

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

## Public Bill Committee

### SMALL CHARITABLE DONATIONS AND CHILDCARE PAYMENTS BILL

*Tuesday 18 October 2016*

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Programme motion agreed to.  
Written evidence (Reporting to the House) motion agreed to.  
CLAUSES 1 to 9 agreed to.  
New clauses considered.  
Bill to be reported, without amendment.

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**not later than**

**Saturday 22 October 2016**

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**The Committee consisted of the following Members:***Chairs:* NADINE DORRIES, † MRS MADELEINE MOON

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|--|--|
| † Blackman, Kirsty ( <i>Aberdeen North</i> ) (SNP)             | † Phillipson, Bridget ( <i>Houghton and Sunderland South</i> ) (Lab) |
| † Campbell, Mr Alan ( <i>Tynemouth</i> ) (Lab)                 | † Thewliss, Alison ( <i>Glasgow Central</i> ) (SNP)                  |
| † Double, Steve ( <i>St Austell and Newquay</i> ) (Con)        | † Tomlinson, Michael ( <i>Mid Dorset and North Poole</i> ) (Con)     |
| † Duddridge, James ( <i>Rochford and Southend East</i> ) (Con) | † Turley, Anna ( <i>Redcar</i> ) (Lab/Co-op)                         |
| † Ellison, Jane ( <i>Financial Secretary to the Treasury</i> ) | † Warburton, David ( <i>Somerton and Frome</i> ) (Con)               |
| † Glen, John ( <i>Salisbury</i> ) (Con)                        | † Wheeler, Heather ( <i>South Derbyshire</i> ) (Con)                 |
| † Heapey, James ( <i>Wells</i> ) (Con)                         |  |
| † Jones, Susan Elan ( <i>Clwyd South</i> ) (Lab)               | Matthew Hamlyn, <i>Committee Clerk</i>                               |
| † Long Bailey, Rebecca ( <i>Salford and Eccles</i> ) (Lab)     |  |
| † Mills, Nigel ( <i>Amber Valley</i> ) (Con)                   | † <b>attended the Committee</b>                                      |

## Public Bill Committee

Tuesday 18 October 2016

[MRS MADELEINE MOON *in the Chair*]

### Small Charitable Donations and Childcare Payments Bill

9.25 am

**The Chair:** Before we begin, I have a few preliminary announcements. Members may, if they wish, remove their jackets; I see some have already done so. I remind Members that no refreshments other than the water provided may be consumed during Committee meetings. Will all Members ensure that their mobile phones, pagers and iPads are off or turned to silent?

Not everyone is familiar with the procedure of a Public Bill Committee, so it might help if I briefly explain how we will proceed. The Committee will first be asked to consider the programme motion on the amendment paper, for which debate is limited to half an hour. We will then proceed to a motion to report any written evidence. We will then begin line-by-line consideration of the Bill.

The selection list for today's sitting is available in the room. It shows how the clauses, amendments and new clauses have been grouped together for debate. Where a group includes the words "clause stand part", that means Members should make any remarks they wish to make about the content of the clause during the course of the debate. Clause stand part debates begin with the Chair proposing the question that the clause stand part of the Bill. There is no need for the Minister or any other Member to move that a clause stand part of the Bill. A Member may speak more than once, depending on the subject under discussion.

*Ordered,*

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 18 October) meet at 2.00 pm on Tuesday 18 October;

(2) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 18 October.—(*Jane Ellison.*)

*Resolved,*

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—(*Jane Ellison.*)

#### Clause 1

MEANING OF "ELIGIBLE CHARITY"

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

**The Financial Secretary to the Treasury (Jane Ellison):**

It is a pleasure to serve under your chairmanship, Mrs Moon. I am grateful to all Members for being here to examine the Bill in detail and to many Members for their participation in the good and constructive debate we had on Second Reading. I welcomed the Opposition's

pledge to support the principles of the Bill, and I hope that today we can submit the Bill to further constructive scrutiny.

I will give a little bit of general background information before specifically addressing clause 1. The Bill makes a number of amendments to the Small Charitable Donations Act 2012. I know there are Members present who served on the Committee responsible for considering that Bill. The changes will ensure that the gift aid small donations scheme operates effectively and flexibly for a greater number of charities and community amateur sports clubs. The Bill also makes minor and technical changes to the tax-free childcare scheme, to improve parents' experience.

The reforms to the gift aid small donations scheme are intended to simplify and increase access to it, particularly for new and small charities. We heard more about that on Second Reading. That will be achieved by removing a number of eligibility criteria to allow more small and new charities to benefit sooner, which I will discuss in a moment; reforming the community buildings rules to allow more charities to benefit from the important work they carry out in their local communities; simplifying the rule specifying the total top-up payment that charities and CASCs are entitled to claim, which will ensure fairness and parity of treatment between charities that carry out similar activities but are structured in different ways; and future proofing the scheme by allowing contactless donations to be eligible for top-up payments.

Clause 1 substantially simplifies the gift aid small donations scheme by removing two of the existing eligibility requirements, enabling smaller and new charities to access top-up payments much sooner. A number of charities have voiced support for that. Currently, a charity must have been registered for at least two full tax years and have claimed gift aid in at least two of the previous four tax years without a gap of longer than a year. However, the Government are keen to encourage take-up of the scheme, particularly among small and newer charities. Removing the two-year registration requirement will help to achieve that by allowing the up to 9,000 new charities that apply for recognition by Her Majesty's Revenue and Customs each year to receive top-up payments as soon as that recognition is granted.

During the Government's review of the small donations scheme, we heard about the difficulties faced by small charities making irregular or intermittent gift aid claims. The Government therefore consulted on relaxing the gift aid history requirement to only one year, rather than two. However, after listening to the views of the sector, we decided to go even further. Clause 1 removes the two-in-four-year gift aid history requirement entirely, which is a significant simplification for charities. The reforms are a good thing and have been widely welcomed by the charity sector.

The Charity Tax Group commented that relaxing the gift aid history requirement

"will hopefully widen access to the scheme, particularly among smaller charities."

The Charity Finance Group said:

"The Bill is scrapping these rules and this means that more charities will be eligible and will reduce complexity."

The removal of the two-year rule and the gift aid history requirement is a meaningful and significant simplification of the gift aid small donations scheme.

It will make the scheme more accessible to smaller and new charities. I hope that the clause stands part of the Bill.

**Rebecca Long Bailey** (Salford and Eccles) (Lab): It is a pleasure for me, too, to serve under your chairmanship, Mrs Moon.

As the Minister outlined, clause 1 amends the meaning of “eligible charity” for the purposes of the gift aid small donations scheme, removing the requirement for a charity to have been registered for at least two full tax years before it can access the scheme. The provision also removes the two-in-four-year claims rule, which dictates that a charity must have made a successful gift aid claim in at least two of the previous four tax years with no more than two years’ gap between claims. Those measures will simplify the scheme and allow newly formed charities to access the Government top-up payment.

I am pleased that the Government have taken heed of responses to their consultation on reform to the scheme and scrapped the two-in-four-year claims rule fully. The initial proposal was to replace the rule with the requirement that charities must have made a successful gift aid claim only in the previous tax year. I understand that respondents felt that that could disqualify some charities that are currently eligible for the scheme but did not claim gift aid in the previous tax year for a variety of reasons. In the light of that change, the measures are welcomed by the Opposition and the industry. We are happy to support them. However, I have one concern on which I hope the Minister can provide some reassurance.

The requirement for a charity to have been registered for two years is arguably a way of ensuring that charities are not set up for the purposes of claiming a top-up from the Government illegitimately. The Opposition have tabled a new clause about anti-fraud measures, which we will debate later, so I will not digress too much. However it would be helpful if the Minister would assure me that the Government have carried out an assessment of whether removing the two-year rule poses an increased risk of fraud. Other than that small but important point, the Opposition are happy to support the clause.

**Jane Ellison:** I thank the Opposition Front-Bench spokesperson for those points, for her support and for her specific question. By removing the two-year rule, we want the scheme to be more flexible and generous, but we want to ensure that there are some safeguards.

We debated the balance between flexibility, generosity and safeguarding charities on Second Reading. That is why, as the Government made clear in the original impact assessment, the lack of evidence that a cash donation has been made makes the gift aid small donations scheme vulnerable to fraud. We must continue to protect against that but—as we will come to later—that is one of the reasons why the Government are retaining the gift aid matching requirement, which provides sufficient protection while getting the light-touch regulatory balance right. I will say more about that later. I hope that my response is sufficient and that the clause stands part of the Bill.

*Question put and agreed to.*

*Clause 1 accordingly ordered to stand part of the Bill.*

## Clause 2

### MEANING OF “SMALL DONATION”

**Rebecca Long Bailey:** I beg to move amendment 1, in clause 2, page 2, line 1, leave out lines 1 to 6 and insert—

“(a) in the heading after “small”, delete “cash payment” and insert “donation”

(b) in sub-paragraph (1) omit the words “in cash”;

(c) after that sub-paragraph insert—

“(1A) The gift must be made—

(b) by cheque;

(c) by electronic communication; or

(d) by a contactless payment.”

(d) in sub-paragraph (3) after the definition of “cash” insert—

““cheque” means a written order instructing a bank to pay upon its presentation to the person designated in it, or the to the person possessing it, a certain sum of money from the account of the person who draws it;

“electronic communication” means a payment made via the internet or text message;”.

*This amendment would extend the range of methods by which payments can be made under the Gift Aid Small Donations Scheme.*

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

Amendment 2, in clause 2, page 2, line 1, after “contactless”, insert “or SMS message”.

Amendment 3, in clause 2, page 2, line 6, at end insert “, or

(c) by an SMS message”.

Clause stand part.

**Rebecca Long Bailey:** Clause 2 amends the types of donations eligible under the small donations scheme to include those made by contactless payment. Only cash payments under £20 are currently considered eligible donations. The Opposition support the clause but we question why contactless payments have been singled out in that way.

Amendment 1 would widen the scheme to include donations by text, by cheque or via the internet. A survey carried out by the Charity Finance Group for the National Council for Voluntary Organisations, the Institute of Fundraising and the Small Charities Coalition found that only 36% of the 340 charities surveyed wanted contactless payments to be included in the scheme. It also found that cheques were the method favoured for inclusion: more than 75% of respondents wanted them to be included. Half wanted text donations and two thirds wanted one-off online donations to be eligible. The amendment, which would include all those methods, is supported by the organisations mentioned and by the Charity Tax Group.

The Government’s likely response is that the methods do not need to be included in the scheme because a gift aid declaration can be provided, but the same logic applies to a bucket collection of cash donations: the fundraiser holding the bucket would simply need to hand over a pen and a piece of paper and—voilà—they have a gift aid declaration. However, the point is that it is difficult, albeit not impossible, to get the declaration.



[Rebecca Long Bailey]

Most people send a donation via text in a spur-of-the-moment decision. A follow-up text is then required to ascertain whether the donation is eligible for gift aid, and most people are not as responsive as we would like, so it makes sense to include donations via text in the scheme. As for cheques, I understand that someone who is able to sign a cheque is probably able to sign a gift aid declaration at the same time, but 75% of charities surveyed said that including cheques would increase the efficacy of the scheme for them, so I would be interested to hear the Minister's reasons for not doing so.

Amendments 2 and 3 would include SMS or text messages in the scheme. For the same reasons that I have already outlined, we see the logic in tabling them and we support them. I hope the Minister will accept our amendment or explain more fully her reasons for not accepting it, but I will not press it to a vote.

**Kirsty Blackman** (Aberdeen North) (SNP): We support the amendments. As has been stated, a number of charitable organisations have got together and have come back with a really comprehensive survey that says that charities are hugely in favour of such an approach.

The gift aid small donations scheme is a really good Government initiative that has done part of the job it was set up for, but we can see from the number of people making a claim that it has probably not done as well as was intended—it has not quite reached the number of claims that were expected. That is partly because the way the world works has changed: people are giving through other methods. I rarely put money in a bucket, but I quite regularly make text donations or online donations, and I am as guilty as anyone of not following up with that second text with my name and address for the gift aid. In a world that is moving forward, we need to consider that.

I understand the Government's reluctance to take on cheques, but it has been really clear from the groups that have come forward, particularly church groups, that they receive an awful lot of their funding from small cheques. It would be much better for them if they were able to claim for cheques under the gift aid small donations scheme. Although that may seem almost a backward step, we need to ensure that the gift aid small donations scheme works as best it can, particularly for small charities that do not have the staff—the people power—to fill in all the forms, which is still a requirement. Widening the gift aid small donations scheme would make it better, particularly for small charities.

**Nigel Mills** (Amber Valley) (Con): It is a pleasure to speak in this debate. I spoke on a similar clause four years ago when this Bill first went through Committee; I think that the hon. Member for Clwyd South was here as well. Looking back, many of the Members who served back then appear to have moved on to far greater things than I have, so they will not be repeating this debate.

It is worth looking back at the debate four years ago, when the topic was whether restricting the measures to cash was appropriate and whether we should include different technologies or different means of giving impulse donations for which getting a gift aid declaration is

hard, in order to achieve the objectives of the scheme. The current scheme is worthy. It is meant to give a level of support equivalent to gift aid to small donations, in order to give hard-pressed charities extra money. It is regrettable that four years into the scheme, the amounts claimed are much lower than we thought. Ideas to help charities claim and achieve the £100 million that Government thought this would originally cost are to be welcomed.

Four years ago, I was perhaps a bit prescient on this point; I even referred to contactless payments in that debate. I thought that the world might move on, that cash would become less common and that we would all find different ways of donating, whether by making contactless payments on terminals or by clicking buttons in an app. The Bill risked becoming out of date quickly if we were not careful. I suggested at that point that perhaps the Government should take the power in the Bill to amend by statutory instrument the definition of “cash or cash equivalent” in that situation, so we could keep up to speed with technology and not have to keep coming back every few years to primary legislation to fix it.

Here we are four years on, trying to fix contactless payments. That is quite right, and I will happily support it. We have even included Android Pay and Apple Pay, again quite sensibly, but we cannot predict where we will be in four years' time. How will impulse donations be made? Will it still be by text message, by app, by cash in a bucket or contactless payments, or will we have found some new technology, perhaps fingerprint swipe? It is hard to imagine where we will be in four years' time. If we are to keep the Bill as effective as we want it to be, why not have that power available so that the Government can say quickly, “Let's make a tweak here, and allow this to fall within the scheme”?

**James Duddridge** (Rochford and Southend East) (Con): My hon. Friend is making lucid points with which I agree fully, but he recommends that Ministers could make a change through statutory instrument. Would he perhaps consider allowing them to make the change without a statutory instrument, maybe by short consultation or even ministerial decision? That would be liberalisation.

**Nigel Mills:** My hon. Friend is being quite generous as a Back Bencher, offering the Government more power than they want to take. I suppose that there would be spending issues if the Government generously expanded some new and risky technology and that Parliament might want to scrutinise that. I would prefer, in my perfectionist world, some order that undergoes parliamentary scrutiny, but I concede the argument he is putting forward.

The then Minister four years ago, who is now the Secretary of State for Communities and Local Government, the right hon. Member for Bromsgrove (Sajid Javid), was called a “dinosaur” for rejecting the Labour amendments. I am hoping that this Minister will not be called something like that today, given the liberalising approach that she is taking. The then Minister was not keen to accept the amendments, which were meant to apply to cash in order to help people who do bucket collections and so on, where one cannot get a gift aid declaration, as it is an impulse donation and people are not inclined to stop and give those details.

My argument for amendments 2 and 3 is that an SMS message is also an impulse donation. We see adverts on the TV where it says to text a number with “YES” or “FIVE”. If I do that, I do not provide them with any more information. It is a small, impulse donation. The evidence that we have from the various charity groups is that people do not make a gift aid declaration after doing that.

If we cannot tempt the Minister to accept amendments 1, 2 or 3, perhaps she will think on Report whether she can take the power to allow new ways of donating to be included in future, so that she can gradually evolve the scheme and put the extra money into achieving the objectives that we all share. Especially at this time of year, when British Legion volunteers will all be out doing great work shaking their buckets to collect cash, we want the scheme to be as effective as possible. I fear that, by being too restrictive on how donations qualify, we will not give more money to charities, as we all really want to.

9.45 am

**Susan Elan Jones** (Clwyd South) (Lab): It is a pleasure to follow the hon. Member for Amber Valley and other colleagues. It was a great joy to be here in 2012 when the first Bill on small charitable donations appeared. It is lovely to see that contactless donations have made it into this Bill. I am speaking in favour of amendments 1, 2 and 3 because it is important that we expand the methods available.

The recent briefing from the main charitable organisations—the Charity Finance Group, the Institute of Fundraising, the National Council for Voluntary Organisations and the Small Charities Coalition—has made it clear that, although the scheme has been welcome, it is not reaching the number of charities that it could. The briefing said:

“Only one quarter”

—or 21,300—

“of the charities that could have used the scheme”

—it puts that number at 84,000—

“are using it.”

Clearly, we need to do everything we can to support the development of the scheme, particularly with a new generation of donors, and to encourage and to support the new philanthropists who may be giving by text donation or in other forms.

At the Bill Committee last time around, I was intrigued by a great debate initiated by the hon. Member for Foyle (Mark Durkan). It was possible to include euros in the scheme at the time, although it was not possible to include contactless donations. I am glad that the situation regarding contactless payments has been remedied, but I cannot see the sense in saying that, in one of our great abbeys, churches or cultural buildings, the euro, dollar, yen or whatever may be included in the scheme, but not a simple, humble cheque written in sterling. To me, that does not make any sense. I hope that the Minister considers that point.

Another related point is that this scheme works rather well for churches—I presume it also works well for other faith groups—because many small churches are part of larger denominations. Often the denomination, the diocese or whatever is registered in terms of gift aid.

My slight fear, and why I think we need to look at how we can enhance and expand the scheme, is about whether we have the same reach for other small charities, because with a small church or perhaps another small faith group, the registering—the formal bit, the gift aid stuff—has already been sorted out at a higher, larger level. I question whether the scheme always has the same reach for some of the smaller charities in other sectors.

I welcome the positive move on contactless donations but hope, in the same spirit, that the Minister can extend the scope of the proposals, as my hon. Friend the Member for Salford and Eccles and other hon. Members have suggested. It would be truly dreadful if we had to wait another four years to come back to the issue and to thank the Government for including these methods in the scheme.

**Jane Ellison:** I thank colleagues for that debate; some points were made by veterans of the previous Bill Committee and I will try to respond to them.

Clause 2 is about amending the meaning of “small charitable donation”. Amendment 1 would extend the gift aid small donations scheme to include donations made by cheque, online or by SMS. Amendments 2 and 3 would extend the scheme to include SMS donations.

The scheme was introduced to address a specific problem. That is at the heart of the debate. It is intended to allow charities and community amateur sports clubs to claim a gift aid-style top-up payment when it is not practical or feasible to collect a gift aid declaration, such as with street collections. It is not simply a lighter-touch alternative to gift aid. I think this is probably at the heart of our debate. The scheme exists to provide a similar outcome in situations where charities cannot realistically obtain a gift aid declaration, but the Government are clear that, if a charity can get a gift aid declaration and claim gift aid, it should do so. There are obvious reasons for that, as colleagues will appreciate. For example, there is no cap on gift aid, whereas there is on this scheme. For that reason, the Small Charitable Donations Act 2012 restricted the scope of the gift aid small donations scheme to small donations in cash—coins and notes. Although I understand entirely the motivation behind the amendments, they are actually contrary to the stated policy intention of the scheme.

**Anna Turley** (Redcar) (Lab/Co-op): I am struggling to understand why the way in which money is donated matters, given that there is a cap on the amount that can be donated anyway. I do not understand why whether a donation is made in cash or by contactless affects the integrity of the purpose of what we are trying to do.

**Jane Ellison:** We are keen to extend the scheme to cover contactless as well as cash payments, but as those who were here in 2012 will know, the scheme augments what we expect charities to raise through gift aid donations and covers means such as bucket collections that it is just not feasible to do gift aid on. The scheme is capped. We actually want charities to claim as much as possible under gift aid, which is not capped and allows them to form a long-term relationship with donors, as many of us probably know from charities that we give to. From the simple point of view of a charity, a wholesale switch to claiming through this scheme rather than gift aid

[Jane Ellison]

would move it away from such long-term relationships and limit what it could claim. The scheme is meant to be a complement to gift aid, not an alternative or a lighter-touch version of it, and it would be to many charities' disbenefit if that were the case.

As I explained on Second Reading, the small donations scheme was never intended to cover methods of donations for which well-established and well-used processes for claiming gift aid already exist, such as donations made by SMS or online. It may help if I explain in a bit more detail the processes for claiming gift aid on electronic donations. As the Minister for Civil Society, the Under-Secretary of State for Culture, Media and Sport, my hon. Friend the Member for Reading East (Mr Wilson), outlined on Second Reading, there is a simple and well-established process that allows charities to solicit gift aid declarations from donors who make SMS donations. I take the point that the hon. Member for Aberdeen North made about the way people respond to that, but it is a pretty straightforward and well-established process none the less. The donor sends a short code word to a six-digit number—for example, "Dog" to 606060—to donate a set amount through their phone bill. A reply is then sent to the donor thanking them for their donation and asking them for their name, house number and postcode and confirmation that they are a UK taxpayer. Once the donor provides that information, the charity can claim gift aid.

I think that is a straightforward process, and I hope that hon. Members would agree that, in circumstances such as that, where a donor provides a charity with a ready means of making direct contact—their mobile phone number—it is feasible for the charity to solicit a gift aid declaration, and indeed many charities regularly do so.

**Kirsty Blackman:** Does the Minister not recognise that people generally see text messages as the same kind of thing as putting money in a bucket? They do not want to hang around or have to give their name and address. The two things are really parallel.

**Jane Ellison:** I have been stressing the point that this scheme was intended to work where it is not practical to establish such a relationship—where someone is passing in the street, is in a rush or whatever, and throws something into a bucket. That is not the same as an SMS donation. Yes, the motivation for an SMS donation might be quite instantaneous—perhaps someone has seen an advert or a documentary, or there is an appeal on the television, or whatever—but in terms of someone's ability to respond to the gift aid query that follows, the relationship has been established, because they have given their mobile phone number. That is not comparable with a person rushing past someone with a bucket outside the supermarket and throwing something in, where that person is already on their way and cannot be pulled back to fill in a form.

**David Warburton** (Somerton and Frome) (Con): Given that the Government have not included SMS or internet donations in the Bill, can the Minister tell us what the Government are doing to help the charities that benefit more from those kinds of donations?

**Jane Ellison:** Of course. If my hon. Friend will let me, I will go through the process for claiming gift aid. I have talked about how that can be done via SMS, but let me talk about how it is done online and how it can be made even easier. Online donations require donors to take the time to enter their name and payment details. The only additional information needed for a gift aid declaration is an address. Donors are then encouraged to tick a simple box to add gift aid at the point of donation. Most of us would agree that in those circumstances it is entirely practical for a charity to ask a donor to complete a gift aid declaration. Many fundraising websites have invested substantial effort in making the process for adding gift aid as simple and straightforward as possible. I am sure it will continue to get even more simple and straightforward; we have all seen the astonishing simplification of the online charitable giving world over the past few years, and we have every reason to think that it will continue to progress.

The Government want to make it even easier for donors to add gift aid to donations made through digital channels; indeed, we recently published consultation draft regulations intended to achieve that. Work is already taking place on gift aid and to make it simpler to make an online donation.

**Nigel Mills:** Has the Minister had a chance to look at the consultation issued by the Treasury in 2013 on ways of improving gift aid donation? At paragraph 1.8 it set out all the reasons why there was such difficulty in getting a gift aid donation on an SMS donation, and it was looking to consult on ways to improve the situation. The Treasury view seems to have hardened since that consultation, which recognised the difficulties, but the fundamental issues that it raised—getting someone to pay to send a second text message and to type in details on their screen while they are out and about—have proven very hard to tackle, and the take-up has been nothing like as high as for other methods of donation.

**Jane Ellison:** I understand my hon. Friend's point, but I think it relates to how we can make giving under the gift aid scheme even easier; I do not think it is as germane to the issue of how to improve the small charitable donations complement to gift aid. However, I hope what I have to say about contactless will be closer to what he wants to hear. I confess that my familiarity with paragraph 1.8 of the document he mentions is not as great as his own, but I will familiarise myself with it when I get back to the Treasury.

As I said, draft regulations about making gift aid donations through digital channels easier are out for consultation; I am sure Members will have a look at them. As for contactless donations, Members may ask how they differ from other forms of electronic donation. The difference is, quite simply, speed. On Second Reading, the Minister for Civil Society used the example of commuters passing through the ticket barriers of a tube station to demonstrate just how quick contactless technology is—we are all familiar with the Oyster scheme, for example. That speed of transaction means that donations collected using dedicated contactless collection terminals have a lot of the same practical issues as bucket collections. Individuals can donate as they pass by a fundraiser without having to stop and talk—it is almost instantaneous. Fundraisers therefore do not have



the opportunity to engage donors and solicit gift aid declarations. That is not the case with other methods of electronic donation, as I have explained. A lot of work is going on, as the Minister for Civil Society said in the debate. Big charities are already showing significant advances in technology: their terminals replicate the simple cash payment as nearly as we can imagine, and we expect to see them in use pretty quickly—they are already being trialled.

As for cheques, I understand that they remain a popular method of payment, particularly among older people, but writing a cheque is not an instant process. The payer needs to write the date, the payee's name and the payment value, both in words and numerals, and then sign it. Our contention is that, if a donor has the time to stop and write a cheque, it is not unreasonable to suggest that he or she also complete a gift aid declaration. We are all familiar with those small envelopes with the simple form on them; they have only a fraction of the number of items to fill in that a cheque has. Moreover, by writing a cheque the donor is already providing some of their details to the charity, so the additional information needed for a declaration is relatively small. We believe that it is entirely feasible to obtain a gift aid declaration in those circumstances.

**Alison Thewliss** (Glasgow Central) (SNP): Perhaps I can suggest a scenario that may help the Minister. If an elderly person in their home sees something on television for a charity and they then sign a cheque and put it in the post, with no details about how to contact them on it, how does the charity get back to that person?

10 am

**Jane Ellison:** I understand the point, but I am not entirely clear how adding cheques to the scheme would help. I want to stress that, if we make changes that encourage charities to switch to claiming under this scheme, essentially moving away from trying to claim under gift aid, that will severely limit—cap—the amount they can claim and it will also prevent them from forging a relationship with the donor. I accept that there might be circumstances, like that one, in which claiming under gift aid might be more difficult, but the answer is not to include cheques in the scheme. The scheme has always been about trying to replicate the instantaneous cash-collection type of situation.

**Anna Turley:** I am still a bit confused. I appreciate the point about trying to keep people focused on gift aid as the preferred means of donation, but the whole purpose of the Bill—its *raison d'être*—is to ensure that the scheme

“operates effectively and flexibly for the greatest number of charities and Community Amateur Sports Clubs”,

and we have heard that only a quarter of the charities that could use the scheme are doing so at the moment. Surely, therefore, we should be encouraging more charities to use it, rather than pushing them towards gift aid only. This scheme is much more accessible and more suited to small and locally based charities.

**Jane Ellison:** We want the charities to use both methods, and there is evidence that many do. The scheme was always envisaged as a complement to gift aid, so it is not an either/or.

I totally accept that there is always more to be done in getting charities to claim gift aid. In the Second Reading debate, the Minister for Civil Society talked about the charities day that is coming up and I mentioned that HMRC has an outreach team, which has already delivered more than 600 sessions with charities, talking about how they can make the most of what is on offer. Of course we want to see donations maximised. It is true, as my hon. Friend the Member for Amber Valley said, that we have not yet reached the point we wanted to, but the Bill takes us a good way in the right direction.

We do not want to incentivise a switch to this scheme from gift aid. In any case, there is a matching requirement, so any charity would have to do gift aid to access this scheme. We will perhaps debate that matching requirement later. It is important. We mentioned it briefly in terms of the assurance process.

The Government's position has always been clear. The scheme was introduced to provide a payment similar to gift aid when charities cannot obtain a gift aid declaration. If a charity can claim gift aid, it should do so, because that is more beneficial to them in the long term, for the reasons I have touched on. Robust processes exist to allow charities to claim gift aid on electronic donations and the Government will shortly introduce legislation to make doing that even easier. I hope, therefore, that Members will not press their amendments to a vote.

**Nigel Mills:** This is just a technical question. Does the definition of contactless include Oyster cards? Donations can be made using an Oyster card, by registering to pay a penny a journey, and unused funds can be donated to various charities around London. Would that fall within the definition of contactless or has it accidentally been excluded?

**Jane Ellison:** We believe that the definition of contactless payment is wide enough to cover most likely developments but I am more than happy to look into that further before the next stage of the Bill.

Clause 2 amends, as we have discussed, the meaning of “small charitable donation”, enabling charities to claim top-up payments on donations received using contactless technology. Confirmation comes, as if by magic, for my hon. Friend: can the definition include Oyster cards? Yes it can.

As my hon. Friend knows, because he was one of the people discussing it, the matter was raised during the passage of the 2012 Bill. The gift aid small donations scheme was devised only four years ago, when contactless payment technology was in its relative infancy. At the time, the Government promised to look at the issue again during our three-year review of the scheme, and that is what we have done. I hope that the answer I have just given about Oyster cards shows that we are trying to future proof that aspect of it, as my hon. Friend predicted we would need to do.

The changes made by the clause reflect the fact that there is a clear trend away from cash transactions generally in society. They are declining, while contactless payments are increasing. We accept that, unlike other methods, such as cheques, text messages and online giving, which require donors to stop and actively engage with their chosen charity, contactless donations share many of the

[Jane Ellison]

same limitations. People can just tap to donate and walk away without stopping to fill in a gift aid declaration. Indeed, in some of the situations in which we find bucket collections, it is almost impossible to stop and give a gift aid declaration. Contactless technology could be extended to augment bucket collections in busy tube stations—I imagine we would be less than popular if charities cause great queues to form in busy tube stations—so it is easy to envisage situations in which this measure would be useful. Accordingly, clause 2 amends the scheme, allowing charities to claim top-up payments on contactless donations of £20 or less.

Although the take-up of contactless technology among charities is relatively low, we have had feedback from the sector and have seen demonstrations suggesting that the cost of the technology is likely to decrease. Therefore, we anticipate that the take-up will increase. It is important, as the new technology develops—it is developing at a fast rate—and as the charity sector innovates, that the legislation continues to reflect the realities of the way charities are fundraising.

Clause 2 will allow charities to claim top-up payments on donations made using credit and debit cards, as well as services such as Apple Pay and Android Pay. The scheme will therefore become more flexible, and the charity sector will have more opportunities to claim top-ups on small donations of £20 or less. Including that measure in the scheme will not impose any significant extra burdens on charities that choose to use the technology. Charities will not be compelled to use contactless payments if they do not wish to do so.

Clause 2 will without doubt future proof the gift aid small donations scheme, as was discussed in 2012. It will ensure that charities continue to benefit in years to come as contactless technology expands. I commend the clause to the Committee.

**Rebecca Long Bailey:** I welcome the Minister's comments. From the contributions from Members on both sides of the Committee, it is clear that there is an issue in relation to some charities being able to avail themselves of the gift aid scheme for the donations. If the Minister will not accept these amendments, will she consider launching a Government review of the gift aid scheme as a whole within the next six months to address the issues that have been raised today?

**Jane Ellison:** I reiterate the comments I have already made. This is about how we make this scheme, which was always designed to be a complement to gift aid, work. We are separately consulting on some changes to regulations around gift aid, which are designed to make it easier. We are seeing an evolution in the way people are able to donate. The question is whether the amendments are suitable for this scheme, which was always meant to deal with the issue of cash or cash-like transactions—instantaneous donations, bucket collections and donations from people walking by in the street.

I am unpersuaded that a review in six months' time would add anything to the information we have before us today. It goes without saying that all these things remain under constant review, and this small donations scheme is no exception. It is kept under review in the Treasury—the Treasury keeps charity and tax law under

review—and the team there has regular meetings with key stakeholders. The Minister for Civil Society also has extremely regular contact with stakeholders, and I look forward to having contact with charities on charity taxation.

I hope to persuade the hon. Lady that there are already data out there. HMRC publishes a national statistics package every year, which contains an absolute wealth of data, including on the total amount claimed under the gift aid small donations scheme. That is a transparent approach and it allows interested parties to monitor constantly the take-up and the effectiveness of charitable tax reliefs. Of course there is more to do to encourage charities to take up such measures, but the answer lies more in the things I mentioned—the outreach I talked about and the work being done by the Minister for Civil Society—than in some of the changes that have been proposed today.

**Kirsty Blackman:** I appreciate the fact that the Government have consulted on the gift aid small donations scheme and received a variety of responses. Does the Minister not feel that charities and charitable organisations have largely spoken with one voice in calling for the methods under the scheme to be increased, at least a bit? I understand that things are under review, but do the Government not accept that it might be better to listen to people on this matter? I acknowledge that they have listened with regard to some of the other things they are doing.

**Jane Ellison:** Picking up on the hon. Lady's last point, the Government have listened. There is always a bit of scepticism in politics—I think we have all felt it—on whether things change as a result of consultations, but the consultation in question was really open. We consulted and asked for ideas and, as a result the responses we received, made further liberalisations in the regime. I think that we have listened and that I have given good reasons why we do not want to go in the proposed direction for this scheme because of the nature of what it was designed to do. We are looking to future proof it for contactless payments.

On gift aid more generally, as I said, changes are already being proposed and there is a lot more we can do to increase charitable take-up. I am unpersuaded that the issues being advanced in this debate are the ones that will aid take-up without having unforeseen consequences. Perhaps we will debate those issues later in our discussions of other clauses.

**Susan Elan Jones:** I have a quick question about texts. The Minister spoke about the issue being people engaging with a chosen charity, but I am not sure that it is. For example, one might give to an appeal for a dog that appeared on the television, but the charity might be a wider animal charity. The donor might be drawn to a very specific appeal, not to wider support for the charity. As donors, consumers and even voters are much more fluid in their loyalties, can the Minister not see a case for the support running with the donation, not necessarily the institution it is going to?

**Jane Ellison:** I understand entirely the point being made, but that takes us into issues relating to the motivation and behaviour of people as they give to charity. I think that relates more to the gift aid scheme itself than to the scheme at hand.

**Rebecca Long Bailey:** I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

*Clause 2 ordered to stand part of the Bill.*

### Clause 3

#### CHARITIES RUNNING CHARITABLE ACTIVITIES IN COMMUNITY BUILDINGS

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

**The Chair:** With this it will be convenient to discuss clause 4 stand part.

**Jane Ellison:** Clause 3 will simplify the small donations scheme, making it easier for charities to operate while ensuring that the scheme delivers its original policy intention. It is about issues relating to community buildings. The clause also makes certain of the community building rules requirements more flexible, to give more charities the opportunity to benefit from the scheme. Clause 4 ensures that, for “connected charities” running charitable activities in community buildings, the rules retain the flexibility to claim top-up payments under the gift aid small donations scheme in the way that best suits their circumstances.

To explain the background, when the gift aid small donations scheme was introduced in 2013, the core principle was that each charity should be entitled to one allowance to top up their gift aid claims in circumstances in which asking a donor to complete a gift aid declaration was really not practical. As we have just discussed, that might be during a bucket collection or church service. The intention was also, most definitely, that the rules should operate as equitably as possible and not give manifestly unfair results when similar charities doing similar things in a similar way just happen to be organised differently. For example, the rules treat “connected charities” as if they are one charity for the purposes of the gift aid small donations scheme. It might help if I explain that, put simply, broadly charities are connected when they are controlled by the same people and have similar objectives. In that way, a charity is entitled to one allowance. For example, the head office and the regional offices could together register as one single charity, or each office or local branch could register separately. I am sure that everyone agrees that that is a fair and necessary rule.

Charities that regularly carry out charitable work in local communities are able to claim community buildings allowances in addition to the one core or main allowance. We want to ensure that, where a charity has a presence and is engaged in valuable charitable activities in our communities, such as in a church or village hall, it may claim a top-up allowance in respect of the local donations. Again, I do not think that anyone would argue that that was unfair. However, we have come to realise that the rules as cast do not always give the outcome that the Government want, or deliver on the intent of the scheme.

Some charities are able to claim many more allowances than others simply by virtue of the way in which they are structured, which is different, even though they might be carrying out similar activities in a similar way

to the others. That disparity is acknowledged by the overwhelming majority of charities that can benefit from double allowances, as is the need to rectify the problem to restore the original policy intent.

The changes made by clause 3 will therefore make it clear that charities may claim one allowance, currently set at £8,000, or a community buildings allowance for each community building, with a maximum allowance for each building being £8,000. For example, therefore, a charity with three community buildings will, assuming that it has collected enough donations, be able to claim a top-up on £8,000 in respect of each of those community buildings. It will not, however, be able to collect an additional allowance in respect of any donations collected by its head office. That change will remove the scope for some charities to be able to double-claim allowances.

In making the change, we are adopting the approach that many respondents to the consultation suggested both as a way to ensure equity of treatment, and as a simplification of the scheme. In addition to simplifying the operation of the rules, the clause also makes the community buildings rules much more flexible and generous. At the moment, only donations actually made in the community building while charitable activities are being carried out count towards the community buildings allowance—that is, the amount of donations on which top-up payments may be claimed.

The Government, however, recognise—as I am sure we all do—that many charities carry out charitable activities in a community building, but collect donations to fund that valuable work outside the building itself, such as in collection tins in the local area. One hon. Member at least was taken back to his bob-a-job days with the scouts by our debate, but that is a perfectly good illustration of what we are talking about.

10.15 am

To enable charities in that position to get greater benefit from the scheme, therefore, clause 3 will allow donations made in the local authority area in which the building is situated to count towards the community buildings amount. As might be expected, a donation may only count towards one community buildings total, but the clause makes it clear that if a donation could be counted towards more than one community building amount—for example, if the charity had more than one community building in a local authority area—then, unless the donation was actually made in the building, the charity may decide to which building it is allocated. That means that charities with multiple community buildings will always be able to make best use of the total allowances available to them.

As I have explained, charities may claim one core allowance, or a community buildings allowance for each community building. They may claim whichever is more beneficial to them—that is what we want them to do. To ensure that the process for claiming top-up payments for charities is as straightforward as possible, a charity that is not connected with any others and collects less than £8,000 in small cash donations in total will not have to make a distinction between community buildings donations and other donations—a donation made anywhere, including within the community building, will simply qualify for the core £8,000 allowance. That will make things much easier for very small local charities to claim.



In practice, the Government anticipate that the vast majority of connected charities will be better off claiming under the community buildings rules, because connected charities are to be provided with an £8,000 allowance for each building, rather than a single £8,000 allowance to be shared between the group. So we have made that the default position. By designing the rules in that way, the vast majority of connected charities will automatically receive the most beneficial allowance.

Clause 4 will make life easier for most connected charities. They will simply collect up to £8,000 in or around their community buildings and submit a claim via HMRC's Charities Online service, and a top-up payment will be paid into their bank account. However, we want the small donations scheme to be successful and for connected charities to have the freedom of choice to claim whichever allowance is more beneficial to them as a group. Where it is more beneficial for a group of connected charities to share a single core allowance, they may elect to do so by notifying HMRC. Where none of the connected charities in a group runs charitable activities in a community building, the amount on which allowances can be claimed would be calculated as it is currently. All small donations received are pooled and shared between the connected charities within the group. HMRC will be developing clear and detailed guidance in collaboration with the charities sector to help charities to determine how the new rules will apply to them, and how they can best use them.

To summarise, clauses 3 and 4 restore parity of treatment for comparable charities, and so deliver a fairer outcome. Charities can claim under one or other element of the scheme, but not both. Charities with community buildings have the freedom to claim top-up payments under the gift aid small donations scheme in a way that best suits their individual circumstances. For many charities, the rules will be simpler to operate and, given the relaxation of community building rules, more generous.

**Rebecca Long Bailey:** I shall try to keep my comments brief. Clauses 3 and 4 relate to the community buildings rule. Additional top-up payments may be made to those charities that meet and collect small cash donations in a community building. Every charity is entitled to an £8,000 a year allowance. Charities that carry out charitable activities in one or more community buildings can claim additional top-up payments of £8,000 per building subject to certain criteria. As the stewardship comprehensive guide to the scheme explains:

"A community building is a building, or part of a building, to which the public or a section of the public have access at some or all of the time.

So, a building which is kept locked other than at the times that Sunday services are held will qualify, provided that the public have access to it when it is open for public worship. Equally, if a church rents space in a local community centre on a Sunday morning, for the purpose of Christian worship, provided that the public have access to it, the use by the church on a Sunday will mean that the parts of the community centre used exclusively by the church will qualify as a community building."

The community building is eligible if the charity carries out charitable activities on six or more occasions in the tax year with a group of at least 10 people. Clauses 3 and 4 would make a series of changes to the rules governing community buildings. Clause 3 would allow a charity to claim up to £8,000 from small donations

raised anywhere, or up to £8,000 from donations collected from each community building it has. In the latter case, donations would include those made in person in the local authority area in which the community building is situated. Clause 4 affects the rules for connected charities making claims under the scheme where one or more of the charities run charitable activities in a community building. The House of Commons Library briefing paper summarised the change, stating that a group of charities will be entitled to claim

"up to £8,000 small donations made in the local authority area in which each community building is located."

Alternatively it would be able claim

"up to £8,000 small donations made anywhere in the UK."

As the first would generally be more beneficial, that would be the default option. The Opposition are very happy to support these changes to the rules governing community buildings. However, the Charity Tax Group has raised one point. It has called for a review of the requirement for there to be at least six events a year in a community building, and that they must be attended by at least 10 people. The group said that the rule is "arbitrary" and "impractical" for many charities, especially those in isolated community buildings or that have peaks in use, for example. Could the Minister use this opportunity to address the Charity Tax Group's concerns about that rule? Other than that point I have no further comments.

**Jane Ellison:** The issue is really about the balance that we are trying to achieve. It is about trying to ensure that we keep a light touch in terms of what we ask of people claiming under the scheme. We feel that a reasonable balance is struck by the requirement that charities must carry on their charitable activities six times a year and, as the hon. Lady said, to be attended by at least 10 people. Most charities that are regularly active in most communities should be able to meet the requirements. It is not so generous that it is easy to contrive to meet it, and this is the issue. There will be other opportunities, in our debate on the Bill, to talk about striking that balance, but it is important to remember that protecting our precious charities means ensuring that we do not allow the rules to be so easily circumvented that abuse is widespread and that charities and the sector attract criticism for it.

We feel that this is a reasonable balance to strike. It is a light-touch requirement, but it is important to ensure that people do not contrive to work around it.

*Question put and agreed to.*

*Clause 3 accordingly ordered to stand part of the Bill.*

*Clause 4 ordered to stand part of the Bill.*

## Clause 5

### CHILDCARE PAYMENTS

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

**Jane Ellison:** We now change tack slightly. The second issue addressed by the Bill is childcare payments. Clause 5 will make a number of minor, technical amendments to the Childcare Payments Act 2014, which introduced a new Government scheme to provide tax-free childcare.



We had a broader debate about childcare on Second Reading, but I make it clear to the Committee that these are technical amendments to ensure that the scheme works for the benefit of parents who claim financial support for their childcare costs. I will first explain how the tax-free childcare scheme will work and then explain the changes and why they are needed.

Tax-free childcare will support working parents and help with the costs of childcare, enabling them to go out to work or to work more. Parents will be able to set up a childcare account online, deposit money into their account and receive a 20% top-up from the Government to pay their childcare providers. For every £8 a parent pays towards their childcare costs through the account, the Government will provide a top-up of £2. Parents will be able to receive up to £2,000 of support towards childcare costs of up to £10,000 per child per year, up to the age of 12. That support will be doubled for parents of disabled children, who are entitled to up to £4,000 top-up on childcare costs of up to £20,000 per year, up to the age of 17.

Tax-free childcare is digital by default. Parents first apply for and then use their childcare account online, although non-digital routes will of course be provided for those unable to use the default digital form. HMRC will check a parent's eligibility for tax-free childcare. Parents will then be able to open and pay into a childcare account for each of their children, and the Government will top up the account. Parents can then use their childcare account to pay for a regulated childcare provider.

We are ensuring that childcare accounts are as simple as possible for parents to operate, because we do not want to add to their burdens. Once HMRC has confirmed that a parent is eligible, the parent is entitled to use the scheme for a three-month entitlement period. Each quarter, parents must confirm their circumstances and that they still meet the eligibility requirements, with a quick online declaration for all their children at the same time. Tax-free childcare will be trialled with more than 1,000 parents later this year and gradually rolled out from early next year.

**James Heappey (Wells) (Con):** I speak as a father. My wife and I take advantage of exactly this scheme. Digitising the process once the employer has put it in place is very helpful, but will the Minister look at digitising the process that the employer follows to get the childcare vouchers registered initially? Most employers are still using the paper mechanism for that, which delays the system somewhat.

**Jane Ellison:** I note my hon. Friend's point and will ensure that it is looked at. It relates to a different aspect of the childcare provision that the Government provides, but he neatly illustrates the point that we do not want the process for getting support for childcare to be onerous. Tax-child childcare, which is designed to be digital by default, is a move forward.

**Bridget Phillipson (Houghton and Sunderland South) (Lab):** Will the Minister set out what conversations she is having with colleagues in the Department for Education about ensuring adequate places for children? She may be aware that the Public Accounts Committee has raised concerns about the number of childcare places available

to parents. It is all good and well to put schemes in place to help parents, but we need to make sure that there are places for children to take up.

10.30 am

**Jane Ellison:** Although not directly germane to the Bill, I am happy to draw the hon. Lady's remarks to the attention of colleagues in the Department for Education. I suspect that they have already noted the PAC's reports—I think most of us as Ministers would take great note—but I will of course ensure that they see the point she has made.

To reassure the Committee, HMRC has been user-testing its systems with parents with regard to tax-free childcare. Over 400 parents have been consulted so far. That allows HMRC to improve the services it offers to parents. As a result of that user testing, the first change that the Bill proposes relates to the quarterly reconfirmation process. HMRC has the power to change the length and entitlement period to make parents' online journey as simple as possible. At the moment, they can change the standard three-month period by up to one month, so entitlement periods of between two and four months can be set. The one-month rule does not allow reconfirmation dates for all of a parent's children to always be aligned—for example, where a parent applies for a childcare account for an additional child at a later date, or if a new household is formed. If the application is made in the middle month of their existing entitlement period, then alignment for reconfirmation is not possible.

Let me give the Committee an example. Helen is returning to work after maternity leave for her second child, Jenny. She already has a childcare account for her first child, Iain. Her current entitlement period for Iain runs from January to March. She is returning to work on 15 February. Whether the first entitlement period for Jenny is shortened to two months or lengthened to four months, it will not align with that for Iain. Therefore Helen is faced with two online reconfirmation journeys a quarter instead of only one. This amendment to the Childcare Payments Act will allow entitlement periods to be varied to between one month and five months. That will allow HMRC to always give parents such as Helen a single reconfirmation for all her children.

I am taking the second and third changes made to the Childcare Payments Act by this clause together as they are very similar in nature. Both allow HMRC to set out what online forms parents should use when querying HMRC decisions. The first does this for ordinary review requests; the second does it for requests made outside the normal time limits. Parents can query any HMRC decision that adversely affects them, for instance a decision that they are not eligible or a decision to impose a penalty on them. If they remain unhappy after the review they can appeal to an independent tribunal. As I have set out, tax-free childcare is a digital-by-default system. Parents apply to open childcare accounts, and then use those accounts, via online forms set out by HMRC for that purpose.

These amendments give HMRC the power to specify in regulations the online forms to be used by parents when requesting a review of any HMRC decisions. That will allow tax-free childcare to be consistently digital by default across the full service. Regulations under these powers will provide the same safeguards for those unable

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to interact digitally with HMRC as in-scheme regulations. The safeguards allow those unable to interact digitally to get the same service through other means, which is important. The safeguards are in regulation 22 of the Childcare Payments Regulations 2015.

In conclusion, these are minor, technical amendments to the Childcare Payments Act 2014 that will allow HMRC to improve parents' experience and the consistency of tax-free childcare. I therefore urge the Committee to accept that the clause should stand part of the Bill.

**Rebecca Long Bailey:** I will keep my comments brief. Clause 5 relates to the Government's tax-free childcare scheme and makes minor changes to the Childcare Payments Act 2014, which is the legislative basis for the scheme. First, it would allow HMRC to vary the entitlement period in certain cases by two months rather than one, as currently stated in the legislation. The entitlement period refers to the period of time after which parents must confirm that they still meet the eligibility criteria. Typically this must be done quarterly; however, HMRC can vary that in certain cases. Clause 5 changes this variable amount to two months, to

"enable alignment of eligibility periods for additional children when parents already have another child in the scheme."

We certainly welcome these proposals.

The other change relates to parents who want to apply for a review of a decision made by HMRC that affects them, or who wish to do so outside the usual time limits. Normally that must be done within 30 days of being notified of the decision, although that timeframe can be extended. The clause also allows regulations to be made to specify the form and manner of such applications. I believe that the Government's intention is to allow such applications to be made digitally, but perhaps the Minister will confirm that.

These are technical changes, and the Opposition do not oppose them. However, we have significant concerns about the tax-free childcare scheme more broadly. I will not say more about that now as we are debating the finer points of the Bill, but we will perhaps revisit that at a later stage.

**Jane Ellison:** I will of course draw the hon. Lady's wider comments about childcare to the attention of the relevant Ministers.

**Kirsty Blackman:** I feel that as someone who is likely to be using the tax-free childcare scheme for eight or nine years, it is sensible for me to make some comments. The current childcare voucher scheme is quite cumbersome—particularly given the paper methods that are used—and difficult for people to access, so I am pleased that the Government have listened to comments about the need to change how parents can access the scheme and ensure that there is consistency. I am pleased that the Government have piloted online access and listened to parents about making changes to that.

I have a couple of questions. First, I would like to check that the Minister is committed to ensuring that during the scheme's roll-out, which I understand will happen next year, it is kept under constant review and feedback from parents is looked at. A relatively small

group of 400 or 1,000 parents may not cover all the circumstances that we might see once the scheme is completely rolled out, so it would be useful if the Government were to continue in listening mode, and I would very much appreciate that assurance.

My other question relates to the conversations about the scheme with the Scottish Government. At the SNP conference at the weekend, announcements were made about changes that the SNP Government will make to some of the ways in which parents in Scotland can access childcare. What discussions have the UK Government had with the Scottish Government about how this Government's new tax-free childcare scheme will link into the Scottish Government's consultations on and proposed changes to the types of childcare that parents can access with their free hours? The Scottish Government are looking at making changes to the flexibility of the free hours that are provided to parents in Scotland and the settings that parents can access with that childcare provision. How will that scheme in Scotland link to the tax-free childcare scheme? Have the UK Government had any conversations yet about that with the Scottish Government? If not, will they commit to doing so?

**Jane Ellison:** I thank the hon. Lady for her comments. Of course we want the tax-free childcare scheme to work for parents. It is designed to make their lives easier, and that must be central to the way we approach the roll-out, which will be gradual, robust and extensively trialled with a variety of parents, to ensure that we replicate as many different circumstances as possible, as she said.

On the hon. Lady's second point, we always deal with issues that relate to the devolved Administrations as appropriate. I will look at her broader point about how different childcare policies interact, but I do not think that that is directly relevant to the clause. In general terms, I reassure her that we are always assiduous in ensuring that where there are issues of interaction with the devolved Administrations that pertain to Bills, those are sorted out at official level ahead of proceedings such as these.

*Question put and agreed to.*

*Clause 5 accordingly ordered to stand part of the Bill.*

## Clause 6

### EXTENT

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

**Jane Ellison:** Clause 6 provides that the Bill extends to England, Wales, Scotland and Northern Ireland. Both the gift aid small donations scheme and the tax-free childcare scheme apply to the UK as a whole. The Small Charitable Donations Act 2012 included a provision to make the gift aid small donations scheme an excepted matter for the purposes of the Northern Ireland devolution settlement. A legislative consent motion was approved by the Northern Ireland Assembly in November 2012, providing consent for the UK Parliament to amend schedule 2 to the Northern Ireland Act 1998, to make the scheme an excepted matter. No legislative consent motion is required from the Northern Ireland Assembly.

Following a legislative consent debate in 2014, schedule 2 of the Northern Ireland Act 1998 was amended to make the childcare payments scheme an excepted matter for the purposes of the Northern Ireland devolution settlement, so the scheme applies in Northern Ireland in the same way as in the rest of the UK. No legislative consent motion is required from the Northern Ireland Assembly.

The Childcare Payments Act 2014 at section 74 defines the extent as England and Wales, Scotland and Northern Ireland. In the view of the UK Government the provisions of the Bill are not within the legislative competence of the Scottish Parliament or the National Assembly for Wales, so that no legislative consent motions are required.

*Question put and agreed to.*

*Clause 6 ordered to stand part of the Bill.*

### Clause 7

#### COMMENCEMENT

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

**Jane Ellison:** The clause simply provides that the changes to the gift aid small donations scheme will take effect from 6 April 2017. This will allow charities to benefit from the changes at the earliest opportunity. Changes to the tax-free childcare scheme will take effect two months after the Bill receives Royal Assent.

*Question put and agreed to.*

*Clause 7 ordered to stand part of the Bill.*

### Clause 8

#### SAVING AND TRANSITIONAL PROVISION

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

**Jane Ellison:** Clause 8 makes minor technical changes to ensure that a charity that has merged with another before 6 April 2017 does not inadvertently lose an opportunity to claim top-up payments for an earlier tax year as a consequence of the removal of two of the eligibility criteria from that date.

I explained earlier that the Bill makes changes to the eligibility criteria for claiming top-up payments under the small donations scheme. I explained that currently charities must have a gift aid history before they can claim under that scheme; in other words, they must have made a successful claim in two out of the previous four tax years.

Currently, if a new charity has taken over the activities of one or more charities, it may apply to HMRC for the gift aid history of the old charity to be taken into account for the purposes of the small donations scheme. If certain criteria are met—the old and new charities having similar purposes, for example—HMRC will issue a certificate that allows the new charity to claim top-up allowances on the strength of the old charity's gift aid history. In other words, those rules ensure that when a new charity takes over an old charity it is not automatically denied access to the gift aid small donations scheme because it cannot meet the eligibility requirements.

As Members have heard, the Bill will abolish the two-in-four eligibility criterion and the need for new charities to have a successful gift aid history, so the merger rules will largely become redundant from 6 April

next year. However, a charity may have taken over the activities of an old charity before April 2017 and want to take advantage of the merger rules to claim top-up payments under the scheme for an earlier tax year.

The changes made in clause 8 therefore retain the merger rules in their current form for cases in which a charity has taken over the activities of another, or more than one other, before 6 April 2017. The time limits for making an application to HMRC for the merger provisions to apply mean that a merger could take place before 6 April 2017, but either the charity has not made its application before that date or the charity has made its application but it has not yet been accepted by HMRC. The transitional provisions included in the clause will ensure that applications may still be made by a charity, and accepted by HMRC, in respect of mergers before 6 April next year.

The practical implications of the clause are obviously time-limited, because they apply only to mergers pre-April 2017. Nevertheless, without the clause, some charities that merged before that date may unexpectedly lose their entitlement to top-up payments.

*Question put and agreed to.*

*Clause 8 accordingly ordered to stand part of the Bill.*

*Clause 9 ordered to stand part of the Bill.*

### New Clause 1

#### ABOLITION OF GIFT AID DONATIONS THRESHOLD

“(1) The Chancellor of the Exchequer must carry out an assessment of the impact on charities and Community Amateur Sports Clubs of amending the Gift Aid Small Donations Scheme so as to remove the 10% Gift Aid donations threshold that must be met in order to access the Gift Aid Small Donations Scheme, including an assessment of the differential impact on different sizes of charities and Community Amateur Sports Clubs concerned.

(2) The Chancellor of the Exchequer must lay a report of the assessment before the House of Commons within six months of the passing of this Act.”—(*Kirsty Blackman.*)

*Charities and CASCs must make Gift Aid exemption claims on donations received in order to make a claim under the Gift Aid Small Donations Scheme. The total Gift Aid donations must be at least 10% of the amount of the small donations on which top-up payments are claimed. The new clause would require the Chancellor to assess the impact of abolishing this requirement.*

*Brought up, and read the First time.*

10.45 am

**Kirsty Blackman:** I beg to move, That the clause be read a Second time.

**The Chair:** With this it will be convenient to discuss new clause 2—*Review of anti-fraud measures in relation to Gift Aid Small Donations Scheme*—

“(1) The Chancellor of the Exchequer shall, within six months of the passing of this Act, publish an assessment of the efficacy of anti-fraud measures designed to regulate the Gift Aid Small Donations Scheme, including, but not limited to, the Gift Aid donations threshold.

(2) The assessment shall have particular reference to the efficacy of the matching requirement.”

*This new clause would require the government to publish an assessment of anti-fraud measures designed to regulate the Gift Aid Small Donations Scheme.*



**Kirsty Blackman:** I appreciate having the opportunity to move the new clause. Two of the three pieces of evidence that the Committee accepted today strongly support its inclusion in the Bill, one from the Churches' Legislation Advisory Service and the other from the Charity Tax Group. The other submission is not against the new clause, it just does not mention it. As was mentioned earlier, a paper produced by the National Council for Voluntary Organisations, the Charity Finance Group, the Institute of Fundraising and the Small Charities Coalition says that it is vital that the matching requirement is changed or removed.

I take Members back to when the gift aid small donations scheme was first brought in. I was not present, but the Library has kindly produced a briefing that covers some of the matters that were discussed, and particularly the matching requirement. The right hon. Member for Bromsgrove (Sajid Javid) was the Minister at the time, and I want to quote what he said in the course of the debate on that legislation. Government amendment 30 was added to the Small Charitable Donations Bill, and it allowed the Government to make changes to the matching requirement. He said:

"It will allow us to remove the matching provision entirely... Even so, charities would always need to claim some gift aid in each year to ensure that they can claim under the scheme... It is something that many charities have asked us to introduce".—[*Official Report*, 26 November 2012; Vol. 554, c. 98.]

So back then, charities were in favour of flexibility in the matching requirement and argued for it, and ultimately, the Government accepted that.

Having read the comments of Members at that time, I think the reason for that amendment was that the figures are arbitrary. The gift aid small donations scheme was amended fairly heavily during its progress through Parliament, particularly in relation to the matching requirement. When the scheme was introduced, it was suggested that top-up payments should be claimed only for amounts up to £5,000, but that was increased to £8,000. It was also suggested that the ratio of claims through the small donations scheme to gift aid claims should be 1:1 to begin with. The Government moved on that and changed the ratio to 10:1. Both those figures are fairly arbitrary, and the fact that the Government moved so dramatically shows that the figures are not necessarily set in stone.

Small charities have to receive £800 in donations under the gift aid scheme in order to claim the maximum allowance under the gift aid small donations scheme. Some very small charities will not receive £800 in donations that they can claim under the gift aid scheme, but they might receive £8,000 in very small donations, whether through church collections, people writing cheques or people making contactless payments. Unless they have that matching £800, they cannot claim the full allowance under the scheme.

The new clause, which is in my name and is supported by my hon. Friend the Member for Glasgow Central, would get rid of the matching requirement. It asks the Chancellor of the Exchequer to carry out an assessment. Because the change does not need to be made under primary legislation, the Government can carry out the assessment and make the change without being required to bring the matter back before the House in the spectacular way that they have to do with some other things.

Our proposal is widely supported by charities and would very much help the smallest charities, which feel strongly about it. As Members of all parties have stated today, take-up of the scheme has not been as high as expected. I argue that that is because some of the smallest charities are not able to manage the paperwork that is required.

I am not suggesting that we get rid of the requirement to claim gift aid in general. It is reasonable, given the Government's desire to prevent fraud, that they have charities make at least one claim and fill in the full version of the forms. It is not, however, reasonable for the Government to expect the smallest of charities to go through that cumbersome process to claim the full amount of £800 in gift aid on small donations. That view is strongly supported by the organisations that have taken the time to write to us.

I intend to press the new clause to a vote. I understand that the Government might not want to accept it today, but I would very much appreciate it if they would seriously consider before Report the fact that a 10:1 ratio is possibly not the right arbitrary level. If they will not consider abolishing the matching requirement, will they consider making the ratio 20:1 or 50:1? That would be hugely beneficial to the smallest of charities, which benefit most from the gift aid small donations scheme and do not have the people power to fill in many of the relevant forms. I want them to continue to fill in forms, but not so many.

**Rebecca Long Bailey:** New clauses 1 and 2 both get to the most important issue for the charity sector: the so-called matching requirement. The requirement is that to make a claim under the small donations scheme, a charity must receive a certain amount of gift aid donations in the same tax year. The total of eligible donations on which a charity can claim a top-up payment is restricted to an amount between equal and 10 times the net donations on which gift aid is claimed for the year.

New clause 1 would require the Government to carry out a review of the impact of abolishing the matching requirement within six months of the passing of the Bill, and Labour's new clause 2 would require the Government to conduct a review into the efficacy of anti-fraud measures designed to regulate the gift aid small donations scheme, with particular reference to the matching requirement. On Second Reading, the Minister said that the requirement is

"to protect from fraud the small donations scheme, which has substantially fewer record-keeping requirements than gift aid—an important factor that was looked at when the scheme was first designed back in 2012. It is by retaining the rule that donations under the scheme must be matched with gift aid donations that we best can do that."—[*Official Report*, 11 October 2016; Vol. 615, c. 215.]

However, as far as I am aware, she did not produce any evidence that the matching requirement is an effective anti-fraud measure.

As we have heard, the sector says that the requirement is a huge barrier for many small charities. They would like it to be significantly reformed, if not scrapped entirely. For instance, the Churches' Legislation Advisory Service has suggested extending the requirement to 20:1. Given the Government's reasons for not proposing any amendments to the requirement, the Opposition think that we should simply have a chance to see the evidence that the requirement works.



We agree, of course, that preventing fraud in the scheme is of paramount importance, but if the measure is simply adding a layer of red tape and is not effective, the Government should review it. The Charity Finance Group has highlighted the fact that only 275 reports of suspicious activity were shared between HMRC and charity regulators in 2015, which represents a rate of one suspicious activity per 500 charities. The group considers that to be a sign that fraud in the scheme is not of a high enough level to justify the effects of the matching requirement. That might well be the case, or it could be that the requirement is an effective caveat to the scheme, but we would only know that if there was a publicly available assessment of the effectiveness of all the measures in the scheme designed to combat fraud and of where the requirement sits within that. I can see no reason why the Government would not want to carry out such an assessment, and I hope that the Minister will accept our new clause 2, or work with us to table a Government amendment on Report that deals with any issues or concerns with our wording.

Finally, I would welcome the Minister's comments in response to evidence produced by the Charity Finance Group, which welcomes the intention behind our new clause but believes that the Government should focus on increasing punishments for those who commit abuse and providing more opportunity for charities to report on suspicious organisations.

**Jane Ellison:** As the hon. Member for Aberdeen North said, new clause 1 would require the Chancellor to lay before the House an assessment of the impact of removing the gift aid matching requirement within six months of the passing of this Act. New clause 2 would require the Chancellor to publish an assessment of the efficacy of the scheme's anti-fraud provisions in the same period.

I should start by saying that I welcome the cross-party consensus on the importance of protecting the gift aid small donations scheme, and charitable tax reliefs more generally, from abuse. Indeed, I completely agree with the shadow Minister, the hon. Member for Salford and Eccles, who said on Second Reading:

"We must make sure that any loosening of the rules for access to Government grants or tax reliefs does not provide a further incentive for tax avoiders, albeit a small minority, to set up a charity."—[*Official Report*, 11 October 2016; Vol. 615, c. 220.]

She was exactly right to draw our attention to that. The Government also agree with the hon. Member for Bootle (Peter Dowd), who said during his closing remarks on Second Reading that

"it is vital that sufficient safeguards are in place to prevent fraud when Government funding or tax breaks are provided, as in this case, to the charity sector. I think that sentiment would get cross-party support."—[*Official Report*, 11 October 2016; Vol. 615, c. 247.]

Indeed, I think that sentiment does have cross-party support.

Let me say a little about fraud in the charity sector, which is relevant to the new clause. None of us likes to contemplate it or talk about it, but sadly it exists. As the Under-Secretary of State for Culture, Media and Sport, my hon. Friend the Member for Reading East (Mr Wilson), said on Second Reading,

"it is an unfortunate fact that unscrupulous individuals seek to exploit charitable status for criminal purposes."—[*Official Report*, 11 October 2016; Vol. 615, c. 250.]

It might shock colleagues to hear that the "Annual Fraud Indicator 2016" document produced by Experian, PKF Littlejohn and the University of Portsmouth's Centre for Counter Fraud Studies estimates that fraud costs the charity sector about £1.9 billion each year. The report also states:

"Fraudsters are fast, inventive, adaptable and willing to quickly exploit new opportunities."

I am sure hon. Members will therefore agree that it is vital the Government make sure that any initiatives, no matter how well intentioned, have suitable safeguards in place to limit opportunities for abuse, particularly when those initiatives involve spending public money. Indeed, both the hon. Member for Salford and Eccles and the hon. Member for Bootle made exactly that point on Second Reading.

The gift aid matching requirement provides a deterrent for those who would seek to exploit the small donations scheme. A number of hon. Members have raised concerns about the matching requirement; we have heard them again today. A few hon. Members, including the shadow Minister and the hon. Member for Clwyd South, cited a survey by the National Council for Voluntary Organisations and others that suggested that the matching rule acts as a barrier to claiming from the gift aid small donations scheme, with 50% of respondents with an income under £10,000 wanting the matching rule to be removed or reduced. However, it is worth drawing the Committee's attention to the fact that the same survey also found that only 5% of respondents claimed no gift aid at all, and just 10% felt that they did not claim enough gift aid to make claiming top-up payments worthwhile. Similarly, the Government's own assessment found that 92% of charities claiming gift aid for the tax year 2014-15 claimed on donations of £500 or more, entitling them to the maximum small donations allowance, which at that time was £5,000. That is interesting evidence that for the vast bulk of charities, the matching rule is not a barrier.

**Anna Turley:** I would put the burden of evidence and proof back on the Minister. This provision has existed for three years now. Does she have any evidence of its benefit or usefulness, either in promoting the use of gift aid or in reducing fraud? If there is none, then given the clear objection from the sector, I really do not see any benefit to it whatever.

**Jane Ellison:** First, I would argue that the matching rule has become more relevant because of the provisions in the Bill to simplify the scheme, for example the end of the two-in-four rule. Secondly, I have been sat here musing as I have listened to Members making their points about the need for me to prove that the rules are necessary. I cannot see how that can be done without first relaxing them and then having to report to the House that there had been large amounts of fraud, public money had been wasted and so on. In other words, the only way to prove it is to prove a negative.

11 am

I have already cited some evidence, and I will give some more. As appalling as the sad determination of some individuals to exploit charitable rules may seem to all members of the Committee, we have sufficient evidence across the range of charitable tax reliefs to believe with

reasonable certainty that were any loopholes to be opened up, they would be exploited. It would be a sad situation if I had to come back to the House and say, "Actually, I was right. There has been a lot of fraud, we have lost a lot of public money. A number of small charities have had their reputations damaged as a result." The evidence we have from the sector more broadly indicates that I am making a good working assumption that is well evidenced.

**Susan Elan Jones:** I am a bit concerned, because when we were here a few years ago the example we cited was the Cup Trust, where there was wide-scale evidence of fraud. We asked whether it was registered for gift aid and the answer was yes. I am concerned about linkage.

I appreciate that we are looking at is a review to do with gift aid six months after the Act comes into law, but in view of the changes made last time when we were told initially it had to be same for same—we ended up with something vastly different and vastly better—will the Minister look at those arguments? Even if the Government's view is that there has to be some sort of matching, it need not necessarily be set at the current level. That is our big concern.

**Jane Ellison:** Two arguments are being advanced. One is that there should be no matching requirement at all. I am afraid I reject that for the reasons I have given, and I will try to provide more evidence. I understand the point that the hon. Member for Clwyd South makes and I understand that there was movement during the passage of the previous Bill with regard to the ratios. With all of these things it is sometimes about trying to strike a reasonable balance, and I think 1:10 is a reasonable number. It is an easy number from an administrative point of view and it keeps matters much more straightforward for the charities in question. I am glad however that she supports the principle that there should be a matching rule to avoid fraud. I will say a bit more about why we think that is important.

The Government's own assessment found that 92% of charities claiming gift aid for the tax year 2014-15 claimed on donations of £500 or more. That would have allowed them to claim the maximum small donations top-up allowance, which at the time was £5,000.

It is worth adding that while the 8% of charities claiming on less than £500 of donations would not have benefited from the maximum small donations allowance because of how the matching rule operates, the vast majority would have been entitled to a proportion of that allowance. In fact, 98% of charities claiming gift aid in 2014-15 claimed sufficient amounts to receive a small donations allowance of at least £1,000. I submit to the Committee that with 98% of charities claiming enough to get an allowance of at least £1,000, the rules are not proving a barrier; they are being used and people are managing quite well with them. The figures do not support the assertion that the matching rule is a major barrier. Indeed, I think most people would say that it strikes the balance of reasonableness.

As I have said, the Bill is a simplification measure—it removes the two-year registration requirement and the gift aid history requirement—and leaves only the matching rule as the link between the gift aid small donations scheme and the wider gift aid scheme. The Government

have always been clear that a link to gift aid is necessary to allow HMRC to carry out effective compliance activity. I ask hon. Members on both sides of the Committee to support that principle.

**Steve Double** (St Austell and Newquay) (Con): Does the Minister agree, in response to the concerns raised by the SNP spokesman, that the Government have done an awful lot to simplify the gift aid claiming process for charities? I speak as someone who has been involved in operating gift aid claims for charities for many years. The process now is incredibly simple in its online form, so it is not the burden that perhaps it was in the past.

**Jane Ellison:** I think that is right, and I thank my hon. Friend for that intervention. We are really trying to make this as simple and straightforward as possible, but we need some safeguards. That is why the matching rule is important. I would suggest that requiring HMRC to publish a detailed analysis of compliance activities and the efficacy of anti-abuse rules could be unhelpful. I would hate us inadvertently to provide a roadmap for fraudsters. If there was a requirement to publish that information, it would provide valuable information to that dishonest minority whom the Government are trying to root out.

I would like to reassure the Committee that HMRC works with charity regulators to ensure that charities are properly regulated, the abuse of charities is properly and robustly dealt with, and the tax reliefs claimed are used for charitable purposes. If a charity is suspected of fraud, HMRC will share that information with the Charity Commission, which can consider further action, including removal from the charities register. We have made it easier to report fraud. I hope that it goes without saying that all tax policy remains under constant review, and this scheme is no exception. The Government will of course continue to monitor the effectiveness of the small donations scheme, as they do with all charitable tax relief.

We are very keen to make sure that the good name of all those charities that do wonderful work at international, national and local level is not abused. I will give the Committee just one example. In May this year, three individuals were jailed for a total of 22 years for defrauding HMRC of £5 million in fictitious gift aid claims. I am afraid that there are more examples of large sums of money where that is true. Those people are out there and, as the report I cited earlier pointed out, they are very quick to spot loopholes, however well intentioned.

HMRC publishes a comprehensive national statistics package, to which I alluded earlier, which allows anyone to scrutinise the efficacy of the Government's support for charities. However, requiring in legislation that the Government publish separate assessments within six months of the passage of the Bill is both arbitrary and unnecessary and, for the reasons I explained, in the case of one of the reviews it is likely to be impossible to prove what it seeks to prove. I therefore urge hon. Members not to press their new clauses to a vote.

**Kirsty Blackman:** Regarding the new clause that I tabled, I have asked the Government to undertake an assessment of the differential impact on charities of different sizes. As I have tried to make clear, both on

Second Reading and today, my concern is particularly about the very smallest charities, some of which find that this is a barrier. I am slightly bothered by some of the conversation both today and on Second Reading. Perhaps I am naive, but I do not think that charities generally set out to defraud the Government. That is pretty unusual, and it bothers me how much of this conversation has been slanted towards concern about issues relating to fraud. I appreciate that some people try to commit fraud, but they are a small minority. It is only in relation to the largest amounts of money that we should be particularly concerned about that.

**Jane Ellison:** I want to clarify my remarks, which were principally centred on the fact that there are people out there who are fraudsters and who would seek to exploit loopholes in charity law and in gift aid rules. My comments were not focused so much on charities themselves being defrauders, although there have been one or two examples of this. Predominantly, this is about people exploiting charity law and the reliefs available in the same way that they exploit other loopholes.

**Kirsty Blackman:** I am really grateful for that clarification. I was concerned about the tone of some of the conversation that had been taking place. In relation to the new clause that I have tabled, I am asking the Chancellor of the Exchequer to look at the differential impact on different charities of removing the 10% matching requirement. The Government have made it clear, and it has been suggested by charities, that this could be changed to a different level of matching requirement.

The Government have accepted that this is a relatively arbitrary figure. It is good because it is a nice round number, but that is not necessarily helpful, particularly for the smallest of charities. I would very much appreciate it if the Government would consider accepting new clause 1, which looks at an assessment, and which would help those very small charities which most need this matching requirement to be removed.

*Question put, That the clause be read a Second time.*

*The Committee divided: Ayes 7, Noes 9.*

#### Division No. 1]

#### AYES

|                      |                     |
|----------------------|---------------------|
| Blackman, Kirsty     | Phillipson, Bridget |
| Campbell, Mr Alan    | Thewliss, Alison    |
| Jones, Susan Elan    | Turley, Anna        |
| Long Bailey, Rebecca |                     |

#### NOES

|                  |                    |
|------------------|--------------------|
| Double, Steve    | Mills, Nigel       |
| Duddridge, James | Tomlinson, Michael |
| Ellison, Jane    | Warburton, David   |
| Glen, John       | Wheeler, Heather   |
| Heapey, James    |                    |

*Question accordingly negated.*

#### New Clause 3

SCOUTS, GUIDES AND ARMY, NAVY AND AIR FORCE  
CADET BRANCHES TO BE EXEMPTED FROM CONNECTED  
CHARITIES RULE

(1) Section 5 of the Small Charitable Donations Act 2012 is amended as follows.

(2) After subsection (5), insert—

“(5A) For the purposes of this Act, local Scout Groups, Guide Groups, Army, Navy and Air Force Cadet groups are not considered to be connected.”—(*Rebecca Long Bailey.*)

*This new clause would ensure that local Scout Groups, Guide Groups and Army, Navy and Air Force Cadet Branches are able to claim under the Gift Aid Small Donations Scheme individually, rather than being considered as part of single national charities for the purposes of the Scheme.*

*Brought up, and read the First time.*

**Rebecca Long Bailey:** I beg to move, That the clause be read a Second time. New clause 3 would ensure that local scout groups, guide groups and Army, Navy and Air Force cadet branches are able to claim individually under the gift aid small donations scheme, rather than being considered as part of a single national charity for the purposes of the scheme.

We have received representations on behalf of those groups arguing that the current treatment under the scheme is unfair. Under the connected charities rules, those organisations are considered to be one charity. However, local organisations fund-raise independently and are independent from one another financially. The Charity Finance Group has suggested that the amount of top-up received by individual scout groups in particular equates to about 17p a year. The new clause would simply allow individual groups to make individual claims through the scheme.

According to the sector, that would improve take-up of the scheme and ensure that small local organisations, which were intended to benefit, are able to do so. I appreciate that there are probably many other organisations with comparable structures that would benefit from similar changes. New clause 3 is more of a probing amendment to try and tease out from the Government why they do not want to reform the scheme in such a way. Perhaps we can return to this issue in more detail on Report. I would welcome any moves by the Minister to review the position and propose an amendment on Report that would catch all similar organisations with comparable structures.

**James Duddridge:** I dropped off my kids at beavers and cubs; and one of them is going to scouts. In this amendment, would the division apply to the 2nd Thorpe Bay unit, or would it apply to each constituent part, whether beavers, scouts, cubs, guides and so on?

**Rebecca Long Bailey:** The hon. Gentleman makes a very good point, and that is why I would welcome a review by the Minister of the proposal in the new clause. We need to catch more than what is simply on paper at the moment; the provision needs to go beyond the scope of local scout groups, for example. There are many other organisations that would benefit from being included individually in the ways I have proposed and I welcome comments on this point by the Minister. I also point Members to a note that they received this morning from the Charity Finance Group, which makes some helpful suggestions on this very point.

**Jane Ellison:** The new clause is designed to exempt scouts, guides and military cadet groups from the connected charities provisions of this Bill. We believe the new clause is not necessary.



[Jane Ellison]

The connected charities rules are intended to protect the gift aid small donations scheme from abuse and they work in conjunction with the community building rules to deliver fair and broadly equal outcomes for charities structured in different ways.

Without the connected charities rules, large charities would have a perverse incentive to splinter into groups of smaller charities to increase their entitlement to small donations allowances. I am sure none of us would want that to happen. However, it is important to make it clear that while connected charities are entitled only to a single shared £8,000 small donations allowance, they are still entitled to an £8,000 allowance for each of their community buildings.

11.15 am

The Government want the gift aid small donations scheme to be more flexible and more generous so that it can benefit a greater number of charities and donations. During the review of the scheme, we listened and HMRC became aware that the current rules did not deliver the desired outcome in certain circumstances. We received representations from local scout and cadet groups explaining that, while they welcomed the scheme and were entitled to a £8,000 small donations allowance under the community buildings rules, they were unable to take full advantage of it because most of their collections take place out in the local community—packing bags at local supermarkets, for example.

We listened and took this seriously, which is why the Bill will relax substantially the community buildings rules to allow charities to benefit from donations received outside their community building. As I said on Second Reading last week,

“among the many small, local civil society groups, the scouts and guides, the air and sea cadets and other local uniformed groups, in particular, will benefit significantly from this change and will be able to receive the support they deserve for the vital work they carry out in our communities”.—[*Official Report, Small Charitable Donations and Childcare Payments Bill Committee*, 11 October 2016; c. 217.]

**Anna Turley:** I think this is a really important provision that deserves greater explanation from the Government. It goes much more widely, as my hon. Friend the Member for Salford and Eccles said. It should seek to include organisations, such as Age UK or Mind, which have much more devolved operational structures. For example, on the back of the loss of the steelworks in Redcar and Cleveland, the number of referrals to Redcar and Cleveland Mind went up by 93%. That charity relies almost entirely on its own local fundraising. That is an exact example of where the charity ought to be able to have a lot more freedom to raise money and keep its gift aid donations locally, rather than having to be part of a national structure. I implore the Minister to take this away and explore it much more widely.

**Jane Ellison:** I am fairly certain that the hon. Lady’s example will benefit from the Bill. At the moment, that is a good example of where a charity probably does not do fundraising in its premises, if it has a local office. If it fundraises in the local area through quizzes or events or whatever, it will now be entitled to claim against its community building for any activity in the local area. I will obviously double-check, but I think exactly that charity will benefit from the provisions in the Bill, for the very reasons the hon. Lady gives: they are people who have a base, but it is not usually the place where they fundraise. By contrast, when the original debate took place, the focus was on churches and cash donations within church buildings.

As I said at the outset, the new clause is unnecessary because the provisions in the Bill allow for what it proposes. The hon. Lady has neatly illustrated why we would reject it: it carves out a few selected charities, but we want the provisions to benefit a very broad range of charities, some of which are not named in the new clause.

Clause 3 achieves what Opposition Members are seeking to achieve but in a fairer way. It does not carve out a few selected charities, wonderful though they are, to benefit, but looks at how churches and other connected groups can claim more against their activities in a local area. The new clause is unnecessary and I hope that the hon. Lady will withdraw it.

**Rebecca Long Bailey:** I thank the Minister for her comments. Before we complete today’s proceedings, I would like to draw her attention to comments made by the Charity Finance Group this morning. It stated that “Scouts and so on often cannot claim under community building rules, because buildings have to be open to the public or a section of the public, some or all of the time. Their huts or barracks are often closed and unless they open up their buildings to the public during their activities or rent out part of their building for community activities, they will not benefit from this rule.”

To address that and deal with some of the issues we have just discussed, the Charity Finance Group has made a suggestion that HMRC could develop regulations and criteria to define local groups for the purposes of the Act, as it has done with other aspects of the gift aid regulations. Would the Minister give serious consideration to that proposal?

**Jane Ellison:** I am happy to reflect on the points made.

**Rebecca Long Bailey:** I beg to ask leave to withdraw the motion.

*Clause, by leave, withdrawn.*

*Bill to be reported, without amendment.*

11.20 am

*Committee rose.*



**Written evidence to be reported  
to the House**

SCDB 03 Charity Tax Group

SCDB 01 Charities Aid Foundation

SCDB 02 Churches' Legislation Advisory Service

