRC will raise only a single charge for duty on the loss of the item, rather than a dual charge for the loss and breach of the conditions under which the item was originally exempt from duty.

Amendment 123 provides that clause 86 will apply to objects granted exemptions under the terms of the Finance Act 1975. That is necessary because the subsequent Finance Act 1976 failed to bring a discrete subset of material granted conditional exemption between March 1975 and April 1976 within the auspices of the new Act. If the legislation is not amended, such objects will be treated inconsistently with those exempted under the post-Finance Act 1976 regime. There are no good reasons to treat these exempted objects differently.

Amendment 124 ensures that in identifying the last death on which an object was passed, any death on or after 6 April 1976 is to be disregarded. That will ensure that the appropriate rate of estate duty is used. Amendments 125 and 126 make minor consequential changes to take into account the other amendments.

It goes without saying that the value of our culture and heritage to society is immeasurable. The changes that I have outlined will mean that our museums and galleries can continue to benefit from tax exemptions that will allow them to purchase more works of art for the enjoyment of the British public. The changes will also provide much needed consistency in the way that conditionally exempt objects are treated. I therefore hope that the clauses can stand part of the Bill.

Rebecca Long Bailey: The Minister has given us an articulate and detailed summary of how the clauses work in practice, so I will not go over too much of that again. I briefly note that the provisions make technical changes to the tax treatment of gifts or sales of property to public museums and galleries and objects of national scientific, historic or artistic interest respectively.

Clause 85 makes technical changes to support the exemption from inheritance tax of gifts or sales of property to public museums and galleries. It is necessary, as the Minister said, because recent changes in local authorities have led museum collections to be placed in charitable trusts. Those trusts do not presently fall within schedule 3 to the Inheritance Tax Act 1984, which describes the bodies that attract inheritance tax and capital gains tax relief. The clause simply rectifies that and moves the power to designate schedule 3 bodies from HMRC to HM Treasury. We have no issue

[Rebecca Long Bailey]

with this technical clause, but I am interested to know what the justification was for moving the power to add bodies to schedule 3 from HMRC to HM Treasury. As a general question, what assessment was made in the long term of the efficacy of local authorities in managing museums and galleries? The Minister might want to refer that question to another Department and get back to me in writing.

Clause 86 puts a stop to using existing law to pay inheritance tax at a lower rate than estate duty. Estate duty was replaced in 1975 by capital transfer tax, which was replaced by inheritance tax in 1984. However, legacy estate duty legislative provisions still remain in force in relation to exemptions given pre-March 1975. Estate duty can be levied at up to 80%, whereas inheritance tax is currently at 40%. The clause stops individuals using a gap in legislation to claim conditional exemption solely to facilitate a later sale of 40% instead of up to 80%.

There is also provision for HMRC to be able to raise a charge when the owner loses an estate duty exempt object. That leads me nicely on to Government amendments 122 to 126, which make technical changes to ensure that the legislation operates as intended. Amendment 122 clarifies the rules around HMRC's ability to raise a charge for duty on the loss of an item, so that it will raise only a single charge rather than a dual one. Amendments 123 and 124 ensure that the legislation works in specific circumstances, as intended, and amendments 125 and 126 simply make minor consequential changes. We are more than happy to support these clauses and Government amendments.

Question put and agreed to.

Clause 85 accordingly ordered to stand part of the Bill.

Clause 86

Estate duty: objects of national, scientific, historic or artistic interest

Amendments made: 122, in clause 86, page 143, line 6, after "as if", insert

"—

(a) after subsection (3) there were inserted—

"(3A) But where the value of any objects is chargeable with estate duty under subsection (2A) of the said section forty (loss of objects), no estate duty shall be chargeable under this section on that value."; and

(b) " .

Amendment 123, in clause 86, page 144, line 2, at end insert—

'(5A) In section 35 of IHTA 1984 (conditional exemption on death before 7th April 1976), in subsection (2), for paragraphs (a) and (b) substitute—

"(a) tax shall be chargeable under section 32 or 32A (as the case may be), or

(b) tax shall be chargeable under Schedule 5,

as the Board may elect.""

Amendment 124, in clause 86, page 144, line 9, at end insert

", and

(b) in sub-paragraph (4), after "40(2)" insert "or (2A)"."

Amendment 125, in clause 86, page 144, line 10, leave out "Subsection (6) has" and insert "Subsections (5A) and (6) have".

Amendment 126, in clause 86, page 144, line 11, after "referred to in", insert "section 35(2) of or"—*(Mr Gauke.)*

Clause 86, as amended, ordered to stand part of the Bill.

Clause 87

Apprenticeship levy

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

Government amendments 22 to 24.

Clauses 88 and 89 stand part.

Government amendments 25 and 26.

Clause 90 stand part.

Government amendment 27.

Clauses 91 to 108 stand part.

Government amendment 28.

Clauses 109 and 110 stand part.

New clause 2—*Review of the Apprenticeship Levy*—

'The provisions of this Act relating to the Apprenticeship Levy shall not come into force until the Chancellor of the Exchequer has laid before Parliament a report on how the levy will be implemented, including but not limited to information on how equitable treatment of the different parts of the UK will be assured in its implementation.'

Mr Gauke: I hope hon. Members will forgive me if I go through the various clauses and amendments. I hope they will take some consolation from the fact that this group will advance us some way down the amendment paper—I get the feeling that is the most popular thing I have said for some time.

2.42 pm

Sitting suspended for Divisions in the House.

3.6 pm

On resuming—

Mr Gauke: I was just warning the Committee that I had quite a bit to say on this group, and I am afraid we can no longer put back the moment when I have to say it.

The Government believe in apprenticeships because they are one of the most powerful motors of social mobility and productivity growth. There has been a rapid decline in the amount and quality of training undertaken by employers over the past 20 years. We must reverse that trend of under-investment in training, and that is what the apprenticeship levy seeks to achieve. The apprenticeship levy will be paid by larger employers across all sectors to fund the step change needed to improve the quality of apprenticeships and achieve 3 million starts by 2020. My remarks will cover clauses 87 to 110. I appreciate that they may be quite lengthy, but I hope that hon. Members will bear with me.

Clauses 87 to 89 cover the basic provisions. Clause 87 provides that the commissioners of Her Majesty's Revenue and Customs will be

"responsible for the collection and management of apprenticeship levy."

Clause 88 sets out the conditions under which the apprenticeship levy will be charged. Where an employer has a pay bill for a tax year, the levy will be charged at a rate of 0.5% of the total pay bill. Employers will have a £15,000 annual levy allowance, which means that in practice only employers with an annual pay bill that exceeds £3 million will pay the levy. However, as hon. Members will be aware, the Government's amendments to allow companies and charities to share the levy allowance within a group, which I will turn to later, make consequential amendments to clause 88 that allow the annual levy allowance to be less than £15,000 where a group of companies or charities decides to split the allowance across the group.

Clause 89 sets out which earnings will make up an employer's pay bill for the purposes of the apprenticeship levy. Pay bill comprises earnings that are subject to secondary class 1 national insurance contributions—NICs—including earnings below the NICs secondary threshold. That effectively means that pay bill is comprised of the gross cash earnings of all employees and will exclude any employer-provided benefits. Clauses 88 and 89 provide that the person liable to pay the apprenticeship levy is the secondary contributor; that is, the person who incurs the secondary class 1 NICs liability on an individual's earnings.

Clauses 90 and 91 provide rules for connected companies and connected charities respectively. The rules will determine whether two or more companies or charities are considered to be connected for the purposes of the apprenticeship levy at the start of each tax year. The rules will prevent connected companies from claiming multiple levy allowances. The Finance Bill, as introduced, provides that, where companies or charities are deemed to be connected with one another, only one company or charity in the group will be entitled to the annual levy allowance. However, the Government have tabled amendments to allow connected companies and connected charities to share the allowance within their group as they choose. I will outline the effects of the amendments after addressing the remaining clauses.

The rules for determining whether companies are connected for the purposes of the apprenticeship levy will be the same as the rules set out in part 1 of schedule 1 to the National Insurance Contributions Act 2014 for determining whether companies are connected for the purposes of the employment allowance—the employment allowance allows employers to reduce their total national insurance liability by up to £3,000 a year. The connection rules for the apprenticeship levy have been adapted from provisions in existing tax legislation. The employment allowance connected companies rules are similar to the associated companies rules in sections 25 and 27 to 30 of the Corporation Tax Act 2010.

The meaning of "connected charities" for the purposes of the apprenticeship levy allowance is set out in clauses 107 and 108. The rules for determining whether charities are connected will be the same as the rules set out in part 2 of schedule 1 to the NICs Act. The employment allowance connected charities rules are similar to the connected charities provisions in section 5 of the Small Charitable Donations Act 2012. The advantage of following the employment allowance rules is that where companies and charities know that they are connected for the purposes of the employment allowance, they will also know that they are connected for the purposes of the apprenticeship levy.

The anti-avoidance provisions for the levy are addressed by clauses 92 and 93. Clause 92 sets out that where an employer stands to gain a tax advantage as a result of avoidance arrangements relating to the levy allowance, it will not be entitled to the allowance for the tax year in question. That includes any attempt to bring forward or delay an employee's earnings to alter the tax year in which those earnings are paid. The term "avoidance arrangements" is given a wide meaning and includes any arrangements where the main purpose, or one of the main purposes, is to secure a benefit in relation to liability for the levy.

Clause 93 extends the existing anti-avoidance legislation applying to PAYE and NICs so that it can be applied to the apprenticeship levy. That includes HMRC's rules on the disclosure of tax-avoidance schemes, the general anti-abuse rule, HMRC's system of accelerated payments in relation to avoidance schemes and HMRC's rules on the formation of tax avoidance schemes.

Clauses 94 to 99 relate to the administration of the apprenticeship levy. Clause 94 gives HMRC powers to provide, through regulations, for the assessment, payment, collection and recovery of the levy. Employers will be required to pay the levy with their PAYE and class 1 NICs, which will allow us to apply the £15,000 levy allowance on a monthly and cumulative basis. Applying the allowance on such a basis will ensure an even flow of payments into employers' digital apprenticeship accounts, which levy-paying employers will be able to use to pay for training and assessment of apprenticeships, thereby enabling them to start employing apprentices. The clause also provides the power to make regulations to provide for reporting the levy and making returns as part of HMRC's real-time information system.

There are also regulation-making powers to prescribe how HMRC may make assessments where employers have failed to make an apprenticeship levy return or where there is an underpayment. Regulations may also provide for the repayment of the apprenticeship levy in circumstances where the levy is paid in error or where there needs to be repayment or remission of interest. The clause also provides that regulations may set out the appeal process for any matters arising under the assessment, payment and collection regulations.

3.15 pm

In keeping with the collection and recovery of the levy, clause 95 gives HMRC the power, through regulations, to provide for the transfer of the apprenticeship levy liability to others if the employer liable for paying the levy does not do so and the funds are irrecoverable. The power will enable regulations to allow treatment of apprenticeship levy debt to be in line with the treatment of debt relating to income tax and national insurance.

Clause 96 provides the power to make regulations for the apprenticeship levy, which mirror those for PAYE and NICs, for supplying information to HMRC from relevant service providers, such as payroll administrators.

Clause 97 sets out the time limits for assessment to be made on an employer's apprenticeship levy payments, and provides that no assessment may be made on an employer's apprenticeship levy payments more than four years after the end of the tax year in question. There are, however, two exceptions to that rule. The limit can be extended to six years when the loss of payment has been brought about through the carelessness of the employer. The limit can be extended to 20 years when the employer has deliberately arranged that. Again, the intention is to align the apprenticeship levy position with that of PAYE as far as possible.

It is important to protect the earnings of individuals so that employers do not pass the direct costs of the levy on to employees. Clause 98 addresses that, meaning that it will not be possible for employers to make deductions from the earnings of their employees or seek to recover some or all of the levy's cost through the earnings of their employees.

Philip Boswell (Coatbridge, Chryston and Bellshill) (SNP): Although the Scottish National party supports clause 98, we feel that its definition is a little loose. We have concerns that it might not prohibit employers from recouping the cost of the apprenticeship levy as intended. The lowering of salaries for any new positions advertised is an example. Does the Minister agree?

Mr Gauke: Clause 98 goes as far as is practical. It seeks to address the matter. No doubt the hon. Gentleman will raise that point during the debate, and I will be happy to respond with further details, but we believe that clause 98 strikes the right balance.

Clause 99 makes provision for HMRC to recover underpayment of the apprenticeship levy. HMRC will be able to recover unpaid apprenticeship levy from employers and may undertake court proceedings to facilitate that. That will work in the same way that it does for income tax under the relevant section of the Taxes Management Act 1970.

Moving on to the information and penalties clauses, clause 100 gives HMRC the power to prescribe in regulations which records need to be retained by employers in connection with the apprenticeship levy. Clause 101 extends HMRC's information and inspection powers under schedule 36 of the Finance Act 2008 to the apprenticeship levy. Clause 102 gives HMRC permission to charge penalties for errors on returns, late payments and failures to return payments in relation to the apprenticeship levy. The intention is to ensure, as far as possible, that the apprenticeship levy position is aligned with that of PAYE and NICs. Clause 103 sets out that an employer may appeal against an HMRC assessment of the apprenticeship levy or other amounts. It specifies the notice period and process for dealing with such appeals, which follows part 5 of the Taxes Management Act 1970.

The final group of clauses deals with more general matters. Clause 104 applies HMRC's information and inspection powers for tax agents who engage in dishonest conduct to the apprenticeship levy, as set out under schedule 38 to the Finance Act 2012. Clause 105 amend the Provisional Collection of Taxes Act 1968 to facilitate future changes to the apprenticeship levy. Clause 106 sets out that:

"This Part binds the Crown."

Clauses 107 and 108, which relate to clause 91, respectively set out the rules for determining whether two or more charities are connected. Those rules are the same as those set out for the employment allowance, so they will be familiar to employers. Clause 109 defines expressions used in relation to the apprenticeship levy.

Finally, clause 110 sets out the process for making regulations relating to the apprenticeship levy. Regulations will be by statutory instrument and subject to the negative procedure in the House of Commons, with the exception of the Treasury commencement order to bring into force penalties for errors in relation to the levy.

I now turn to the apprenticeship levy amendments. Amendments 22 to 25 and amendment 27 all concern the rules relating to connected companies and charities and the levy allowance of £15,000. As I mentioned earlier when outlining clauses 88, 90 and 91, the Government have tabled amendments to enable groups of connected companies or charities to share the £15,000 levy allowance. The original proposal was that, if a group of companies or charities were connected, any one of them could apply the allowance. That followed the approach of the employment allowance, which has worked well. However, in response to representations, we have considered the matter further and have concluded that that would lead to a significant increase in the employer population subject to the levy, which was never the intention.

The amendments to clauses 90 and 91 and the consequential amendment to clause 88 will, therefore, allow a group of connected employers to decide what proportion of the levy allowance each of them will apply. The group must decide the allowance split at the beginning of the tax year and it will be fixed for that year unless a correction is necessary because the total amount of the levy allowance exceeds £15,000. Connected employers must notify HMRC of the amount of allowance to be applied for their PAYE schemes, and where that does not occur, or where the total notified does not equal £15,000, the amendments allow for the levy allowance to be determined by HMRC if the employer fails to take corrective action. Employers and their representatives have welcomed our decision to bring forward the amendments and I hope that Committee members will join in supporting the change.

Amendments 26 and 28 are technical amendments that seek to clarify the definition of "company" in clauses 90 and 109 to avoid any uncertainty and to ensure that the provisions are clear. I will also address new clause 2, tabled by SNP Members. The new clause seeks to delay the implementation of the apprenticeship levy until a report has been laid before Parliament on how different parts of the UK are equitably treated when the levy is eventually implemented.

I acknowledge that it is in everyone's interest to ensure that the levy works for employers wherever they may operate. However, SNP Members will be pleased to know that we have already published employer guidance, which explains how the levy will work for employers right across the UK. Publishing another report will not, therefore, reveal new information to help employers, and delaying implementation of the levy would be unfair on employers who have been working hard to prepare for it as well as on potential apprentices who will benefit. I am sure that Members on both sides of

the Committee will agree that the vocational skills system urgently needs investment and it is only fair that employers play their part if they want better-quality apprenticeships, which I believe they do. I also believe that they will engage with the levy to make it work for them.

The clauses on the apprenticeship levy will enable the Government to deliver their objective of increasing the quality and quantity of apprenticeships and to meet their target to deliver 3 million apprenticeship starts by 2020.

Ruth Cadbury (Brentford and Isleworth) (Lab): The Minister mentioned the quality of the apprenticeship scheme and I want to put down a marker that some employers, such as Brompton Bikes, which employs many people in my constituency—it was, until a few weeks ago, based there—have to pay into the levy, by the looks of it, because of the size of their operation, but are not able to benefit from the national apprenticeship scheme for the key subsection of their young staff who will be skilled braziers. That is because brazing is a specialist skill and there are too few people doing it for there to be national accreditation. However, brazing is an essential part of building Brompton bikes and giving them the quality they have. Such employers have to pay the levy without getting the benefit for at least half of their eligible workforce. They have to fund that training themselves, on top of the levy. Will the Minister take that point back to his Department?

Mr Gauke: I am grateful to the hon. Lady for raising that issue. Our discussions this afternoon are focused on the raising of expenditure, and the Department for Business, Innovation and Skills is leading on how that money can be spent. However, it is perfectly reasonable for her to make that point. I encourage businesses to engage with BIS on how the apprenticeship levy can be spent to ensure that it goes to the right places and creates a more highly skilled workforce. The Minister for Skills, my hon. Friend the Member for Grantham and Stamford (Nick Boles), is engaging with businesses in many sectors up and down the country to ensure that we have the right set of rules in place. I hope that hon. Members will recognise that the Government amendments are sensible revisions, and that they will accept that the SNP amendment is not needed, as we have already published detailed guidance on how the levy will operate for employers across the UK.

I want to reiterate the importance of investing in apprenticeships, which are a powerful tool for enabling social mobility and driving productivity growth. They equip people with the skills they need to compete in the labour market, and enable employers to grow their businesses. The apprenticeship levy will put employers in control and give them an even greater say in the quality, value for money and relevance of the training that their apprentices receive.

Roger Mullin: I rise to speak to new clause 2. I commend the Minister for mentioning the importance of productivity and of generating much more investment. I am sure everyone in the Committee agrees wholeheartedly. However, the problem of productivity relates to particular strata of apprenticeships—for example, higher-skilled apprentices are needed. Fundamental questions are being asked in the different jurisdictions of the UK about how best to address that. Although one levy system is being imposed in the UK, different forms of apprenticeships are being created. There is some anxiety among employers and different Government agencies about whether the Government should be moving at this pace before these matters are clarified.

This is a probing new clause. I simply ask the Minister to address a few short questions to assist our further thinking. First, in the designing of the levy system, was account taken of the fact that different apprenticeship systems operate with different funding levels in different parts of the United Kingdom?

Secondly, we know that some of the systems and administrative arrangements that are being put in place vary considerably from one part of the UK to another. To what extent does the Minister accept that the levy may be top-sliced to fund some of those systems? For example, as he is aware, the digital voucher system that is planned for England will not operate in Scotland. Is it to be funded separately, or will the funding come out of the levy costs?

Thirdly, who has to pay this levy? It makes a lot of sense, and the Minister talked eloquently about businesses, but it is not merely traditional businesses that are expected to pay the levy. In Scotland, further education colleges are the biggest provider of the education that supports the apprenticeship system. On the latest calculation, they will collectively have to pay approximately £1.9 million for the apprenticeship levy, when we expect them to be the main providers of education training. I would like to hear the Government explain why colleges and some large training providers are expected to pay the levy. Will that not dilute their resources for investment in quality apprenticeships?

With those questions, I would like to hear some of the Government's further reasoning. I think that there is a case, which has been made to us by many employers and agencies, for the Government to take their time and be careful about implementing the levy.

Philip Boswell: I fully support the comments of my hon. Friend the Member for Kirkcaldy and Cowdenbeath. I rise to speak to a different issue relating to the clause. I have concerns about the apprenticeship levy and its application and implementation in the devolved Administrations. Skills policy is devolved, so the design and implementation of the apprenticeship programme in Scotland are devolved to Holyrood. Such programmes are also devolved to the Welsh and Northern Irish Assemblies.

3.30 pm

The UK Government stated previously that £500 million will be allocated to the devolved Administrations from the receipts related to the apprenticeship levy. I understand that there have been discussions between the UK and Scottish Governments about how much money will be allocated to Scotland from those receipts, through Barnett consequentials. Nevertheless, I am concerned that if the Bill goes through as drafted, the Scottish Government will not get back what Scottish businesses pay into the levy, which will not be the case in England.

Just last week I received an answer to written question 41015, in which I asked what assessment had been made of how much Scottish businesses would pay under the apprenticeship levy. The Government responded:

"Regional level estimates of those likely to pay the Apprenticeship Levy are not available."

That answer is insufficient. Prior to implementation of the apprenticeship levy, will the Minister consult on determining how much businesses in devolved regions will pay under the levy? Furthermore, the Scottish Government's Employability Minister, Jamie Hepburn, stated that the UK Government's apprenticeship levy

"undermines our uniquely Scottish approach"

to modern apprenticeships. Given that skills policy is devolved, does the Minister intend to do further work with the Scottish Government to ensure that the implementation of the levy does not impede the Scottish approach to apprenticeships? I commend new clause 2 to the Committee.

Kirsty Blackman: I understand that guidance on the apprenticeship levy has been released. The information I was able to find online said that further guidance on things such as provisional bands would be released in June 2016, but I cannot find any. Perhaps it is just that I have been unable to find it, but it would be useful if that guidance was provided.

I draw attention to the issue with employee-owned companies. I was approached by such a company that pays its employees their share of the profits through PAYE, so that share of the profits will be subject to the apprenticeship levy. Had the company been set up to pay dividends to shareholders, it would not have to pay the levy. The staff there have come to me with a specific issue that is unique to them, because they would not have to pay the levy if their company was structured differently. Will the Minister comment on such employee-owned companies?

Rebecca Long Bailey: As we have heard, this substantial group of clauses introduces the apprenticeship levy that was announced in the summer Budget and autumn statement in 2015. I shall address my remarks to clauses 87 to 110 as a group, touching on new clause 2, tabled by the hon. Member for Kirkcaldy and Cowdenbeath, and Government amendments 22 to 28.

The apprenticeship levy was announced in 2015 and will come into force in April 2017 as part of the Government's commitment to reaching 3 million apprenticeships by 2020. The levy will be charged on large employers with annual pay bills in excess of £3 million. According to the HMRC policy paper, that means that less than 2% of employers will pay the levy. It will be charged at 0.5% of an employer's pay bill through PAYE. Each employer will receive one annual allowance of £15,000 to offset against its levy payment. Employers operating multiple payrolls will be able to claim only one allowance. As we have heard, levy funds will be retained as electronic vouchers in a digital apprenticeship service account. The employer can spend these vouchers on training and end-point assessment from accredited apprenticeship providers, but not on associated costs such as administration of apprenticeships, pay or allowances.

According to the Government's costings, the levy is expected to raise £2.7 billion in its first financial year, rising to just over £3 billion by 2020-21. HMRC's policy paper states specifically:

"It is expected that the levy will support productivity growth through the increase in training. It may have a near-term impact in reducing earnings growth, although by supporting increased productivity, it is expected that the levy will lead to increased profitability for businesses, and increased wages over the long-term."

The paper also assesses the impact on business, stating:

"For employers paying the levy, the measure is expected to have some impact on administration costs and the impact will vary by employer, depending on the size of their pay bill. The policy intention is that they will calculate and pay the levy on a monthly basis. HM Revenue and Customs (HMRC) will engage with employers to discuss and assess the impacts on them."

Opposition Members are certainly happy to support the introduction of the apprenticeship levy, but we have some concerns that we would like the Minister to provide some reassurances on.

Business representatives have broadly welcomed the levy as a commitment to delivering increased apprenticeship places. However, they have widely expressed concern at the short timeframe for implementation, the lack of guidance to date ahead of the introduction and the limitations that the proposals place on expenditure. Indeed, the Confederation of British Industry has called for a "realistic lead-in time" and for

"taking the time to get this right",

while EEF, the Manufacturers Organisation, has specifically called for a delay to the levy's introduction full stop.

In addition, the high target of 3 million apprenticeship starters by 2020 has caused concern that there could be a race to the bottom in terms of the quality of apprenticeships. Mark Beatson, chief economist at the Chartered Institute of Personnel and Development, has said:

"We'd argue that the three million target should not be sacrosanct, and that quantity should not trump quality."

Can the Minister therefore outline what regulatory framework or safeguards are in place to ensure that the quality of apprenticeships is up to scratch?

The Charity Finance Group is particularly concerned that the charitable sector does not have highly developed human resources departments or accredited apprenticeship training schemes. The sector remains reliant on volunteers whose expenses cannot be remunerated via the apprenticeship levy. The CFG is also concerned that significant charity resources are tied up in public sector contracts or that charitable donors will seek confirmation that their donations will fund a charity's specific cause.

Indeed, public sector employers themselves have expressed concern that, first, the levy is being introduced at a time of severe funding cuts and, secondly, that it is accompanied by a new requirement in the sector to ensure that 2.3% of workers are apprentices. The Local Government Association has urged that local authorities be exempted from payment but given authority to oversee administration of levy funds locally. Can the Minister confirm that the Government have considered that approach?

There may be scope for local authorities to co-ordinate. For instance, councils could take up a commissioning role in the Digital Apprenticeship Service, or unallocated

levy funding could be reallocated to contributing areas and commissioned locally rather than being retained centrally.

Another issue that I would like the Minister to shine some light on today is agency workers and large recruitment agencies. In particular, the largest recruitment agencies have expressed concern to me that they will be liable to make large levy payments for placing employees in other companies, including for periods that would not qualify for a quality apprenticeship—over 12 months.

The Recruitment and Employment Confederation has raised concerns that large recruitment agencies will have to pay the levy on their pay bill when they place employees in temporary employment in different workplaces, so that those employees are paid by the agency but not working for it. Indeed, the TUC has expressed concern that agency contracts may be used by employers to lower their PAYE bill and reduce their levy requirement. Opposition Members are really concerned about that, so can the Minister say what steps are in place to ensure that it does not happen?

Finally, I have some concerns about how the levy will work under a devolved Administration, and I think that the hon. Member for Kirkcaldy and Cowdenbeath shares those concerns, as do his colleagues. That is reflected in new clause 2, where they have requested a review addressing how equitable treatment of the different parts of the UK will be assured in its implementation. Throughout their submissions they have asked some very pertinent questions, and I look forward to hearing the Minister's responses to them.

The levy will be UK-wide, so employers operating across the devolved nations will pay their contribution based on all their UK employees, irrespective of where they live or work. However, the vouchers that levy-paying employers will be allocated—they can spend them on apprenticeship training—will be based only on the portion of the levy that they pay on the pay bill for their English employees. Funds available for training in devolved Administrations are provided through the block grant, and allocation will be decided upon by the Administration.

There appears to be very little guidance on how the apprenticeship levy will work in the devolved Administrations, so I would be grateful if the Minister could provide more detail today. For example, will the funds levied from a company's UK operations based in devolved nations be identifiable in the grants made to devolved Administrations? We will support new clause 2 if it is pushed to a vote today.

I turn now to Government amendments 22 to 28, which relate to clauses 88, 90, 91 and 109. Clause 90, as drafted, states that where there is an aggregate pay bill of a group of connected companies that will qualify to pay the apprenticeship levy and each would be entitled to a levy allowance, only one will in fact be entitled to the allowance. The connected companies must nominate which company will qualify. Similarly, clause 91 sets out that at the beginning of the tax year, where two or more qualified charities are connected with one another, only one will be entitled to the levy allowance to be offset against the apprenticeship levy.

Government amendments to those two clauses allow companies and charities that are connected for the purposes of the apprenticeship levy to share their annual levy allowance of £15,000 between them, instead of only one company or charity being entitled to the allowance. There is also a consequential amendment to clause 88, which, according to the Minister's letter,

> "allows for the levy allowance not being the full £15,000, if a group of connected employers choose to split it under sections 90 or 91."

The Government have stated that these changes are in response to representations they have received, and the Opposition are also aware of concerns from stakeholders about the legislation as currently drafted. We therefore fully support these amendments.

Amendments 26 and 28 are technical amendments that clarify that the definition of a company in clause 90 applies to the whole of part 6 of the Bill relating to the apprenticeship levy. Again, we are happy to support these Government amendments.

In conclusion, the Opposition have long called for Government action to drive growth in productivity. That is the underlying problem that the Chancellor has failed to deal with time and again. Supporting apprenticeships is certainly an important factor in doing so, and we are therefore supportive of these measures in the Bill. However, we have some serious concerns about the machinery of the specific clauses, as I have outlined, and I hope that the Minister can address them in his response.

Mr Gauke: Let me see if I can address the points that have been raised in the debate. It has been argued that business organisations are calling for a delay in implementation. We recognise that employers have concerns about the development and planned implementation of the levy, but we urgently need to address the skills shortage in our economy and improve the quality of vocational training, which employers are calling for. We are holding regular working groups with various employers and employer groups in order to keep them updated on progress and the timing of announcements, and we will shortly be publishing draft funding rates and rules to provide further information to help them plan for the introduction of the levy. The hon. Member for Aberdeen North is not wrong: there is still further information that needs to be published. That information will be published shortly.

Our focus is on ensuring that the levy works for businesses of all sizes as they adapt and seize opportunities in the coming months. In April we set out how the operational model for the apprenticeship levy and the new digital apprenticeship service will work, and how the funding of apprenticeship training will change. We continue to work with employers to design the apprenticeship levy around their needs, and we will publish further details of the draft rates and rules shortly.

Picking up on the point raised by the hon. Member for Brentford and Isleworth about Brompton Bikes and the particular concern about niche areas such as braziers, a key part of reform to apprenticeships is the trailblazer programme, which invites employers to create their own standards. It needs 10 employers, but in exceptional cases the Department for Business, Innovation and Skills is happy to accept smaller, more niche specialisms, such as braziers. I encourage all employers in such circumstances to enter into dialogue with BIS.

3.45 pm

Points have been made about the devolution aspects and how the measures will work in Scotland in particular. Skills policy is of course devolved, and it is right that the devolved nations should get their fair share of the levy. For that reason, it is fair that the UK Government should allocate only the levy paid in respect of employees in England. We know that some employers have cross-border operations and training activity. We are working with the devolved Administrations to make the measures work while ensuring that they continue to have complete flexibility in how they support employers through training and by taking on apprentices.

We are committed to doing all we can to make the system work for employers wherever they are in the UK. As part of that, the Government are helping employers across the UK by abolishing employers' NICs for apprentices under the age of 25, making it about £1,000 cheaper to employ an apprentice under 25 on a salary of £16,000. We are also abolishing employer NICs for employees under the age of 21. We will continue to work with the devolved authorities on this matter.

On the point raised by the hon. Member for Kirkcaldy and Cowdenbeath about the application to FE establishments, there will be no carve-outs from the levy. It is a charge across all employees in all sectors—public, private and charitable. We have tried to be as fair as possible in coming to a decision. Given the number and range of apprenticeship standards and frameworks, there is no reason why employers across all sectors should not be able to take advantage of the funds that they pay in levy and take on apprentices. We ask employers to think about opportunities or develop a new apprenticeship standard to meet their needs.

Similar arguments apply to charities. It is sometimes argued that charities are not well placed to use the levy funds that they may have to pay. Of course, any charities with annual pay bills greater than £3 million will have to pay the levy. Like any other employer, charities can use the levy payment to fund apprenticeships. The Government strongly encourage the charity sector to engage with the levy and consider where it might benefit from apprenticeships or be able to turn in-house training into a formal apprenticeship scheme. A range of apprenticeships are available in areas such as business administration, finance and legal work. If there are currently no apprenticeships available in occupations in which employers would like to employ apprentices, employers should consider applying to develop apprenticeship standards for those occupations.

The hon. Member for Aberdeen North raised the issue of bonus payments and the fact that they will incur the apprenticeship levy. We wanted to ensure that the levy would be as simple and fair as possible for employers. The Government have therefore decided to use the existing definition of "earnings" used for employer NICs, which includes bonus payments. This avoids adding unnecessary complexity to the system, as there is already a suitable definition with which employers are already familiar. This point was repeatedly made to us when consulting on the design of the levy last summer. We recognise the significant contribution that employee ownerships make to the economy, which is why we introduced tax reliefs around employee ownership trusts.

Kirsty Blackman: A number of people have got in touch on this point. I would appreciate it if the Government could keep it in mind going forward, and consider making changes. Employee ownership is really important, and going forward we will have more and more employee-owned companies. I do not want people to be discouraged from taking that route because they will have to structure their pay bills differently as a result of the apprenticeship levy.

Mr Gauke: I note the point the hon. Lady makes. The difficulty is that carving out bonuses that are distributed to employees of owner-managed businesses from the definition of earnings would increase the incentive to remunerate employees via bonuses rather than regular salary. That could create adverse incentives, and would also have a damaging impact on public finances. I understand why the hon. Lady raises this point, but I hope that she appreciates why we have not gone down that particular route.

On the point made by the hon. Member for Salford and Eccles about employment agencies, the apprenticeship levy will be payable by employers who pay earnings subject to class 1 secondary NICs. Where an employment agency supplies labour to a client and is the NICs secondary contributor for those workers, the agency will, like any other employer, be liable to pay the apprenticeship levy, provided that its annual pay bill is in excess of £3 million.

Apprenticeships are now the cornerstone of the skills system and provide opportunities for all sectors and all levels. Everyone stands to benefit from the better-skilled workforce that the apprenticeship levy will help to deliver. It is right that everyone plays their part and contributes to that. There is no reason why an agency could not take advantage of the drawdown from its levy account, if it satisfied the relevant criteria. We are introducing a number of flexibilities in funding for apprenticeships, such as the ability to use funding for equivalent and lower-level apprenticeships where the training is materially different from the learner's existing qualification or leads to training in a new profession.

On the point raised by the hon. Member for Kirkcaldy and Cowdenbeath about top-slicing for England-only programmes, let me reassure him that we will not top-slice levy accounts to fund administration costs. To answer his question about what regulatory framework will ensure appropriate quality, the levy is just part of the Government's reforms designed to improve the quality of apprenticeships. We are creating a new institute for apprenticeships to monitor quality standards, and employer-led trailblazer groups, which I touched upon a moment ago, and which allow employers to design new training standards. There are also funding rules; they require 20% off-the-job training and that apprenticeships must last one year. The Ofsted inspection regime applies to English training providers in order to guarantee quality, and there is the levy itself, which fosters employee ownership.

On the devolved authority funding mechanism, we are committed to doing all we can to make the system work for employers, wherever they are in the UK. I am pleased to see that the Scottish Government will shortly consult on how the apprenticeship levy could enhance productivity and growth in Scotland, and I would encourage other devolved nations to do the same. It will not be possible to identify individual employer contributions

in the block grant; I wanted to provide that point of clarity. On the wider issue of productivity, the Government remain committed to improving productivity by increasing the quantity and quality of apprenticeships. The apprenticeship levy will enable us to do that. That is why I am pleased that we have these clauses in front of us, and I hope that they will have the support of the Committee.

Question put and agreed to.

Clause 87 accordingly ordered to stand part of the Bill.

Clause 88

CHARGE TO APPRENTICESHIP LEVY

Amendments made: 22, in clause 88, page 144, line 32, leave out

"any of sections 90 to"

and insert "section".

Amendment 23, in clause 88, page 144, line 33, leave out "of £15,000".

Amendment 24, in clause 88, page 144, line 33, at end insert—

'( ) The amount of the levy allowance is £15,000 (except where section 90 or 91 provides otherwise)."—*(Mr Gauke.)*

Clause 88, as amended, ordered to stand part of the Bill.

Clause 89 ordered to stand part of the Bill.

Clause 90

CONNECTED COMPANIES

Amendments made: 25, in clause 90, page 145, line 33, leave out subsections (1) to (3) and insert—

'(1) Two or more companies which are not charities form a "company unit" for a tax year (and are the "members" of that unit) if—

(a) they are connected with one another at the beginning of the tax year, and

(b) each of them is entitled to a levy allowance for the tax year.

(2) The members of a company unit must determine what amount of levy allowance each of them is to be entitled to for the tax year (and the determination must comply with subsections (3) and (3A)).

But see subsections (3C) and (3H).

(3) A member's levy allowance for a tax year may be zero (but not a negative amount).

(3A) The total amount of the levy allowances to which the members of a company unit are entitled for a tax year must equal £15,000.

(3B) A determination made under subsection (2) (with respect to a tax year) cannot afterwards be altered by the members concerned (but this does not prevent the correction of a failure to comply with subsection (3A)).

(3C) If subsection (3E) applies—

(a) HMRC must determine in accordance with subsection (3D) what amount of levy allowance each of the relevant members (see subsection (3E)(a)) of the unit concerned is to be entitled to for the tax year, and

(b) accordingly subsection (2) is treated as never having applied in relation to that company unit and that tax year.

(3D) The determination is to be made by multiplying the amount of levy allowance set out in each relevant return (see subsection (3E)(a)) by—

$$\frac{15{,}000}{T}$$

where T is the total of the amounts of levy allowance set out in the relevant returns.

The result is, in each case, the amount of the levy allowance to which the relevant member in question is entitled for the tax year (but amounts may be rounded up or down where appropriate provided that subsection (3A) is complied with).

(3E) This subsection applies if—

(a) HMRC is aware—

(i) that two or more members of a company unit ("the relevant members") have made apprenticeship levy returns ("the relevant returns") on the basis mentioned in subsection (3F), and

(ii) that those returns, together, imply that the total mentioned in subsection (3A) is greater than £15,000,

(b) HMRC has notified the relevant members in writing that HMRC is considering taking action under subsection (3C), and

(c) the remedial action specified in the notice has not been taken within the period specified in the notice.

(3F) The basis in question is that the member making the return is entitled to a levy allowance (whether or not of zero) for the tax year concerned.

(3G) If any member of the company unit mentioned in subsection (3E)(a) is not a relevant member, that member is entitled to a levy allowance of zero for the tax year.

(3H) If subsection (3J) applies—

(a) HMRC must determine in accordance with subsection (3I) what amount of levy allowance each of the members of the unit concerned is to be entitled to for the tax year, and

(b) accordingly subsection (2) is treated as never having applied in relation to that company unit and that tax year.

(3I) Each member of the unit is to be entitled to a levy allowance for the tax year equal to—

$$\frac{£15{,}000}{N}$$

where N is the number of the members of the company unit for the tax year.

Amounts determined in accordance with the formula in this subsection may be rounded up or down where appropriate provided that subsection (3A) is complied with.

(3J) This subsection applies if—

(a) the total amount paid by the members of a company unit in respect of apprenticeship levy for a tax year or any period in a tax year is less than the total of the amounts due and payable by them for the tax year or other period concerned,

(b) either the members of the unit have made no apprenticeship levy returns for any period in the tax year concerned or the returns that have been made do not contain sufficient information to enable HMRC to determine how the whole of the £15,000 mentioned in subsection (3A) is to be used by the members of the unit for the tax year,

(c) HMRC has notified all the members of the unit in writing that HMRC is considering taking action under subsection (3H), and

(d) the remedial action specified in the notice has not been taken within the period specified in the notice.

(3K) Subsection (3A) is to be taken into account in calculating the total of the amounts due and payable as mentioned in subsection (3J)(a).

(3L) The Commissioners may by regulations provide that in circumstances specified in the regulations the members of a company unit may alter a determination made under subsection (2) (despite subsection (3B)).

(3M) In this section "apprenticeship levy return" means a return under regulations under section 94(4)."

Amendment 26, in clause 90, page 146, line 1, leave out "section" and insert "Part"—*(Mr Gauke.)*

Clause 90, as amended, ordered to stand part of the Bill.

Clause 91

CONNECTED CHARITIES

Amendment made: 27, in clause 91, page 146, line 5, leave out subsections (1) to (3) and insert—

'(1) Two or more charities form a "charities unit" for a tax year (and are the "members" of that unit) if—

(a) they are connected with one another at the beginning of the tax year, and

(b) each of them is entitled to a levy allowance for the tax year.

(2) The members of a charities unit must determine what amount of levy allowance each of them is to be entitled to for the tax year (and the determination must comply with subsections (3) and (3A)).

But see subsections (3C) and (3H).

(3) A member's levy allowance for a tax year may be zero (but not a negative amount).

(3A) The total amount of the levy allowances to which the members of a charities unit are entitled for a tax year must equal £15,000.

(3B) A determination made under subsection (2) (with respect to a tax year) cannot afterwards be altered by the members concerned (but this does not prevent the correction of a failure to comply with subsection (3A)).

(3C) If subsection (3E) applies—

(a) HMRC must determine in accordance with subsection (3D) what amount of levy allowance each of the relevant members (see subsection (3E)(a)) of the unit concerned is to be entitled to for the tax year, and

(b) accordingly subsection (2) is treated as never having applied in relation to that charities unit and that tax year.

(3D) The determination is to be made by multiplying the amount of levy allowance set out in each relevant return (see subsection (3E)(a)) by—

$$\frac{15{,}000}{T}$$

where T is the total of the amounts of levy allowance set out in the relevant returns.

The result is, in each case, the amount of the levy allowance to which the relevant member in question is entitled for the tax year (but amounts may be rounded up or down where appropriate provided that subsection (3A) is complied with).

(3E) This subsection applies if—

(a) HMRC is aware—

(i) that two or more members of a charities unit ("the relevant members") have made apprenticeship levy returns ("the relevant returns") on the basis mentioned in subsection (3F), and

(ii) that those returns, together, imply that the total mentioned in subsection (3A) is greater than £15,000,

(b) HMRC has notified the relevant members in writing that HMRC is considering taking action under subsection (3C), and

(c) the remedial action specified in the notice has not been taken within the period specified in the notice.

(3F) The basis in question is that the member making the return is entitled to a levy allowance (whether or not of zero) for the tax year concerned.

(3G) If any member of the charities unit mentioned in subsection (3E)(a) is not a relevant member, that member is entitled to a levy allowance of zero for the tax year.

(3H) If subsection (3J) applies—

(a) HMRC must determine in accordance with subsection (3I) what amount of levy allowance each of the members of the unit concerned is to be entitled to for the tax year, and

(b) accordingly subsection (2) is treated as never having applied in relation to that charities unit and that tax year.

(3I) Each member of the unit is to be entitled to a levy allowance for the tax year equal to—

$$\frac{£15{,}000}{N}$$

where N is the number of the members of the charities unit for the tax year.

Amounts determined in accordance with the formula in this subsection may be rounded up or down where appropriate provided that subsection (3A) is complied with.

(3J) This subsection applies if—

(a) the total amount paid by the members of a charities unit in respect of apprenticeship levy for a tax year or any period in a tax year is less than the total of the amounts due and payable by them for the tax year or other period concerned,

(b) either the members of the unit have made no apprenticeship levy returns for any period in the tax year concerned or the returns that have been made do not contain sufficient information to enable HMRC to determine how the whole of the £15,000 mentioned in subsection (3A) is to be used by the members of the unit for the tax year,

(c) HMRC has notified all the members of the unit in writing that HMRC is considering taking action under subsection (3H), and

(d) the remedial action specified in the notice has not been taken within the period specified in the notice.

(3K) Subsection (3A) is to be taken into account in calculating the total of the amounts due and payable as mentioned in subsection (3J)(a).

(3L) The Commissioners may by regulations provide that in circumstances specified in the regulations the members of a charities unit may alter a determination made under subsection (2) (despite subsection (3B)).

(3M) In this section "apprenticeship levy return" means a return under regulations under section 94(4)."—*(Mr Gauke.)*

Clause 91, as amended, ordered to stand part of the Bill.

Clauses 92 to 108 ordered to stand part of the Bill.

Clause 109

GENERAL INTERPRETATION

Amendment made: 28, in clause 109, page 155, line 35, at end insert—

""company" has the meaning given by section90(5);"
—*(Mr Gauke.)*

Clause 109, as amended, ordered to stand part of the Bill.

Clause 110 ordered to stand part of the Bill.

The Chair: I remind the Committee that we will decide the question on new clause 2, if that is required, without further debate, when we reach it later on.

Ordered, That further consideration be now adjourned. —(*Mel Stride.*)

3.58 pm

Adjourned till Thursday 7 July at half-past Eleven o'clock.

Written evidence reported to the House

FB 01 Association of Taxation Technicians (clause 24)

FB 02 Association of Taxation Technicians (clause 32)

FB 03 Association of Taxation Technicians (clause 35)

FB 04 Low Incomes Tax Reform Group of the Chartered Institute of Taxation (clauses 87 to 110)

FB 05 Low Incomes Tax Reform Group of the Chartered Institute of Taxation (clause 155 and schedule 23)

FB 06 Electronic Money Association (calause 164)

FB 07 Chartered Institute of Taxation (clause 62)

FB 08 Chartered Institute of Taxation (clauses 87 to 110)

FB 09 Chartered Institute of Taxation (clause 117)

FB 10 Chartered Institute of Taxation (clauses 172 to 177)