PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO.2) BILL

(Except Clauses 1 to 5; Clauses 6 to 14 and Schedule 1; Clauses 24 to 26; Clause 28; Clause 30 and Schedule 6; Clauses 31 to 33; Clause 36 and Schedule 7; Clause 40; Clause 41; Clause 86; Clauses 87 to 89 and Schedules 16 and 17; Clauses 90 and 91; Clauses 92 to 96 and Schedule 18; Clause 97 and Schedule 19; Clauses 109 to 111 and Schedules 21 and 22; Clause 115 and Schedule 27; Clauses 117 to 121 and Schedules 29 to 32; Clauses 128 to 130; any new Clauses or new Schedules relating to: the impact of any provision on the financial resources of families or to the subject matter of Clauses 1 to 5, 24 to 26, 28, 31 to 33, 40 and 86; the subject matter of Clauses 6 to 14 and Schedule 1; the impact of any provision on regional economic development; tax avoidance or evasion; the subject matter of Clauses 87 to 89 and Schedules 16 and 17 and Clauses 90 and 91; the subject matter of Clauses 92 to 96 and Schedule 18, Clause 97 and Schedule 19 and Clauses 128 to 130)

First Sitting

Thursday 22 April 2021

(Morning)

CONTENTS

PBC (Bill 270) 2019 - 2021

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not later than

Monday 26 April 2021

The Committee consisted of the following Members:

Chairs: DAME ANGELA EAGLE, † SIR GARY STREETER

† Bacon, Gareth *(Orpington)* (Con)
† Badenoch, Kemi *(Exchequer Secretary to the Treasury)*
† Buchan, Felicity *(Kensington)* (Con)
† Coutinho, Claire *(East Surrey)* (Con)
† Eshalomi, Florence *(Vauxhall)* (Lab/Co-op)
Grant, Peter *(Glenrothes)* (SNP)
† Higginbotham, Antony *(Burnley)* (Con)
† Jones, Andrew *(Harrogate and Knaresborough)* (Con)
† Marson, Julie *(Hertford and Stortford)* (Con)
† Murray, James *(Ealing North)* (Lab/Co-op)
† Norman, Jesse *(Financial Secretary to the Treasury)*
† Oppong-Asare, Abena *(Erith and Thamesmead)* (Lab)
† Owen, Sarah *(Luton North)* (Lab)
† Russell, Dean *(Watford)* (Con)
† Rutley, David *(Lord Commissioner of Her Majesty's Treasury)*
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)

Chris Stanton, Jo Dodd, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 22 April 2021

(Morning)

[SIR GARY STREETER *in the Chair*]

Finance (No.2) Bill

(Except Clauses 1 to 5; Clauses 6 to 14 and Schedule 1; Clauses 24 to 26; Clause 28; Clause 30 and Schedule 6; Clauses 31 to 33; Clause 36 and Schedule 7; Clause 40; Clause 41; Clause 86; Clauses 87 to 89 and Schedules 16 and 17; Clauses 90 and 91; Clauses 92 to 96 and Schedule 18; Clause 97 and Schedule 19; Clauses 109 to 111 and Schedules 21 and 22; Clause 115 and Schedule 27; Clauses 117 to 121 and Schedules 29 to 32; Clauses 128 to 130; any new Clauses or new Schedules relating to: the impact of any provision on the financial resources of families or to the subject matter of Clauses 1 to 5, 24 to 26, 28, 31 to 33, 40 and 86; the subject matter of Clauses 6 to 14 and Schedule 1; the impact of any provision on regional economic development; tax avoidance or evasion; the subject matter of Clauses 87 to 89 and Schedules 16 and 17 and Clauses 90 and 91; the subject matter of Clauses 92 to 96 and Schedule 18, Clause 97 and Schedule 19 and Clauses 128 to 130)

11.30 am

The Chair: Welcome, everyone. We are going to have a lot of fun together over the next few days. Before we begin, I remind hon. Members to observe social distancing and to sit only in the places that are clearly marked. I also remind Members that, in line with the House of Commons Commission decision, face coverings should be worn in Committee unless people are speaking or medically exempt. I hope not to need to suspend the sitting to achieve compliance with social distancing requirements. Please switch electronic devices to silent mode. Tea and coffee are not allowed during sittings. The *Hansard* reporters would be grateful if Members could email any electronic copies of their speaking notes to hansardnotes@parliament.uk. Jackets, as you will have noticed, may be removed.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 11.30 am on Thursday 22 April) meet—

(a) at 2.00 pm on Thursday 22 April;

(b) at 9.25 am and 2.00 pm on Tuesday 27 April;

(c) at 11.30 am and 2.00 pm on Thursday 29 April;

(d) at 4.30 pm and 7.00 pm on Tuesday 4 May;

(e) at 11.30 am and 2.00 pm on Thursday 6 May;

(2) the proceedings shall be taken in the following order: Clauses 15 to 18; Schedule 2; Clause 19; Schedules 3 and 4; Clauses 20 to 23; Clause 27; Clause 29; Schedule 5; Clauses 34 and 35; Clause 37; Schedule 8; Clauses 38 to 39; Clauses 42 to 59; Schedule 9; Clauses 60 and 61; Schedule 10; Clause 62; Schedule 11; Clauses 63 and 64; Schedule 12; Clauses 65 to 71; Schedule 13; Clauses 72 to 80; Schedule 14; Clauses 81 and 82; Schedule 15; Clauses 83 to 85; Clause 98; Schedule 20; Clauses 99 to 108; Clause 112; Schedules 23 and 24; Clause 113; Schedule 25; Clause 114; Schedule 26; Clause 116; Schedule 28; Clauses 122 to 124; Schedule 33; Clauses 125 to 127; Clauses 131 and 132; new Clauses; new Schedules; remaining proceedings on the Bill;

(3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 6 May.—*(Jesse Norman.)*

Resolved,

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

The Chair: Copies of written evidence that the Committee receives will be available on the Bill pages of the parliamentary website.

We will now begin our line-by-line consideration of the Bill. The selection and grouping list for today's sittings is available in the room. The list shows how the selected amendments have been grouped for debate, and the order of debates. Decisions on each amendment are taken when we come to the clause or schedule to which the amendment relates.

Clause 15

EXTENSION OF TEMPORARY INCREASE IN ANNUAL INVESTMENT ALLOWANCE

Alison Thewliss (Glasgow Central) (SNP): I beg to move amendment 15, in clause 15, page 9, line 16, at end insert—

"(3) In paragraph 2(3) of Schedule 13 of that Act—

(a) after 'second straddling period is' insert 'the greater of (a)' and

(b) after 'of that sub-paragraph' add 'and (b) the amount (if any) by which the maximum allowance under section 51A of CAA 2001 had there been no temporary increase in the allowance exceeds the annual investment allowance qualifying expenditure incurred before 1 January 2022.'"

This amendment would amend the transitional provisions for the reversion of the AIA to £200,000 on 1 January 2022, to ensure that smaller businesses with lower levels of qualifying capital expenditure are not disadvantaged by having their effective AIA limit restricted to significantly less than £200,000 for a period.

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

Alison Thewliss: It is a pleasure to see you in the Chair, Sir Gary. This is a small technical amendment, on which we have received a representation from the Association of Taxation Technicians. Clause 15 extends the availability of the temporarily increased level of the annual investment allowance for a further year, to 31 December 2021. Although we appreciate that the maintenance of a high AIA will be broadly welcomed by eligible businesses, the wider picture has been, as I said on Second Reading, that the chopping and changing of AIA levels is unhelpful, as it adds complexity to the system and creates traps that can disadvantage some businesses.

Specifically, the transitional rules that apply when the AIA level reverts to £200,000 on 1 January 2022 could result in businesses having their effective AIA limit restricted to significantly less than £200,000 for a period. The businesses most likely to be hit by that are the businesses least likely to be able to benefit from the temporary increase in the AIA limit. There is an opportunity to amend the transitional provisions in order to ensure that smaller businesses with lower levels of qualifying capital expenditure are not actually disadvantaged by a temporary increase from which they will not benefit at all. I hope that the Minister will consider this amendment.

The Financial Secretary to the Treasury (Jesse Norman): What a pleasure it is to serve under your chairmanship, Sir Gary. I look forward to many happy hours of digestion and deliberation on the Finance Bill in Public Bill Committee.

Clause 15 temporarily extends, as the hon. Member for Glasgow Central mentioned, the increased annual investment allowance of £1 million until 31 December 2021. If I may, I will give some background and then address the amendment.

The annual investment allowance, or AIA, provides businesses with an up-front incentive to invest. It allows them 100% same-year tax relief on qualifying plant and machinery investments, up to an annual limit, and simplifies tax for many taxpayers. The summer Budget of 2015 set the permanent level of AIA at £200,000 from 1 January 2016. At Budget 2018, the level was temporarily increased to £1 million for two years, from 1 January 2019. The measure that will be enacted by this clause was announced in November 2020. The changes made by clause 15 will apply across the UK. The £1 million AIA cap covers the plant and machinery expenditures of more than 99% of all businesses.

There were a forecasted 24.9 million AIA claims in 2019-20, compared with 18 million when the cap was last at its £200,000 limit. The higher AIA cap provides businesses with more up-front support, encourages them to bring forward investment and makes tax simpler for any business investing between £200,000 and £1 million. Extending the AIA cap to £1 million supports business confidence at a time when covid-related economic shocks have severely dampened business investment. It is interesting that Chris Sanger, head of tax policy at EY, said that this measure

"will be particularly helpful for UK manufacturing at a time when, thanks to the announcement of a vaccine, business confidence is returning."

Amendment 15, tabled by Opposition Members, seeks to change long-standing arrangements that manage the transition from one level of AIA to another. It is important to note that the current arrangements have been used by the Finance Acts of 2011, 2014 and 2019. They are familiar and well understood, and any change would create additional cost for businesses.

The change proposed would also give a benefit to a small subset of firms that have a chargeable period that straddles the date at which the AIA reduces to £200,000. However, those firms also received a benefit at the point of transition to the new £1 million level of the AIA, and therefore the amendment would not, in our judgment, be fair. It also risks encouraging some businesses to delay investment, which many would not think is in the public interest at present. I therefore urge the Committee to reject the amendment.

Overall, the clause and the measure it will constitute were warmly received by businesses at the end of last year as part of the Government's desire to support business during the pandemic.

Alison Thewliss: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 15 ordered to stand part of the Bill.

Clause 16

Meaning of "general decommissioning expenditure"

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

The Exchequer Secretary to the Treasury (Kemi Badenoch): It is a pleasure to serve under your chairmanship, Sir Gary. The clause makes changes to ensure that decommissioning expenditure incurred by oil and gas companies in anticipation of the approval of an abandonment programme, a condition imposed by the Secretary of State or an agreement made with the Secretary of State qualifies for decommissioning tax relief.

Companies operating oilfields in the UK and the UK continental shelf have always been required to decommission the wells and infrastructure at the end of a field's life. The tax relief for decommissioning expenditure is an important part of the UK's overall oil and gas fiscal regime, which is balanced to maximise economic recovery of the nation's national resources while ensuring that the nation receives a fair return for those natural resources. The changes made by the clause will clarify that appropriate expenditure on decommissioning incurred in anticipation of the approval of an abandonment programme, a condition imposed by the Secretary of State or an agreement made with the Secretary of State qualifies for decommissioning tax relief.

The clause does not have any Exchequer costs and does not alter the original policy intent of decommissioning tax relief. It will provide certainty for the UK oil and gas sector, which supports approximately 260,000 jobs, around 40% of which are in Scotland, and which has paid approximately £350 billion in production taxes to date. The clause will provide certainty that all appropriate decommissioning expenditure qualifies for decommissioning tax relief.

James Murray (Ealing North) (Lab/Co-op): It is a pleasure to be back in Parliament physically and to lead on a Public Bill Committee for the first time under your chairmanship, Sir Gary.

The Chair: Welcome back.

James Murray: You will not be saying that by the end, Sir Gary.

We recognise that this clause makes a largely technical amendment to the Capital Allowances Act 2001, meaning that certain types of expenditure incurred by oil and gas companies on decommissioning plant and machinery before the formal approval of an abandonment programme will qualify for decommissioning expenditure relief. We will not oppose the clause. However, I want to ask the Minister about subsection (9), which introduces a clawback mechanism. It seems to apply when the anticipated abandonment programme has not been approved and the anticipated condition has not been imposed by the Secretary of State, or an anticipated approval has not been given by the Secretary of State within a specified

[James Murray]

period—namely, five years from the last day of the accounting period during which the expenditure was incurred.

In such cases, there is an obligation on the beneficiary of the relief to notify Her Majesty's Revenue and Customs of the situation and to set out how any relevant returns are to be amended. Clearly, as with all tax reliefs, there is a risk that some companies might seek to exploit or use them inappropriately. I would therefore welcome the Exchequer Secretary setting out whether she thinks there is any potential risk of the relief being misused. If so, what actions will HMRC take to reduce the risk? What proactive investigations will HMRC make to verify that those taking advantage of the relief are doing so legitimately, and what penalties or other enforcement action will be taken if instances are uncovered where that is not the case?

Kemi Badenoch: I thank the hon. Gentleman for his questions. He raises an interesting point. We have been discussing industry's concerns for some time over the lack of clarity on decommissioning expenses incurred prior to the approval of an abandonment programme. Industry already supports the measure. We consulted it on the draft legislation, and the clause takes account of comments received, particularly on the clawback mechanism that the hon. Gentleman refers to. We have now excluded the ongoing maintenance costs of assets waiting to be decommissioned from the clawback.

On clawbacks specifically, where expenditure is claimed on decommissioning in anticipation of an approval, the legislation allows five years for that approval to be in place before the clawback is triggered. We listened to industry's comments during our consultation, and adjustments have been made to the clawback to exclude maintenance costs from the mechanism. The Department for Business, Energy and Industrial Strategy is responsible for overseeing decommissioning work on the UKCS. Where the anticipated approval condition or agreement is not approved by BEIS in the five-year period, it is appropriate for any relief to be clawed back. The legislation ensures that only legitimate decommissioning expenses qualify, and the clawback provides an important protection for the Exchequer.

Question put and agreed to.

Clause 16 accordingly ordered to stand part of the Bill.

Clause 17

Extensions of plant or machinery leases for reasons related to coronavirus

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

Jesse Norman: The clause makes provision for an easement for plant and machinery leases caught by anti-avoidance legislation when extended due to coronavirus. The easement has the effect of turning off the anti-avoidance legislation under specific circumstances. The reason for that is that HMRC has identified an issue where some plant or machinery leases could be adversely affected by the Government's anti-avoidance legislation. This relates to specific circumstances where a lease is extended due to covid-19, and creates unexpected and unwelcome outcomes for many lessors and lessees. Therefore, at the Budget, the Government announced changes to ensure that the anti-avoidance mechanism is not unnecessarily triggered by legitimate commercial activity.

The measure will affect leases where a relevant change in consideration is implemented between 1 January 2020 and 30 June 2021. It is an easement, restoring eligibility to claim capital allowances to the position as originally intended immediately prior to the date of the change in consideration due under the lease. If not deemed appropriate, either party may choose not to apply this treatment, ensuring that no one will be left worse off by the change. The Government expect that the services, construction, manufacturing and agricultural sectors, in particular, will be positively affected by the changes.

The measure is important in assisting businesses that have been badly hit in their legitimate activity by the effects of the pandemic and in ensuring that they are not struck by unexpected tax charges. I therefore move that the clause stand part of the Bill.

James Murray: We recognise that the clause relates to the leasing of plant or machinery, and specifically to a situation where a lease of such machinery is extended due to coronavirus. Without this provision, such an extension could trigger anti-avoidance legislation, and we understand that the clause therefore amends relevant subsections relating to long and short leases in the Capital Allowances Act 2001, with the effect of switching of the anti-avoidance provision and returning the situation to what it would have been without coronavirus.

We understand that the need for the clause was raised by the Finance and Leasing Association, which represents 40% of relevant lessors in the UK, and that after consideration the Treasury agreed that the change for which the clause provides was needed. It will cover only covid-19-related lease extensions where anti-avoidance legislation is triggered from 1 January 2020 to 30 June 2021, as the Minister said.

11.45 am

Although we note that no public consultation was carried out on this matter, the clause's effect on the public finances is negligible and is time limited during covid. The beneficiaries will be a small number of plant or machinery leaseholders, and the main stakeholder is the Finance and Leasing Association, which supports the clause. We therefore do not oppose its standing part of the Bill.

Question put and agreed to.

Clause 17 accordingly ordered to stand part of the Bill.

Clause 18

Temporary extension of periods to which trade losses may be carried back

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

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

Government amendment 16.

Amendment 2 in schedule 2, page 101, line 36, at end insert—

"(5A) Insert after Section 127(3A) of ITA 2007:

'(3B) Sub-section (3A) does not apply to losses incurred in a UK furnished holiday lettings business in the tax years 2020/21 and 2021/22.'."

This amendment would allow for the extend carry back rule to apply to losses incurred in UK furnished holiday letting businesses.

That schedule 2 be the Second schedule to the Bill.

New clause 10—*Review of effects of section 18 and schedule 2*—

"(1) The Chancellor of the Exchequer must review the impact of section 18 and schedule 2 of this Act and lay a report of that review before the House of Commons within six months of the passing of this Act.

(2) A review under this section must estimate the expected impact of the provisions of section 18 and schedule 2 on—

(a) levels of tax avoidance,

(b) levels of tax evasion, and

(c) tax revenues."

This new clause would require the Government to review the impact of the provisions of clause 18 and schedule 2 on tax avoidance and evasion and tax revenues.

Jesse Norman: I thank the hon. Member for Ealing North for his remarks in support of the previous clause. Clause 18 and schedule 2 make changes to the loss relief rules for businesses by extending the loss carry-back rule from one year to three years for corporation tax and income tax. The change will provide previously profitable businesses that have been forced into loss with extra flexibility to carry back up to £2 million of losses against historical profits and achieve an additional tax refund to help them to continue trading through this difficult period. I note that the measure has been welcomed by both the Institute for Fiscal Studies and the Chartered Institute of Taxation.

In the 2021 Budget, the Government announced that they would increase the flexibility of the UK's loss regime in order to provide additional cash-flow support to businesses. Currently, a business that incurs a trading loss over the course of its accounting period is able to carry that loss back to be relieved against taxable profits in the previous year. There is no limit on the value of losses that may be carried back to reduce last year's profit. That is in addition to businesses' ability to use losses to offset in-year profit or to carry forward against future years' profit. We are temporarily extending that one-year loss carry-back rule to three years to support business cash flow, giving businesses greater flexibility to monetise their losses sooner, rather than carrying them forward to offset against profit in future years.

The changes made by clause 18 and schedule 2 will extend the loss carry-back facility from one year to three years. Unincorporated businesses will be able to carry back up to £2 million in trading losses incurred in each of the tax years 2020-21 and 2021-22. Incorporated businesses can carry up to the same amount of losses incurred in accounting periods ending in each of the financial years 2020 and 2021. HMRC expects around 130,000 companies to be in a position to take advantage of the policy and to receive additional relief for their trading losses. It is also expected that over 99% of claimant businesses will be unaffected by the overall cap.

The clause and the schedule also include provisions to ensure that the cap is applied proportionately across businesses and groups. Groups will need to allocate the £2 million cap across their companies, but in order to maintain the simplicity for smaller businesses, companies intending to carry back less than £200,000 of losses will not be subject to this requirement, and nor will unincorporated businesses.

Amendment 2 seeks to amend section 127(3A) of the Income Tax Act 2007 to allow for the extended carry-back rule to apply to losses incurred in UK furnished holiday letting businesses. However, the relief granted in the Bill is an extension of relief for businesses that already qualify for loss carry-back relief. There is no intention to make loss carry-back relief in its current or extended form available to other businesses.

I recognise that there is currently an incorrect reference to UK furnished holiday lettings businesses in the Bill as introduced in the House. That was included because UK furnished holiday lettings businesses are treated as trades for the purpose of part 4 of the 2007 Act, which relates to loss relief. However, as those businesses are not entitled to make the necessary claim for the existing loss carry-back relief, they cannot claim the extended relief. I have therefore tabled amendment 16 to remove that reference, and thus make the Government's intention clear. I therefore urge the hon. Member for Glasgow Central not to put amendment 2 to a vote.

New clause 10 would require the Government to review the impact of clause 18 on levels of tax avoidance, tax evasion and tax revenues. The Government publish information every year on the tax gap, including that part of it relating to tax avoidance and evasion. That kind of information is already in the public domain. The tax information and impact note for the measure before the Committee already indicates its expected effect on tax yields. I therefore do not believe that a review is necessary, and urge Members to reject the new clause.

The policy overall will support businesses by providing accelerated relief for losses in the form of a cash refund of tax paid when times were good, to help them to continue trading through this difficult period.

Alison Thewliss: Amendment 2 has the opposite aim, I suppose, to Government amendment 16. We proposed to update the Income Tax Act 2007 so that the extended loss carry-back rules in the Bill, in relation to furnished holiday lettings businesses, would have effect, whereas the Government clearly intend that the measure will no longer apply to those businesses.

In tabling our amendment we assumed that the Government had drafted their measure incorrectly and had accidentally excluded the people in question, but clearly we were wrong. They have not excluded them as much as they had hoped to, and are coming back to double down on that exclusion by means of amendment 16. Our technical amendment would help the sector, and we are keen for the Government to take it on board.

The Low Incomes Tax Reform Group has also raised the wider implications of clause 18 and the potential for unintended consequences and pitfalls resulting from the interaction between any tax refund and universal credit. Has the Minister given that any consideration? The group feels that there has been a significant increase in claims for universal credit during the pandemic—it is clearly evidenced—including from self-employed individuals and limited company directors who may never have needed to claim such support before the pandemic.

[Alison Thewliss]

Under the universal credit legislation, self-employed income for a universal credit monthly assessment period is calculated by taking actual receipts in the assessment period and deducting any amounts allowed as expenses, tax, national insurance and any relievable pension contributions in that period. The group points out that receipts specifically include any refund or repayment of income tax, VAT or national insurance contributions related to a trade, profession or vocation, so any tax refund made as a result of the provision may therefore fall to be treated as income for universal credit purposes in the assessment period in which it is received, which in most cases will lead to a reduction of universal credit of 63p for every £1 of refund. In addition, further to that, if the refund is large enough, it might trigger the surplus earnings rules, meaning that any excess income in one assessment period can be carried forward and treated as income in the next assessment period, up to a maximum of six months.

It would be helpful if the Minister said whether the Government are aware of the issue and what plans they have to raise new universal credit claimants' awareness of it, so that they can understand that if they receive the refund while they are in receipt of universal credit, they will need to report it as income for universal credit purposes. They will have to understand the implications fully.

This is an unintended issue arising from the pandemic. People who have never claimed universal credit before, who may have recourse to the provisions that the Government are making, will not understand how the two things interact. They might not have access to appropriate financial advice, and I would not want the Treasury or HMRC to be doing something on one hand that the Department for Work and Pensions did not understand on the other. What discussions has the Minister had with DWP Ministers, and what information does he intend to give out to people? As the Low Incomes Tax Reform Group points out, there could be implications that have not been considered.

James Murray: We note that clause 18 and schedule 2 provide a temporary extension to the carry-back trading losses provisions from one year to three years, for losses of up to £2 million for a 12-month period, both for companies and for unincorporated businesses. Those extensions to trade loss carry-back rules for both corporation and income tax have been introduced in response to covid-19 to help businesses that have suffered economic harm as a result of the restrictions placed on them.

We understand that the intention is to provide cash-flow benefit to affected businesses by providing additional relief for trading losses. As we have heard, the Chartered Institute of Taxation has said that it welcomes this measure for giving a cash injection to businesses with a track record of making profits and paying tax, but which have suffered during the pandemic. The Chartered Institute of Taxation points out that, in many cases, this measure will represent a cash-flow, rather than an absolute, cost to Government. The cost will reverse as the business, having used up its losses by carrying them back, makes profits and pays taxes sooner in the future.

Although we recognise the broad support for the measure from the Chartered Institute of Taxation and the wider importance of helping businesses with cash flow when they have suffered as a result of covid restrictions, we have tabled new clause 10, which relates to tax avoidance and evasion. We do not doubt that most businesses benefiting from the measure will do so legitimately. Given the importance of making sure public money is spent effectively and as intended, however, we believe the Government should identify any risk and take action to mitigate those risks as necessary.

Furthermore, we would also like to raise the issue identified by the Chartered Institute of Taxation's Low Incomes Tax Reform Group—namely, the potential interaction of any tax refund with universal credit, as set out by the hon. Member for Glasgow Central. I would therefore like to reiterate her call to the Minister to ask whether he is aware of this issue. If so, what plans do the Government have to raise awareness of this issue with universal credit claimants to make sure they understand that, if the refund is received when they are in receipt of universal credit, they will need report this income for UC purposes?

Jesse Norman: I am grateful to the hon. Members for Glasgow Central and for Ealing North for their questions; let me speak to the points they have raised.

The hon. Member for Glasgow Central suggested—in fact, she averred—that she had tabled her amendment based on what I fear is a misunderstanding of the legislation, without her being aware that this was actually an incorrect feature of the legislation that the Government were seeking to correct. I apologise if she has been misled. It is certainly not part of any intention of the Government to change what is a long-standing arrangement for the taxation of furnished holiday lettings, and there was no intention to extend the relief to businesses that do not currently qualify for loss carry-back relief. I apologise if the legislation has inadvertently misled her, and I hope on that basis that she will not press her amendment.

On the interaction with universal credit, the key point I would make is that this is a change designed to provide businesses with flexibility. Universal credit is a cash flow-based benefit, and rightly so, because it intends to track people's cash flow as it rises and falls in receipt of the benefit. Of course, my officials consider all these matters in the round. If there are further technical points that the hon. Members for Glasgow Central and for Ealing North would like to put forward, based on the specific feedback of the Low Incomes Tax Reform Group, we would be happy to listen to them and respond accordingly.

Question put and agreed to.

Clause 18 accordingly ordered to stand part of the Bill.

Schedule 2

Temporary extension of periods to which trade losses may be carried back

Amendment made: 16, in schedule 2, page 101, line 34, leave out sub-paragraph (5).—*(Jesse Norman.)*

This amendment clarifies that relief under Part 1 of Schedule 2 to the Bill is not available to a furnished holiday lettings business that is treated as a trade under section 127 of the Income Tax Act 2007.

Schedule 2, as amended, agreed to.

Clause 19

R&D tax credits for SMEs

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

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

That schedule 3 be the Third schedule to the Bill.

That schedule 4 be the Fourth schedule to the Bill.

12 noon

Jesse Norman: Clause 19 and schedules 3 and 4 make changes to deter abuse in the payable credit element of the research and development tax relief for small or medium-sized enterprises, or SMEs. R&D tax reliefs, including the SME scheme, support businesses to invest and are a core part of the Government's support for innovation. In 2017-18 alone, there were over 54,000 claims to the SME scheme, providing relief of £2.7 billion, which supported over £10 billion of R&D investment.

The SME scheme has two parts. First, the relief functions as a corporation tax additional deduction, reducing the profits on which a company pays corporation tax by 130% of qualifying expenditures, on top of the standard 100% deduction. Secondly, if a company is loss making, or if the deduction creates a loss, they may be entitled under the law as it stands to surrender losses in exchange for a payable credit up to 14.5% of 230% of qualifying expenditures.

However, the Government have been concerned about abuse in the payable credit element of the scheme. In particular, some loss-making companies that do little R&D themselves pay another person, such as a company based abroad, for a lot of R&D simply to have access to the payable credit element of the relief. They are thus benefiting themselves, but the benefit of the R&D is not accruing to the UK economy. To prevent abuse of the SME scheme, Budget 2018 announced a cap on the amount of payable credit that a company will be able to receive.

The change will limit the amount of payable credit available to some companies, and it will be set at £20,000 plus three times the company's pay-as-you-earn and national insurance liability. The liability acts as a proxy for actual R&D activity happening in the UK to ensure that claimants have an actual employment footprint here in order to benefit from the payable credit.

The measure has been carefully designed to ensure that non-abusive companies are unaffected, and it achieves that through three important features. First, the threshold of £20,000 means that the smallest claims will be uncapped. Secondly, this is based on the total liability for all employees, not just the liability for employees working on R&D. Where companies subcontract R&D to connected persons, or use agency workers supplied by connected persons, they will be able to include costs attributable to that as well. Thirdly, companies that can show they are creating or preparing to create intellectual property, or are managing intellectual property that they have created, and where less than 15% of the R&D expenditure is with other connected companies, may be exempt from the cap.

Compared with the draft legislation published last year, the definition of intellectual property has been expanded, based on comments made, so that it will include both know-how and trade secrets in order to cover cases in which a company does not wish to or cannot seek a patent. We have worked closely with the industries involved on this design. The changes will take effect for accounting periods beginning on or after 1 April 2021. Up to 25,000 companies will be affected by the measure, although not all will see their payable credit reduced. The measure is expected to yield £455 million across the scorecard period.

The measure is an important step to protect the integrity of the SME scheme. The Government have extensively consulted in order to ensure that legitimate businesses are not caught, and the new rules will ensure that the reliefs remain sustainable, enabling them to continue to support innovation into the future.

James Murray: Clause 19 and schedules 3 and 4 introduce a new restriction, or cap, on the payable element of the R&D tax credit for SMEs. Tax reliefs that seek to incentivise firms to invest in R&D form an important part of the Government's approach to innovation. However, as the Government admit, the SME tax credit has become a target for fraud and abuse. We welcome any Government efforts to counter fraudulent attempts to claim the SME R&D tax credit. Will the Minister set out figures explaining the extent of the fraud and abuse, including how much it has, or is estimated to have, cost the Exchequer in each of the financial years 2018-19 through 2020-21?

We note that this change has been a few years in the making. It was first announced at the 2018 Budget, the Government consulted on its detailed design in 2019, and there was a further consultation in spring and summer 2020. The opinion of the Chartered Institute of Taxation is that the outcomes of these two consultations have fed into the design of this measure in a way that it welcomes, as it considers that these changes will minimise the impact and deterrence effect on businesses undertaking genuine R&D.

The process of consultation continues, and at the March Budget, the Government announced a new review of R&D tax relief, supported by a consultation with stakeholders. Without, of course, pre-judging the outcome of that review or consultation, we would like to ask the Minister to set out any early thoughts he has about where this process may lead, both in relation to R&D tax credit and tax relief generally, and specifically as they apply to SMEs. We would welcome the Minister setting out his response to this point, as well as—as I mentioned—the figures or estimates he has on the impact on the Exchequer of fraud involving, and abuse of, the SME tax credit in each of the three past financial years.

Jesse Norman: I am grateful to the hon. Member for his questions. Of course, it is in the nature of avoidance that it is not possible to estimate: it is avoidance or potential avoidance, so it is not possible to give accurate figures as to the exact levels of avoidance that has taken place. However, it is noticeable that this measure has an estimated positive revenue effect of over £400 million, which is an interesting fact in and of itself, and quite an interesting potential indicator of the importance of the measure.

On the wider issue of progress in this area, the hon. Member will be aware that we have a review underway. It would not be appropriate for me to pre-judge the scope of this, or indeed the outcome of a review that has only relatively recently been initiated, but I assure him that it will be thorough and effective.

Question put and agreed to.

Clause 19 accordingly ordered to stand part of the Bill.

Schedules 3 and 4 agreed to.

Clause 20

Extension of social investment tax relief for further two years

James Murray: I beg to move amendment 23, in clause 20, page 13, line 20, leave out "6 April 2023" and insert "6 April 2026".

The Chair: With this it will be convenient to discuss clause 20 stand part.

James Murray: Clause 20 and our amendment 23 relate to the social investment tax relief, which was introduced in 2014 to encourage investment in qualifying social enterprises and trading charities. It offers investors a range of tax reliefs, including income tax relief and CGT holdover relief, on gains reinvested in qualifying enterprises. This relief originally contained sunset provisions that would have terminated it on 26 April 2019. The sunset was extended in 2017 to 6 April 2021, and now clause 20 is extending the operation of the scheme further, to investments made in enterprises on or before 5 April 2023.

We support the decision to extend the life of this relief, which has been called for by the social investment sector, stakeholders such as the Co-operative party, and the shadow Chief Secretary to the Treasury, my hon. Friend the Member for Houghton and Sunderland South (Bridget Phillipson), during consideration of the Finance Bill 2020. However, we remain concerned that the Government need to be doing more to increase its take-up, which we note has been lower than expected. HMRC's last statistics, released in May 2020, set out that since 2014—when the relief was launched—110 social enterprises have raised funds of £11.2 billion through it. Indeed, the results of the Government's 2019 call for evidence on the relief say:

> "Around three-quarters of respondents reported difficulty in using SITR. Reasons given varied and included a lack of capital supply (even with the offer of tax relief) for the levels of demand; a lack of or unclear guidance; complex eligibility restrictions; and limited resources within social enterprises to manage SITR processes and investments."

Concerns about low take-up are shared by the Chartered Institute of Taxation, which recognises that although some obstacles to using the social investment tax relief to invest in social enterprises have been removed, the effect is yet to bed in, and significant other barriers to take-up remain. I would therefore be grateful if the Minister set out what the Government are doing to improve take-up of the social investment tax relief, and whether they would consider consulting more widely on how investment in social enterprises can be facilitated. Alongside concerns that the relief is overly complex for the smaller organisations it is designed to support, analysis by the Chartered Institute of Taxation also raises concern that this relief is less well suited to investments made by way of loans, even though, anecdotally, loans to social enterprises are more common than equity investment. To understand the situation in relation to loans better, I would be grateful if the Minister informed us what proportion of the £11.2 million raised through the social investment tax relief since 2014 have been in the form of loans.

More widely, the Chartered Institute raised concerns that a two-year period to address the current barriers is unlikely to be sufficient and might put off some long-term investors. We therefore tabled amendment 23 to encourage the Government to consider and set out their view on amending the Bill to include a longer extension to the relief. I would be grateful for the Minister's views on how long the relief should be extended.

Jesse Norman: I thank the hon. Gentleman for his questions, to which I shall respond when I have described how the clause works.

Clause 20 extends the operation of social investment tax relief for two years, until 5 April 2023. This will continue the availability of income tax relief and capital gains tax reliefs for investors who make investments in qualifying social enterprises. This measure ensures that the Government will continue to support social enterprises in the UK that are seeking patient capital for growth.

SITR encourages investment in social enterprises by offering income tax and capital gains tax reliefs to individual investors who subscribe for new shares, or make a new debt investment, in qualifying enterprises. Between 2014 and 2018-19, 110 social enterprises used SITR to raise £11.2 million in investment—a much lower engagement than originally anticipated. In line with commitments made when SITR was expanded in 2016, the Government conducted a review of the scheme last year, including through a call for evidence. Following the review, the Government now propose to extend SITR's sunset clause from April 2021 to April 2023.

Sarah Owen (Luton North) (Lab): Research from Social Enterprise UK indicates that about one in five social enterprises may use the tax relief to help access capital in the wake of covid-19, but that 40% are unlikely to do so in the next two years. We need to give investors time to raise and deploy capital, which could take up to two years, assuming that they started immediately once the extension had been announced. Would not a further extension show the support for entrepreneurs, social enterprises and charities that we need right now to get our communities back on their feet?

Jesse Norman: I thank the hon. Lady for her intervention. She will be aware that this relief has been in place since 2014-15. It is unfortunate, therefore, that it has not been taken up more widely. There was a considerable period following its introduction, with the tremendous backing and support of the social enterprise sector, in which it was not taken up. It is important that those who call for its extension ask themselves why it was not taken up. The Government certainly attempted with great enthusiasm to press the case wherever possible. The truth of the matter is that many people invest in and support social enterprises by charitable giving rather than through investment, so the use of a deduction does not appear to be particularly attractive to them.

One wishes it were otherwise. I have worked in social enterprises in different ways since the 1980s and I feel very passionately about their importance, but, to take a parallel example, charities received £1.4 billion in gift aid in 2019-20. Since 2014-15, a total of £11 million has been raised through SITR—a tiny fraction. The amount of relief granted is a fraction of that. This is a relief that we are extending in order to try to support the sector to the extent that we can, but there needs to be a much more fundamental reconsideration. I have invited stakeholders in the sector, at length, to step forward and help us to think about whether a new approach may be valuable and interesting. I thank the hon. Lady for her comments.

Given the balance between SITR's performance and the desire to continue support for social enterprises, a two-year extension seems to provide an appropriate timeframe for the scheme to continue to support the social enterprise sector while also providing a reasonable period over which to monitor its effectiveness. The changes made by clause 20 would extend the operation of SITR by two years at, I am afraid, negligible cost to the Exchequer. I wish that the cost were higher, because it would show that the relief was being more widely used.

12.15 pm

Amendment 23 seeks to extend SITR's sunset clause to April 2026. Between 2014 and 2018-19 about 110 social enterprises raised £11.2 million in investment. I fully appreciate that SITR has supported these enterprises in accessing finance, but as all would concur, this has been a very modest rate of progress compared with what was originally expected when the relief was introduced in 2014. We committed to review SITR and published a call for evidence. Following a careful assessment of that evidence, we decided to extend as set out in the clause. The Treasury believes that all taxes and reliefs must meet their policy objectives in a way that is fair and objective, and that is what this extension is designed to do.

The hon. Member for Ealing North asked what the Government are doing to improve take-up. The answer is that we are closely engaging with stakeholders on this issue. We have supported awareness campaigns in the past and we continue to work with Big Society Capital, but the plain fact is that this relief is not especially attractive. I have told stakeholders that I would welcome a more fundamental reconsideration.

Finally, on the question about the split between loan and equity, I am not sure that those numbers exist, but I will ask officials to check and will send the hon. Gentleman the details if we have them.

Social enterprises play a vital social and economic role across the United Kingdom. That is something that you, Sir Gary, and I know from personal experience. They have been a deeply important factor in this country's development history. Many have brilliantly supported communities through the covid-19 pandemic. The Government want to continue support for the sector, but they need to ensure that these reliefs are appropriately managed. That is what this clause does.

James Murray: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 20 ordered to stand part of the Bill.

Clause 21

Workers' services provided through intermediaries

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

Jesse Norman: The clause relates to workers' services provided through intermediaries and makes technical changes to the off-payroll working legislation. The off-payroll working rules exist to ensure that a contractor who works like an employee, but through a personal service company, pays broadly the same amount of tax as those who are directly employed. The rules ensure fairness between individuals who work in similar ways but through different structures.

This is not a new tax. The changes legislated for last year improve compliance with existing rules by transferring the responsibility for determining whether the rules apply from the contractor's personal service company to their client and have taken effect from April 2021 in the private and voluntary sectors. The changes were implemented in the public sector in 2017. Reform was legislated for in the Finance Act 2020 and came into effect on 6 April this year, as planned.

The main change we are making in this clause is to address an issue raised late last year by stakeholders. A small section of the legislation introduced in the Finance Act 2020 and intended to prevent people from avoiding the rules through the use of artificial structures applied more broadly than was intended. This had the effect that some workers who were not intended to be within the scope of the rules would be caught. This would have placed obligations under the off-payroll working rules on a wider range of clients and engagements than was intended from 6 April 2021. The Government announced on 12 November 2020 that they would make a technical change in this Finance Bill to ensure that the legislation reflected the policy intent.

HMRC has worked closely with stakeholders to find a solution that both prevents avoidance and ensures that the legislation does not apply beyond the scope of the policy intent. The main technical change that we are making in this clause will ensure that the rules do not apply when the worker has no interest in the intermediary company or, when they have a less than material interest in the intermediary, their fee is already taxed wholly as employment income.

The clause also proactively introduces a targeted anti-avoidance rule, or TAAR, to future-proof the rules and further minimise any risk of contractors being drawn into avoidance arrangements. This will ensure that unscrupulous parties cannot exploit these conditions in order to avoid the rules.

The Government are also making two minor related technical changes, which were requested by stakeholders, to make it easier for businesses to operate the rules and to ensure that parties who provide fraudulent information are held responsible. Currently, workers are asked to inform their client whether their intermediary meets the conditions that mean the rules need to be considered. If the worker does not provide this information, clients must assume that the intermediary is in scope. This change will make it easier for parties to share information by allowing the intermediary, as well as the worker, to confirm to the client whether the off-payroll working rules need to be considered.

The second change amends the provisions related to fraudulent information. This will allow HMRC to take action against any UK-based party in the labour supply chain that provides fraudulent information, for example by claiming that an intermediary is out of the scope of the rules when they are not. Currently, the liability

[Jesse Norman]

would rest with the worker if they, or someone connected to them, provided fraudulent information. This change ensures that the liability rests with any UK-based party in the labour supply chain that provided the fraudulent information. This protects others in the supply chain from being liable for underpaid tax and national insurance contributions when they have acted on this fraudulent information in good faith.

The clause ensures that the off-payroll working reform works as intended from 6 April, and it introduces minor, but helpful, technical changes that were recommended by stakeholders. These changes had effect from 6 April, when the off-payroll working reform took effect.

James Murray: As we have heard, clause 21 introduces a series of changes that relate to workers' services provided through intermediaries, the provisions of which we support.

First, the clause makes amendments to the off-payroll working legislation in chapter 10 part 2 of the Income Tax (Earnings and Pensions) Act 2003, to address the unintended widening of the conditions that determine when a company is an intermediary and is subject to chapter 10. The off-payroll working rules were amended by the Finance Act 2020, including an amendment that sought to prevent potential avoidance of the rules by workers diluting their shares in these intermediaries, so they did not have a material interest. However, this amendment widened the determining conditions applicable to companies beyond policy intent. The clause limits the scope of these conditions by removing those engagements that would be unintentionally caused by the rules, restoring the original policy intent.

The clause further introduces a targeted anti-avoidance rule that seeks to prevent avoidance arrangements trying to circumvent the conditions for a company or partnership to use intermediaries for the purposes of chapter 10. As the Minister will know, we support measures that seek to address avoidance.

The clause introduces two further technical amendments. The first makes it easier for parties in a contractual chain to share information relating to the off-payroll working rules. The second places the loss liability for the tax on the party in the labour supply chain that provided the fraudulent information. It is right that those in a supply chain should be held responsible for providing fraudulent information.

As the Minister will know, other hon. Members raised concerns relating to clause 21 in Committee of the whole House earlier this week. My hon. Friend the Member for Brentford and Isleworth (Ruth Cadbury), who is co-chair of the all-party parliamentary loan charge group, asked whether the Government would consider amending the clause

"to allow only compliant umbrella companies to exist."—[*Official Report*, 20 April 2021; Vol. 692, c. 912.]

In the interest of all views on this debate being fully considered, will the Minister set out his assessment of the impact that change would have?

Jesse Norman: I thank the hon. Gentleman for his question and for his support for this important legislation. Although not related to this clause, I thank him for the support the Labour party has given on the issue of the loan charge. These are important ways to curb forms of abuse of the rules that may mean people do not pay appropriate levels of tax, so I am grateful for that support.

On the last point that the hon. Gentleman raised, I am afraid that it was an unfortunate and slightly misinformed debate in Committee of the whole House, in part because there was a suggestion that somehow clause 21 benefited only umbrella companies and should be struck out, and that the effect of striking it out would somehow mean that workers would receive agency rights by working through agencies' payrolls. In fact, that is not correct. Clause 21 has no bearing on workers receiving rights, and it also ensures that the rules apply correctly to agencies, and indeed to a wider group, such as employees on secondment. The effect of the amendment proposed in Committee of the whole House would have been to gut the legislation, which is why the Government opposed it.

Question put and agreed to.

Clause 21 accordingly ordered to stand part of the Bill.

Clause 22

Payments on termination of employment

Alison Thewliss: I beg to move amendment 1, in clause 22, page 17, line 17, after "then" and before " – " insert

"where it is to the benefit of the employee the following calculation may be used".

This amendment would ensure that, in new subsection 402D(6A) ITEPA03 to be inserted by FB clause 22(7), the method of calculating post-employment notice pay (PENP) for certain employees paid by equal monthly instalments whose post-employment notice period is not a whole number of months continues to be an alternative method that can be used if it benefits the employee, rather than being compulsory.

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

Alison Thewliss: This technical amendment would ensure that, in new subsection 402D(6A) of the Income Tax (Earnings and Pensions) Act 2003, which is to be inserted by clause 22(7), the method of calculating post-employment notice pay for certain employees paid by equal monthly instalments whose post-employment notice period is not a whole number of months continues to be an alternative method that can be used if it benefits the employee, rather than being compulsory.

In common with the Institute of Chartered Accountants in England and Wales, we feel that the provisions do not match the intended policy. The institute has recommended that clause 22(7)(c), which inserts new subsection 402D(6A) into the Income Tax (Earnings and Pensions) Act 2003—I will be sending my notes to the *Hansard* people, given all the figures and facts—needs to make it clear that the method set out for calculating post-employment notice pay is an alternative that can be used, rather than something that must be used. That would make the legislation on termination payments align with the policy intent stated in the Bill's explanatory notes, the "Notes on the Finance Bill resolutions 2021", and HMRC's existing guidance.

Clause 22 amends the income treatment of termination payments. As explained in paragraph 11 of the explanatory notes, clause 22(7)(c) provides for the new subsection to be inserted into the Income Tax (Earnings and Pensions) Act 2003. The clause will apply to individuals who have their employment terminated and receive a termination payment on or after 6 April 2021. We understand that the Institute of Chartered Accountants in England and Wales has identified some technical difficulties with the proposals. It believes that the intention of legislating this point is to put into law the ability to choose to adopt the alternative method, which is in line with HMRC's policy of enacting extra statutory concessions and other easements following the Wilkinson case. If enacted, however, the Finance Bill will make it compulsory, so we recommend our amendment, and we ask the Government to give greater consideration to it. It is a very technical and detailed amendment, as I have said already, but I urge the Minister, if he cannot accept it today, to bring it back at a later stage.

James Murray: As we know, clause 22 focuses on post-employment notice pay, which is the part of a termination payment that is treated as being a payment in respect of the employee's notice period, and that is subject to income tax and to employees' and employers' national insurance contributions. The clause amends the income tax treatment of termination payments in two ways. First, it provides a new calculation for the post-employment notice pay for employees who are paid by equal monthly instalments and whose post-employment notice period is not a whole number of months. That will help avoid excessive tax charges, and we support it.

Secondly, the clause aligns the tax treatment of post-employment notice pay for individuals who are non-resident in the year of termination of their UK employment with the treatment for all UK residents. Currently, post-employment notice pay is not chargeable to UK tax if an employee is non-resident for the tax year in which their employment terminates. This measure will ensure that non-residents are charged tax and national insurance contributions on post-employment notice pay to the extent that they have worked in the UK during their notice period. The change affects only individuals who physically performed the duties of their employment in the UK. That non-residents should make tax contributions on post-employment notice pay for the time that they worked in the UK during their notice period is a fair change, so we support the measure.

12.30 pm

Jesse Norman: I thank the hon. Members for Glasgow Central and for Ealing North. I do not think that we need to spend too long on this. Clause 22 makes changes to the taxation of termination payments. It was published in draft and announced in a ministerial statement in July 2020. The measure has been set out in the explanatory notes and in Opposition speeches, and I will not spend too much time on them now.

The clause alters the calculation used to define the amount of a termination payment that should be taxed as post-employment notice pay. This is when an unworked notice period is not in whole months but an individual is paid monthly. Secondly, as hon. Members mentioned, the clause brings post-employment notice pay paid to non-UK residents within the charge to UK tax. I am grateful for the support of the Labour Opposition on that.

In terms of the amendment, I am not surprised that the hon. Member for Glasgow Central slightly stuttered over what is a formidably technical matter, but I think we can digest the point very simply. There is currently no single way of calculating the payments. Amendment 1 seeks to make the calculation alternative rather than mandatory for the purposes of post-employment notice pay. I remind her and the Committee that the new calculation is more accurate for employees paid by equal monthly instalments, and that it is more straightforward for employers to administer a single mandatory calculation rather than having to choose between two alternative calculations. It is therefore just a better and more effective way of discharging the policy intent, and I urge her not to put the amendment to a vote.

Alison Thewliss: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 22 ordered to stand part of the Bill.

Clause 23

CASH EQUIVALENT BENEFIT OF A ZERO-EMISSIONS VAN

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

Kemi Badenoch: Clause 23 makes changes to reduce the van benefit charge—the VBC—to zero for employees who are provided with a company van that produces zero carbon emissions. The van benefit charge applies where an employee is provided with a company van by their employer that they use privately, other than for ordinary home-to-work commuting.

At Budget 2014, the Government announced that the van benefit charge for zero-emission vans would be a percentage of the flat-rate van benefit charge for conventionally fuelled vehicles until April 2020. Those changes were legislated for in the Finance Act 2015. At Budget 2015, the Government announced that the planned increases to the percentages for 2016-17 and 2017-18 would be deferred to 2018-19, and the percentages would increase by 20% for each subsequent tax year, rising to 100% in 2021-22. Those changes were legislated for in the Finance Act 2016.

The changes made by clause 23 will reduce the van benefit charge to zero from 6 April 2021 for all company vans that emit zero carbon emissions, giving those vehicles preferential tax treatment over conventionally fuelled vehicles. The Government announced the measure at Budget 2020 to incentivise the uptake of zero-emission vans and to help the UK to meet its legally binding climate change targets.

Transport is now the largest sector for domestic UK greenhouse gas emissions, and a significant proportion of that is accounted for by road transport. Moreover, vans tend to do more mileage and are more polluting than cars. By reducing the level of the tax charge that would otherwise be applicable, the change outlined in the clause will incentivise the uptake of zero-emission vans and support the Government's environmental commitments.

James Murray: As we have heard, clause 23 seeks to amend the law in relation to the van benefit charge, a taxable benefit that arises when an employee is provided

[James Murray]

with a company van that is also used at times for personal journeys. We know that from 2021-22 the cash equivalent of the van benefit charge for zero-emission vans is nil. This applies only to those vans that cannot emit carbon dioxide under any circumstances when being driven.

The Government announced their intention to introduce the policy change in the 2020 spring Budget. As the measure seeks to incentivise the uptake of zero-emission vans, we support it standing part of the Bill.

Question put and agreed to.

Clause 23 accordingly ordered to stand part of the Bill.

Clause 27

Optional remuneration arrangements: statutory parental bereavement pay

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

The Chair: With this it will be convenient to discuss new clause 2—*Optional remuneration arrangements: statutory parental bereavement pay (review)*—

"(1) The Secretary of State shall, before 1 April 2022, publish a report on the impact of section 27.

(2) The report in subsection (1) shall include consideration of the impact on—

(a) the take-up of statutory parental bereavement pay,

(b) revenues lost or gained due to tax avoidance, and

(c) productivity levels within the UK economy."

This new clause would require the Secretary of State to publish a report about the impact of the measures in section 27, including take-up of statutory parental bereavement pay.

Jesse Norman: The clause makes changes to ensure that employees who receive certain long-term salary sacrifice benefits do not lose entitlement to a tax advantage if they begin to receive statutory parental bereavement pay.

The optional remuneration arrangement legislation introduced on 6 April 2017 largely removed the income tax and national insurance contributions advantages for most employment-related benefits provided through salary sacrifice schemes. Transitional rules for relevant long-term benefits allow the benefit valuation rules prior to the optional remuneration arrangement legislation to apply until 5 April 2021, provided that there is no variation in an employee's employment contract. The relevant long-term benefits are employer-provided living accommodation, relevant school fees arrangements and certain employer-provided vehicles. Statutory payments are normally treated as a variation in contract, but those were specifically listed and disregarded in the 2017 optional remuneration arrangement legislation.

On 6 April 2020, a new statutory payment, statutory parental bereavement pay, was introduced under the Parental Bereavement (Leave and Pay) Act 2018. The payment is payable to employed parents or partners of a parent who loses a child, whether biological, adoptive or born to a surrogate, under the age of 18, or who suffers a stillbirth from 24 weeks. This statutory payment is not listed in the 2017 optional remuneration arrangement legislation as one that may be disregarded as a variation in contract, as it did not exist at the time.

Where an employee is in receipt of statutory parental bereavement pay, therefore, and one or more of the relevant long-term benefits through a salary sacrifice arrangement, the variation to employment conditions under the optional remuneration arrangement legislation meant that they would lose entitlement to the income tax and national insurance contribution advantages of receiving the benefit in that manner.

The clause therefore includes statutory parental bereavement pay as a statutory payment that will be disregarded under the 2017 optional remuneration arrangement legislation. The clause will disregard statutory parental bereavement pay as a variation in contract under the optional remuneration arrangement legislation, ensuring that employees in receipt of one of the long-term benefits and statutory parental bereavement pay will be subject to the original remuneration arrangement rules, which continue to provide a tax advantage until 5 April 2021.

New clause 2 would require the Government to publish a report on the impact of clause 27. The Treasury carefully considers the impact of individual measures announced at fiscal events. This clause legislates for a temporary retrospective measure to protect a small number of individuals who receive a transitional benefit under the optional remuneration arrangements and statutory parental bereavement pay from losing their tax advantage in 2020-21. The legislation ceased to apply from 6 April 2021, so the clause will have no further impact. I therefore urge the hon. Member for Glasgow Central not to press the new clause to a vote.

Alison Thewliss: We of course welcome all moves to support parents through the difficult time of bereavement. Our new clause would require the Secretary of State to publish reports on the uptake of statutory bereavement pay. It is important that we encourage people to take it up and that we let people know it is available to them. If the Government are not monitoring that, it is difficult to tell how effective the policy is.

Bereaved parents must be given the space and the time to grieve at a time of unimaginable tragedy. A lot will not know that they are entitled to this provision should the worst happen. We welcome the Government's move to introduce a statutory requirement for people in the event of the death of a child, and we welcome the provisions more generally. Our aim is to increase the uptake of the payment and public knowledge of it.

In Scotland, we are certainly doing everything we can, within the constitutional and financial constraints placed on us, to support parents. We are increasing funeral support payments to reflect the cost of living. The 2020-21 Budget includes £1.3 million for funeral support payments in Scotland, increasing the standard rate from £700 to £1,000. The UK Government have not built the cost of inflation into their awards, but we will certainly be doing that for ours. It is important to take that cost into account when considering the whole package of support that can be delivered for bereaved parents.

Finally, my hon. Friend the Member for North Ayrshire and Arran (Patricia Gibson) has been pushing for an increase in bereavement leave for everybody in all circumstances, particularly given this last year, during which things have been so difficult for so many people across the country. Many employers still do not give the bereavement leave that they should when people are in such circumstances. I urge the Government to consider expanding bereavement leave to everybody in all circumstances. While it is incredibly important for parents, it is important that everybody has the time, space and financial backing to grieve. Sadly, many people do not have that vital support.

James Murray: As we have heard, statutory parental bereavement pay was introduced in April 2020. The measure in clause 27 has been proposed to ensure that a payment will not be treated as a variation in contract for certain long-term salary sacrifice arrangements, so that recipients of such payments are not disadvantaged. The clause will bring statutory parental bereavement pay into line with other benefits.

Without the change, if a parent takes such leave, the time they have taken off will factor into the calculation of a salary sacrifice arrangement. In effect, taking statutory parental bereavement pay would lessen their entitlement to salary sacrifice arrangements.

Exemptions for other benefits exist, but they were made before the introduction of statutory parental bereavement pay, so the latter is not included. Clause 27 will include it, bringing it into line with other benefits. That is sensible, and Labour supports the clause.

Jesse Norman: I am not sure there is a need to respond. I thank the hon. Member for Glasgow Central for her comments and the shadow Minister for the Opposition's support.

Question put and agreed to.

Clause 27 accordingly ordered to stand part of the Bill.

Clause 29

COLLECTIVE MONEY PURCHASE BENEFITS

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

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

Government amendments 17 and 18.

That schedule 5 be the Fifth schedule to the Bill

New clause 9—*Collective money purchase benefits (review)*—

"The Chancellor of the Exchequer must lay before the House of Commons within 24 months of the commencement of the first collective money purchase pension scheme a review of the impact of section 29 and schedule 5 of this Act, including its impact on the distribution of benefits within collective money purchase schemes according to the age of the members of the scheme."

Jesse Norman: Clause 29 and schedule 5 make changes to ensure that pension schemes providing collective money purchase benefits can operate as UK registered pension schemes, without giving rise to unintended tax consequences.

The Government have successfully enabled collective money purchase pension schemes, which are also known as collective defined contribution pension schemes. They are a new style of pension scheme, enabling employers and employees to work together to deliver mutually beneficial outcomes. The clause makes corresponding changes to accommodate collective money purchase schemes in the pensions tax legislation.

The framework for such schemes is set out in the Pension Schemes Act 2021, which had cross-party support and received Royal Assent earlier this year. It was widely welcomed both inside and outside Parliament. The Government are proposing a number of technical changes to pensions tax legislation, so that collective money purchase pension schemes can operate on the same basis as other registered pension schemes.

There is a special provision in the 2021 Act so that, in the unlikely event of a pension scheme that provides collective money purchase benefits being wound up, it can still make payments to its pensioners. Amendments 17 and 18 make minor changes so that there are no adverse tax consequences if in the future those payments are made by pension schemes in Northern Ireland in the process of being wound up.

New clause 9 would require the Government to provide a review of the impact of the pensions tax legislation applicable to collective money purchase schemes and, in particular, of the distribution of benefits within those schemes according to the age of the members of the scheme. The purpose of clause 29 and schedule 5 is to enable pension schemes that provide collective money purchase benefits to operate in the same way as other registered pension schemes. As with all these schemes, tax law applies to all members on the same basis regardless of age. Tax law determines how much tax relief on contributions is given by the Government and the tax regime for benefits paid by registered pension schemes. Tax law does not affect how the pension scheme distributes the benefits it pays. Therefore, the new clause is outside the scope of what tax law can achieve.

There is a sentiment in the new clause about the distribution of benefits for members of different ages more generally. Fairness of outcome for all members is important, and it is a key principle of the Government's work on collective money purchase schemes. My hon. Friend the Minister for Pensions was clear when the 2021 Act was being considered by this House: regulations under that Act will require collective money purchase scheme rules to contain provisions so that there is no difference in treatment between different cohorts or age groups of scheme members when calculating and adjusting benefits. If the scheme design does not do that, it will not be authorised by the Pensions Regulator. For those reasons, I ask the Opposition to withdraw their amendment.

12.45 pm

James Murray: Clause 29 relates to the tax treatment of collective defined contribution schemes as introduced by the Pension Schemes Act 2021. We support the introduction of CDC schemes, and schedule 5 sets out in detail how they will be treated for tax purposes.

As the House of Commons Library explains, in CDC schemes both the employer and the employee contribute to a collective fund from which retirement incomes are drawn. The funding risk is borne collectively by the individuals whose investments make up the fund. In a similar way to a defined contribution scheme, the employer carries no ongoing risk.

The Opposition played a crucial role alongside trade unions to allow the Royal Mail to set up a CDC pension agreement with the Communication Workers Union in November 2018. We also warned, during the passage of the Pension Schemes Act, that we need CDC schemes to avoid the same pitfalls as defined benefit schemes as

[James Murray]

they relate to intergenerational fairness. CDC was first identified as a possible solution for Royal Mail workers being transferred to a less generous defined contribution scheme in 2017, which might not have provided sufficient income in retirement. The principle of a CDC scheme was agreed, and a specific Royal Mail CDC scheme was designed and modelled.

Work by Willis Towers Watson actuaries suggests that the CDC scheme will on average produce 70% more for an individual than a defined contribution scheme, and 40% more, currently, than a defined benefit scheme, according to the CWU. The scheme would replicate the old defined benefit scheme in design, producing a wage for retirement generated by a CDC and a guaranteed lump sum.

Although the CDC in different forms is used in other countries, such as Canada, Denmark and the Netherlands, no scheme of its type has previously existed in the UK. Legislation was therefore required. The first CDC scheme, in Royal Mail, is expected to be launched later this year, now that the Pension Schemes Act has been passed. Employers in the UK will now have an option to offer three, rather than two, types of scheme: defined contribution, defined benefit and collective defined contribution.

Given that the design of the CDC scheme is entirely new, we recognise that the clause will ensure that they may function in the same way as other schemes in relation to existing pensions tax treatment such as the annual allowance. Our new clause 9 simply asks that the Treasury lays before the House within 24 months of the commencement of the first collective money purchase pension scheme a review of the impact of clause 29 and schedule of 5, including on the distribution of benefits within collective money purchase schemes according to the age of members of the scheme.

CDC schemes are new. As the Minister has agreed, it is important that we ensure intergenerational fairness. I would therefore welcome his ongoing consideration as regards carrying out such a review.

Jesse Norman: I thank the hon. Gentleman for his comments. I anticipated them in my remarks. I would say that, as he has indicated, the issue was carefully discussed and reviewed—rightly so—in the passage of the Pension Schemes Act 2021. The importance of there being no difference in treatment between different cohorts and age groups of scheme lenders was made clear, and it was made clear that the regulations would cover that. That will be required by law, and it will fall not to HMRC or the Government, but to the independent Pensions Regulator to adjudicate on the effectiveness of the scheme.

Question put and agreed to.

Clause 29 accordingly ordered to stand part of the Bill.

Schedule 5

Pension schemes: collective money purchase benefits

Amendments made: 17, to schedule 5, page 116, line 25, after “36(7)(b)” insert “or 87(7)(b)”.

This amendment ensures that the new paragraph 2(9) of Schedule 28 to the Finance Act 2004 (inserted by paragraph 20 of Schedule 5 to the Bill), which deals with benefits payable by a collective money purchase scheme in the event of its being wound up, operates correctly in relation to a scheme governed by the law of Northern Ireland.

Amendment 18, to schedule 5, page 116, line 32, after “36(7)(b)” insert “or 87(7)(b)”.—*(Jesse Norman.)*

This amendment ensures that the new paragraph 2(10) of Schedule 28 to the Finance Act 2004 (inserted by paragraph 20 of Schedule 5 to the Bill), which deals with benefits payable by a collective money purchase scheme in the event of its being wound up, operates correctly in relation to a scheme governed by the law of Northern Ireland.

Schedule 5, as amended, agreed to.

Clause 34

Repeal of provisions relating to the Interest and Royalties Directive

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

Jesse Norman: This is a small technical clause and I will not spend long on it. The clause repeals legislation that gave effect to the EU interest and royalties directive in UK law. The change will mean that the taxation of EU companies will be aligned with the way in which the UK taxes companies in the rest of the world, meaning that the taxation of intra-group payments of interest and royalties will be governed solely by the reciprocal obligations in our double taxation agreements. The clause removes from our law an obligation that we are no longer bound to apply and ensures that all foreign companies are subject to the same rules regardless of where they are resident.

James Murray: We do not oppose the clause, which repeals legislation that gave effect to the EU interest and royalties directive in UK law, and which will ensure that companies resident in EU member states will cease to benefit from UK withholding tax exemption now that the UK no longer has an obligation to provide relief. As a result, EU companies will no longer receive more favourable treatment than companies based elsewhere in the world and the UK’s ability to withhold tax and cross-border payments of annual interest and royalties will be governed solely by the reciprocal obligations in double taxation arrangements. We understand what the clause sets out to do and do not oppose its standing part of the Bill.

Question put and agreed to.

Clause 34 accordingly ordered to stand part of the Bill.

Clause 35

Payments made to victims of modern slavery etc

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

Jesse Norman: This is an important clause. It exempts financial support payments made to potential victims of modern slavery and human trafficking from income tax. The UK has a legal obligation, under the Council of Europe convention on action against trafficking in human beings, to assist victims of modern slavery and human trafficking. Financial support payments have been made to victims of modern slavery and human trafficking since 1 April 2009, when the trafficking convention came into force in the UK.

When a potential victim of modern slavery and human trafficking is identified, they are considered under the national referral mechanism. This is a framework for identifying victims of modern slavery and human trafficking and it ensures that they receive appropriate financial support. In the absence of a specific exemption, the payments made by the UK Government and the devolved Administrations to potential victims while they are assessed under the national referral mechanism are chargeable to income tax. The changes made by clause 35 mean that payments made from 1 April 2009 to potential victims of modern slavery and human trafficking are exempt from income tax. It is important to note that HMRC has not made any income tax deductions from payments already made to potential victims.

These changes confirm the Government's commitment to assist potential victims of modern slavery and human trafficking under the trafficking convention. The clause provides clarity that financial support payments made to potential victims are exempt from income tax. I commend the clause to the Committee.

James Murray: We are pleased to support this important clause, which, as we have heard, introduces an income tax exemption for payments made to victims of modern slavery and human trafficking. As we also heard, the UK has an obligation under the Council of Europe convention on action against trafficking in human beings to assist victims of modern slavery and human trafficking in their physical, psychological and social recovery, including material assistance. The exemption from income tax will have effect from 1 April 2009, when financial support payments started. We welcome this measure, being wholly relieving and with retrospective effect, and are pleased to support its standing part of the Bill.

Alison Thewliss: I rise to support the clause; I think it is absolutely the right thing to do. May we have more information on how many people have received such payments since 2009? It would be useful to have a picture of how many people have benefited from this.

Jesse Norman: Of course, HMRC does not disclose information about individual taxpayers. It has not made any income tax deductions on payments already made to potential victims. I am not aware of whether it has the data, but I am happy to check and, if it does, I will respond to the hon. Lady.

Question put and agreed to.

Clause 35 accordingly ordered to stand part of the Bill.

Clause 37

Relief for losses etc

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

The Chair: With this it will be convenient to discuss that schedule 8 be the Eighth schedule to the Bill.

Jesse Norman: Clause 37 makes technical amendments to the corporate loss relief rules introduced in 2017. These ensure that the rules function as originally intended. They protect revenue by preventing companies from claiming excessive loss relief.

When a company makes a loss, it can carry forward that loss and use it to offset its taxable profits in future years. The Finance (No. 2) Act 2017 reformed the UK's loss relief regime. There were two main effects of that reform. First, the amount of profit that can be relieved by carried-forward losses is restricted to 50%, subject to a £5 million deductions allowance. Secondly, losses arising after 1 April 2017 can be carried forward and relieved more flexibly as they can be set against different types of income and against profits of other members of the same group. The loss restriction ensures that companies cannot use carried-forward losses to reduce their tax bill to nothing when they are making substantial profits.

Legislation for the new loss relief rules needed to be sufficiently detailed to ensure that they were robust in relation to the complex arrangements of large companies operating across a diverse set of activities. The Government have since identified limited circumstances where the rules are not functioning as intended.

The clause ensures that groups can still have access to the £5 million allowance following a corporate acquisition or demerger. This will allow those groups access to the correct amount of loss relief to which they are entitled and as was originally intended. The clause also makes several minor technical amendments to the loss reform rules. It ensures: first, that anti-avoidance rules that apply following a "change of ownership" operate correctly; secondly, that the technical calculations that determine the amount of losses that can be set against profits apply as intended; and thirdly, that the rules governing how the £5 million allowance is allocated across corporate groups applies as originally intended and in a way that will reduce the administrative burdens on groups.

Due to the £5 million allowance, some 99% of companies are not financially affected by the carried-forward loss restriction. That will not change as a result of these amendments. Some companies will also benefit from the simpler rules for calculating their loss relief restriction and, in some cases, companies will benefit from a reduced administrative burden.

James Murray: We do not oppose clause 37, which amends the loss relief legislation and ensures that the relevant part of the Corporation Tax Act 2010 meets the policy objective of restricting relief for certain carried-forward losses. Schedule 8 allows certain groups to access an allowance to which they are entitled following acquisition or demerger. The schedule also makes further amendments to the transfer of trade provisions where there has been a change of ownership, group relief for calculation of loss restriction and allocation of the deductions allowance and group allocation statement submission requirements. As these amendments have been made to ensure that the legislation works as intended and to reduce administrative burdens, we do not oppose them.

Question put and agreed to.

Clause 37 accordingly ordered to stand part of the Bill.

Schedule 8 agreed to.

Clause 38

Corporate interest restriction: minor amendments

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

Jesse Norman: Clause 38 makes two changes to ensure that the corporate interest restriction rules work as intended. The Government introduced these rules in 2017 to counter base erosion and profit shifting by multinational

[Jesse Norman]

groups. The rules restrict the ability of large businesses to reduce their UK taxable profits through excessive interest and other financing costs.

The first change applies from 1 July 2020 and clarifies the interaction between the rules governing the interest restriction, real estate investment trusts and the territorial scope of corporation tax. From 6 April 2020, the UK property rental business of non-resident companies within a UK real estate investment trust group comes within the charge to corporation tax rather than income tax. The proposed change ensures that such a non-resident company will still face the consequences of any interest disallowance, even if it decides to allocate its interest disallowance to a residual business rather than to its UK property rental business.

The second change applies from 1 April 2017 and deals with an administrative matter. As part of the application of the interest restriction rules, a group reporting company is required to file an interest restriction return. The proposed change ensures that no penalties will arise for the late filing of a return where there is a "reasonable excuse" for the failure. This exclusion is included within the corporation tax self-assessment regime and should apply in the same way to the interest restriction regime.

James Murray: We do not oppose clause 38, which makes technical amendments to the corporate interest restriction rules in part 10 of schedule 7A to the Taxation (International and Other Provisions) Act 2010 to ensure that the regime works as intended. We recognise that the amendments are minor, have come about as a result of engagement with the affected businesses and are necessary for the regime to work as intended.

Question put and agreed to.

Clause 38 accordingly ordered to stand part of the Bill.

Clause 39

Northern Ireland Housing Executive

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

Jesse Norman: This is a small but important measure. Clause 39 exempts the Northern Ireland Housing Executive from corporation tax, bringing it into line with state-funded housing providers and local authorities elsewhere in the UK. It will save the Northern Ireland Housing Executive millions of pounds in corporation tax payments. It is necessary to ensure that it is subject to the same tax treatment as other housing authorities elsewhere in the UK.

James Murray: The Whips will be relieved to hear that I have a very short contribution to make on this clause. The providers of state-funded housing in England, Wales and Scotland are exempt from corporation tax as they are considered to be local authorities for corporation tax purposes. However, the Northern Ireland Housing Executive was established in such a way that it did not meet the definition of local authority for corporation tax purposes. The clause introduces a new corporation tax exemption for the Executive and it brings the situation in Northern Ireland into line with the other nations of the UK. We support the clause standing part of the Bill.

Question put and agreed to.

Clause 39 accordingly ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—(*David Rutley.*)

1.2 pm

Adjourned till this day at Two o'clock.