PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO. 2) BILL

(Except clauses 4 and 6 to 8, schedule 1, clauses 12, 27 and 28, 53 to 66, 68 to 71 and 84 to 92, schedules 12 and 13, clause 93 and schedule 14)

First Sitting

Tuesday 14 December 2021

(Morning)

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not later than

Saturday 18 December 2021

The Committee consisted of the following Members:

Chairs: † Sir Christopher Chope, Philip Davies, Dame Angela Eagle, Dr Rupa Huq

† Anderson, Stuart *(Wolverhampton South West)* (Con)
† Butler, Rob *(Aylesbury)* (Con)
Efford, Clive *(Eltham)* (Lab)
Eshalomi, Florence *(Vauxhall)* (Lab/Co-op)
† Frazer, Lucy *(Financial Secretary to the Treasury)*
† Holden, Mr Richard *(North West Durham)* (Con)
† Howell, Paul *(Sedgefield)* (Con)
† Jones, Andrew *(Harrogate and Knaresborough)* (Con)
† Mackrory, Cherilyn *(Truro and Falmouth)* (Con)
† Mak, Alan *(Lord Commissioner of Her Majesty's Treasury)*
† Mayhew, Jerome *(Broadland)* (Con)
† Murray, James *(Ealing North)* (Lab/Co-op)
† Oppong-Asare, Abena *(Erith and Thamesmead)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)
† Thomson, Richard *(Gordon)* (SNP)
† Twist, Liz *(Blaydon)* (Lab)
† Whately, Helen *(Exchequer Secretary to the Treasury)*

Chris Stanton, Kevin Maddison, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 14 December 2021

(Morning)

[Sir Christopher Chope *in the Chair*]

Finance (No. 2) Bill

(Except Clause 4, Clauses 6 to 8 and Schedule 1, Clause 12, Clauses 27 and 28, Clauses 53 to 66, Clauses 68 to 71, Clauses 84 to 92 and Schedules 12 and 13, Clause 93 and Schedule 14)

9.25 am

The Chair: We are now sitting in public, and the proceedings are being broadcast. I do not think I need to remind people about the advice being given in relation to the wearing of face coverings; I will assume that anybody not wearing one has a reasonable excuse for not so doing, but we do not challenge people. I also remind colleagues that *Hansard* would be grateful if Members emailed their speaking notes to hansardnotes@parliament.uk. The consumption of tea or coffee is not permitted during sittings, and we would like electronic devices to be switched to silent.

We do not want to see an abuse of the indulgence of laptops and things like that; the impression given to people watching is that Members might not be concentrating on the debate, and might instead be doing other work. The convention is that people should use their electronic devices to help inform their work on this Committee. I am not going to be able to invigilate that, but I rely on Members to be co-operative and think about the impression given to people watching this Committee.

Ordered,

That—

1. the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 14 December 2021) meet—
   (a) at 2.00 pm on Tuesday 14 December 2021;
   (b) at 3.30 pm and 6.00 pm on Wednesday 5 January 2022;
   (c) at 9.25 am and 2.00 pm on Tuesday 11 January 2022;
   (d) at 11.30 am and 2.00 pm on Thursday 13 January 2022;
2. the proceedings shall be taken in the following order: Clauses 1 to 3; Clause 5; Clauses 9 to 11; Clauses 13 and 14; Schedule 2; Clause 15; Schedule 3; Clauses 16 to 24; Schedule 4; Clauses 25 and 26; Clause 29; Schedule 5; Clauses 30 and 31; Schedule 6; Clauses 32 to 41; Schedule 7; Clauses 42 to 45; Schedule 8; Clauses 46 to 49; Schedule 9; Clauses 50 to 52; Clause 67; Clauses 72 to 75; Schedule 10; Clauses 76 to 83; Schedule 11; Clause 94; Schedule 15; Clauses 95 to 99; Schedule 16; Clauses 100 to 102; 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 13 January 2022.—*(Lucy Frazer.)*

Resolved,

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

The Chair: Copies of the written evidence that the Committee receives will be circulated to Members by email, and some was circulated yesterday. The selection list for today's sitting is available in the room. It shows how the selected amendments have been grouped together for debate; generally, that is because they cover the same subject matter. The decisions on amendments do not take place in the order they are debated, but in the order in which they appear on the amendment paper. This is designed to help people who are following these proceedings keep up to speed.

Clause 1

Income tax charge for tax year 2022-23

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

The Chair: With this it will be convenient to discuss clauses 2, 3 and 5 stand part.

The Financial Secretary to the Treasury (Lucy Frazer): It is a pleasure to serve under your chairmanship, Sir Christopher. Clause 1 legislates for the charge of income tax for 2022-23. Clauses 2 and 3 set the main default and savings rate for income tax for 2022-23, and clause 5 maintains the starting rate for savings limit at its current level of £5,000 for 2022-23.

Income tax is one of the Government's most important revenue streams, expected to raise approximately £230 billion in 2022-23. The starting rate for savings applies to the taxable savings income of individuals with low earned incomes of less than £17,570, allowing them to benefit from up to £5,000 of savings income tax free. The Government made significant changes to the starting rate for savings in 2015. They lowered the rate from 10% to 0%, and increased the band to which it applied from £2,880 to £5,000. These clauses are legislated annually in the Finance Bill.

Clause 1 is essential because it allows for income tax to be collected in order to fund vital public services on which we all rely. Clause 2 ensures that the main rates of income tax for England and Northern Ireland continue at 20% for the basic rate, 40% for the higher rate, and 45% for the additional rate. Clause 3 sets the default and savings rates of income tax for the whole UK—the basic, higher and additional rates of 20%, 40% and 45% respectively. Clause 5 confirms the band of savings income to which it applies, maintaining the starting rate limit at its current level of £5,000 for the 2022-23 tax year. The limit is being held at that level rather than increased by the consumer prices index to ensure simplicity and fairness within the tax system, while maintaining a generous tax relief.

Clauses 1 to 3 ensure that the Government can collect income tax for 2022-23. Clause 5 continues the Government's commitment to support people of all incomes and at all stages of life to save. Taken with the personal savings allowance and the annual individual savings account allowance of £20,000, those generous measures mean that about 95% of savers will pay no tax on their savings income.

James Murray (Ealing North) (Lab/Co-op): I am grateful for the opportunity to respond to the clauses on behalf of the Opposition. As we have heard, clause 1 imposes a charge for income tax for the year 2022-23. It is for Parliament to impose that tax charge for the duration of the financial year. I understand from my well-informed parliamentary researcher that the first income tax that bears a resemblance to the modern graduated form that the clause refers to was introduced by William Pitt the Younger in 1798; as we will see in later clauses of the Bill, there has been some departure from the tax bands of £60 and £200 annually introduced then. We will of course not oppose clause 1, although we note for the record that under this Government the tax burden will rise to its highest level for 70 years.

Clause 2 sets the main rates of income tax for the year 2022-23, which will apply to the non-savings, non-dividend income of taxpayers in England and Northern Ireland. The clause provides that the main rates of income tax for 2022-23 are the 20% basic rate, the 40% higher rate, and the 45% additional rate. Income tax rates on non-savings, non-dividend income for Welsh taxpayers are set by the Welsh Parliament. The UK main rates of income tax are reduced for Welsh taxpayers by 10p in the pound, and the Welsh Parliament sets the Welsh rates of income tax, which are added to the reduced UK rates. Income tax rates and thresholds on non-savings, non-dividend income for Scottish taxpayers are set by the Scottish Parliament.

We note that, although the rates of income tax are not rising in the Bill, the same cannot be said for national insurance. That tax was increased by the Health and Social Care Levy Act 2021, which we debated in September. As I said at the time, that national insurance rise and the new levy being introduced represented a tax rise that falls directly on working people and their jobs, which is why we opposed the progress of that Act.

Clause 3 sets the default rates and savings rates of income tax for the tax year 2022-23. Subsection (1) provides for a basic default rate of 20%, a higher rate of 40% and an additional rate of 45%. Subsection (2) provides for savings rates on income tax at the same rates as the default: 20% for basic, 40% for higher and 45% for additional. Those rates match the rates of earned income, and we will not oppose the clause.

Clause 5 freezes the starting rate limit for savings in the tax year 2022-23 at £5,000. As it is not a devolved matter, the freeze applies across the United Kingdom. The starting rate for savings can apply to an individual's taxable savings income, such as interest on bank or building society deposits. The extent to which an individual's savings income is liable to tax at the starting rates for savings rather than the basic rate of income tax depends on the total of their non-savings income, including income from employment, profits from self-employment and pensions income. If an individual's non-savings income is more than their personal allowance and exceeds the starting rate limit for savings, the starting rate is not available for that tax year. Where an individual's non-savings income in a tax year is less than the starting rate limit, their savings income is taxable at the starting rate up to that limit.

Income tax is charged at the 0% starting rate for savings rather than the basic rate of income tax on that element of an individual's income up to the starting rate for savings income. The clause sets the starting rate limit for savings for 2022-23 at £5,000, but it does not override section 21 of the Income Tax Act 2007 in relation to the starting rate limit for savings for 2022-23. We know that the freeze on the limit is taking place in the context of a rising rate of inflation, which will have an impact on savers in real terms. In her reply, I would be grateful if the Minister explained what assessment the Treasury has made of those who will be affected by the freeze.

Lucy Frazer: I will make a couple of points in response. First, the hon. Member for Ealing North mentioned the tax burden rising; he will know that we are still in the midst of a pandemic and that the Government have spent £400 billion to ensure that public services, particularly the NHS, get the money they need. He will know why we are introducing a rise in national insurance contributions for the first time: to fix social care. He asked me about savings and those on the lowest incomes. The Government have raised the personal allowance by nearly 50% in real terms in the last decade. It is the highest basic personal tax allowance of all countries in the G20, and remains one of the most generous internationally.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clauses 2, 3 and 5 ordered to stand part of the Bill.

Clause 9

Liability of Scheme Administrator for Annual Allowance Charge

James Murray: I beg to move amendment 11, in clause 9, page 5, line 20, leave out "6 years" and insert "5 years and 9 months"

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

James Murray: Clause 9 relates to the liability of insurance scheme administrators for the scheme's annual allowance charge. I welcome the opportunity to discuss the clause and our amendment to it. The clause amends the period within which an individual can give notice to their pension scheme administrator to pay the annual allowance charge of previous tax years, using a system known as "mandatory scheme pays".

The clause also amends the period within which a scheme administrator must provide information about and account for an amount of the annual allowance charge. As we know, mandatory scheme pays is the process that helps an individual pay their annual allowance charge liabilities for a current tax year when certain conditions are met. The individual elects for their pension scheme administrator to be jointly liable for their annual allowance tax charge, in return for an actuarial reduction in the value of their pension pot.

The annual allowance is the maximum amount of tax relieved pension savings that an individual can build up during a tax year. Where an individual exceeds the maximum amount of tax relieved pension savings, they will be liable to a tax charge on the excess amount. That tax charge recoups the excess tax relief that the individual has already received on their pension savings. For mandatory scheme pays, the annual allowance charge must exceed £2,000, and the individual's pension input amount for that pension scheme must exceed the £40,000 annual allowance.

[James Murray]

The clause will enable more individuals who meet the conditions to benefit from the mandatory scheme pays facilities because the measure applies to all individuals that receive a retrospective amendment to their pension input amount for the previous tax year. This is a measure we broadly support—the simplification of a relatively complex tax rule is a good thing both for the pension contributors and for those who hitherto had to disentangle its complexity.

However, we would like to raise a point with the Minister; we have tabled amendment 11 as a probing amendment with that in mind. Amendment 11 would affect clause 9, page 5, line 20, by leaving out "6 years" and inserting "5 years and 9 months". We have tabled the amendment out of concerns drawn to our attention by the Chartered Institute of Taxation about the hard stop deadline being introduced for notices under section 237B of the Finance Act 2004. Clause 9 part 3 introduces a new section

"237BA Time limit for notices under section 237B".

Subsections (4)(b) and 5(b) provide for a hard stop deadline of

"the end of the period of 6 years beginning with the end of the tax year in question"

for both the scheme administrator providing an individual with information about a change to their pension input and output and the individual member giving notice to the scheme administrator to pay the annual allowance charge through scheme pays.

The result of the two subsections is that it is possible for the scheme administrator to issue a statement with a change to the pension input amount in line with the legislation after, say, five years, 11 months and 30 days, meaning that the member would have just one day to make the scheme pays election and give notice to the scheme administrator that they want to do so. That is clearly an unreasonable timeframe for the member, so our amendment suggests one possible way of making sure the scheme member is given fair warning.

Our amendment proposes a ring-fenced three-month period during which the member would have time to process and make arrangements for a scheme pays election and to give notice to the scheme administrator. I hope we can agree that such an approach would simply allow members some protection against unreasonable circumstances that could arise. We will not push the amendment to a vote, but I would be grateful if the Minister addressed the points it raises in her reply.

Lucy Frazer: Clause 9 extends the reporting and payment deadlines so that an individual can ask their pension scheme to settle their annual allowance tax charge of £2,000 or more from a previous tax year by reducing their future pension benefits in a process known as scheme pays. The annual allowance limits the amount of UK tax relieved pension savings that an individual can benefit from in the tax year. If an individual's pension savings exceed the annual allowance, a tax charge is applied. The tax charge recoups the excess tax relief that the individual has already received.

Scheme pays was introduced to help individuals pay an annual allowance charge in their current tax year where certain conditions are met. The unlawful age discrimination found in the 2015 public sector pension reform known as McCloud, which I will come on to in clause 11, highlighted a need for scheme pays to be available also for previous tax years from when an annual allowance tax charge arises. The changes made by clause 9 extend the date by which an individual can ask their pension scheme to pay an amount of their annual allowance tax charge. That means that where the charge arises because of a change of facts and the charge is £2,000 or more, the scheme pays facility is now another option for the individual to pay their tax charge.

The changes made by clause 9 also extend the date by which the pension scheme administrator must report and pay an annual allowance tax charge to Her Majesty's Revenue and Customs using the accounting tax return. The extended date applies where the charge has arisen because of a change of facts about an individual's pension savings. The date for reporting and paying the charge relates to when the scheme administrator is notified of the charge by the individual, following a change of facts rather than a fixed period after the end of the tax year. That means that the scheme pays facility is now available to individuals for their annual allowance tax charge from an earlier tax year.

Amendment 11 seeks to reduce the relevant time for a scheme to notify individuals from six years to five years and nine months. Unfortunately, that would mean that if an individual were notified more than five years and nine months after the tax year, scheme pays would not be available. The individual would, however, still be liable to the tax charge, leaving them to pay it out of their own pocket. I therefore urge the Committee to reject amendment 11.

In summary, clause 9 provides for scheme pays to be an option for individuals to have their pension scheme pay their annual allowance tax charge for a previous tax year where the conditions are met.

James Murray: I recognise that the Minister is unwilling to accept the amendment, although I would have welcomed a reassurance that she would take the principle behind the amendment away, discuss it with her officials and perhaps report back to the Committee at a later stage. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 9 ordered to stand part of the Bill.

Clause 10

Increase of normal minimum pension age

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

9.45 am

Lucy Frazer: Clause 10 makes changes to increase the normal minimum pension age to 57. It also establishes a protection regime, which will enable some individuals to continue to access their pension before the age of 57 without any adverse tax impacts. The normal minimum pension age is the age at which most savers can access their pension without incurring an unauthorised payment tax charge. The coalition Government announced in 2014 that the normal minimum pension age would rise to 57 in 2028, reflecting long-term trends in longevity and changing expectations of how long we will remain in work and in retirement.

Clause 10 legislates to increase the normal minimum pension age to 57 on 6 April 2028. That increase will not apply to members of the police, firefighters, or armed forces public service pension schemes, who will receive protected pension ages to reflect the special nature of their work. Those who have an unqualified right in their scheme rules to take their pension before age 57 will also receive protected pension ages. Those who made a substantive request to transfer their pension before 4 November 2021 will still be able to complete their transfer into a pension scheme that already offered unqualified rights to a pension below age 57 and get a protected pension age.

That is a shorter window during which pension scheme members can transfer their pension to keep a protected pension age than was initially published in the summer. The Government listened carefully to stakeholder concerns that a longer window could have adverse impacts on the pensions market. The shorter window still delivers the original policy intent, so that those who were in the process of transferring their pension when the protection regime was first announced do not lose their protected pension age. Closing the window without prior notice avoided unnecessary turbulence in the pensions market and helped to protect consumers.

Those with protected pension ages will be able to access their pension benefits before age 57 without incurring an unauthorised payment tax charge. A protected pension age is specific to an individual as a member of a particular scheme. If an individual has a protected pension age in one scheme, they will not automatically have a protected pension age in another scheme: that would depend on the second scheme's rules. Increasing the normal minimum pension age to 57 in 2028 reflects the principle that the normal minimum pension age should be set 10 years below the state pension age. The protection regime balances the need for fairness to pension savers with simplicity for pension providers. I therefore commend the clause to the Committee.

James Murray: As we have heard, clause 10 relates to the increase of the normal pension age to 57 from 6 April 2028. The stated intention of the clause is to protect members of the registered pension schemes who, before 4 November 2021, had a right to take their entitlement to benefit under those schemes at or before the existing normal minimum pension age. It exempts members of certain uniformed service pension schemes from the increase, and it introduces new block and individual transfer rules specific to the new protection framework in order to reduce the restrictions on retaining a protected pension age following a transfer. The UK has a long tradition of protecting and rewarding those who have served their country. It is therefore right that we support clause 10, as it provides that protection by safeguarding recipients' right to retain entitlement to benefits when transferring schemes.

We note, however, that the Low Incomes Tax Reform Group has concerns about the transitional arrangements relating to the clause. Paragraph 28 of the Government's explanatory note regarding this clause states:

> "There may be some transitional issues. For example, an individual who does not have a protected pension age and at 5 April 2028 will have reached age 55 and has started but not completed the process of taking pension savings before the change in normal minimum pension age. The government will provide further advice on the proposed transitional arrangements and provisions in due course."

That raises concerns about when further advice on the proposed transitional arrangements will be made available, as well as questions about the extent to which that advice will be effectively communicated to the people concerned.

It is vital that people have full detail of any transitional provisions well before the increase to age 57 comes into effect; otherwise, there is a risk that people reaching age 55 in the run-up to 6 April 2028 will make decisions without knowing all they need to know. For example, an individual could cash in a pension in full and put the money in the bank so as to crystallise access to those funds, which may well leave them worse off in the long term, having likely incurred a large tax liability on the encashment and potentially affected their means-tested benefit entitlement. They might also have triggered the money purchase annual allowance, therefore restricting—perhaps unwittingly—their ability to make further contributions. In light of this, will the Minister clarify precisely when "due course" is, in relation to the Government's further advice regarding the proposed transitional arrangement for the provisions? Will she also confirm what measures the Government will take to make sure that people are aware of the advice when it is finalised?

Alison Thewliss (Glasgow Central) (SNP): This issue speaks to what I and my colleagues have often asked for in Finance Bills—that is, to be able to take evidence. We have received some very good written evidence from different organisations—I thank Scottish Widows, the Low Incomes Tax Reform Group and the Chartered Institute of Taxation for sending evidence to the Committee—but some of the detail requires a bit more interrogation. It would be useful if Finance Bill Committees were able to take evidence on the detail.

I agree with much of what the hon. Member for Ealing North said. Saying that something will happen in due course is not a great reassurance to many people. We have seen the terrible mess that the Government left for the WASPI women—the Women Against State Pension Inequality—who did not receive enough notice of state pension age changes. As a result, many have lost out on what they expected to happen when they reached retirement.

In its evidence, Scottish Widows makes the point well:

> "Simplicity is a key driver of engagement with pensions… The average person has 11 jobs in their lifetime—with auto enrolment that could mean them having at least 11 pension pots. Some of these will now be accessible at age 55, others at 57."

It also notes that

> "some customers may have different pension ages within the same pension pot."

That is not the simplicity that people really need when it comes to planning for their retirement.

There is a range of views. Scottish Widows appears to welcome the changes. The Chartered Institute of Taxation is not convinced that a change to the normal minimum pension age is necessary or desirable. What ought to be at the centre of this discussion is the people who will claim that pension. They need the clearest possible advice and the longest possible amount of notice in order to plan. I ask for clarity from the Government. It is just not acceptable to come before the Committee today without a date and say, "in due course". People need to be able to plan for one of the most important events in their lives.

Lucy Frazer: The hon. Members for Glasgow Central and for Ealing North both mentioned the transitional arrangements and notice. They are right to identify that the Government have acknowledged the importance of establishing a clear position on the transitional arrangements and that we have said that we will provide further advice on the proposed transitional arrangements and provisions in due course. That remains the position, but I am very happy to keep both Members updated as we progress.

The hon. Member for Glasgow Central made a point about evidence. I know she is interested in the taking of oral evidence—she has made that point before. There is, of course, a standard process on the measures in the Finance Bill. That process involves a huge amount of consultation, with particular milestones, including engagement with industry and stakeholders, often a consultation, and sometimes draft legislation that then comes forward into the Finance Bill. That is the way the Finance Bill operates.

The hon. Member mentioned the WASPI women, which I know many hon. Members from all parties feel strongly about. As she will know, it was decided 25 years ago to make the state pension age the same for men and women in what was then a long overdue reform.

Question put and agreed to.

Clause 10 accordingly ordered to stand part of the Bill.

Clause 11

Public service pension schemes: rectification of unlawful discrimination

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

Lucy Frazer: The clause allows for regulations to be made to address the tax impacts of the remedy to the unlawful age discrimination that arose from the 2015 public service pension reforms. The Government reformed most public service pensions in 2015, but excluded those closest to retirement from the reforms. The court found that that exclusion amounted to unlawful discrimination on the basis of age. That is known as the McCloud case.

Following consultation, the Government are introducing a remedy to rectify that discrimination, which affects about 3 million people. The remedy includes options for them to choose at retirement what type of pension rights they will receive for the remedy period. The remedy period covers the years between 2015 and 2022, with an exception for the judiciary, who will instead make their choice in 2022. That was decided following consultation with the sector.

Most of the legislation required to implement the remedy is contained in the Public Service Pensions and Judicial Offices Bill, which is progressing through the Commons. However, where those changes mean that the Government will provide individuals with different historical pension rights, changes to pension tax legislation are also required. The purpose of clause 11 is therefore to allow the Government to make regulations to put the individual, as far as possible, in the tax position in which they would have been had the discrimination never happened. It also ensures that regulations can be put in place to address the tax impacts of the public service pensions remedy on the employers and those responsible for the tax affairs of the pension schemes.

I mentioned that the legislation implementing the remedy is going through Parliament. Once it is finalised, the Government will use the power in clause 11 to draft regulations that will provide for the tax changes needed as part of our move to rectify the discrimination. For example, the Government will use the power to ensure that compensation payments payable as a result of the remedy can be made tax free, as they are calculated on that basis under the Public Service Pensions and Judicial Offices Bill.

The Government will also use the power in clause 11 to ensure that pensions and lump sums payable as a result of the remedy that would have been authorised payments had they been made at the relevant time are treated as meeting the conditions to be authorised. One further example is that members may choose benefits for the period 2015 to 2022 that lead to a significant increase in their pension accrual in a single tax year. Without a change to legislation, that could result in individuals paying more tax than if the pension that they ultimately chose had accrued annually.

The Government will use the power in clause 11 to make good the tax treatment of those affected by the remedy set out in the Public Service Pensions and Judicial Offices Bill. Regulations made under the power will ensure that, broadly, those affected will be in the tax position that they would have been in had they not suffered discrimination. I therefore commend the clause to the Committee.

James Murray: As we have heard from the Minister, clause 11 relates to public service pension schemes and the rectification of unlawful discrimination. It provides the Treasury with the power to make regulations to address the tax impacts that arise in consequence to or in connection with the rectification of unlawful discrimination set out in part 1 of what is expected to become the Public Service Pensions and Judicial Offices Act 2022. Those changes will have effect on or after 6 April 2022, and are capable of having retrospective effect.

As we are aware, when reformed public service pension schemes were introduced in 2014-15, the Government agreed, following discussions with trade unions, to allow active members of pre-existing public service pension schemes who were close to retirement to remain in those schemes, rather than requiring them to start to accrue pension benefits in a new scheme. That was called transitional protection. In December 2018, the Court of Appeal found in what is known as the McCloud judgment that the transitional protection unlawfully discriminated against younger members of the judicial and firefighter pension schemes, and gave rise to indirect sex and race discrimination.

On 15 July 2019, the then Chief Secretary to the Treasury, the right hon. Member for South West Norfolk (Elizabeth Truss), made a written ministerial statement setting out that the Government considered that the Court of Appeal's judgment had implications for all public service pension schemes, and planned to introduce proposals to remedy the discrimination across the schemes. On 19 July 2021, the Government introduced the Public Service Pensions and Judicial Offices Bill. The provisions of part 1 of that Bill will apply retrospectively, to provide a remedy for the discrimination. The rectification affects individuals who were members of a public service pension scheme on or before 31 March 2012 and at any time between 1 April 2015 and 31 March 2022, and so had pensionable service during that time.

Under chapter 1 of part 1 of Public Service Pensions and Judicial Offices Bill, individuals who were moved to a new scheme will be retrospectively returned to their previous scheme for the period of remediable service. Any member with remediable service will be able to choose to receive pension scheme benefits based on the rules of either the legacy scheme or the new scheme, although for most individuals there will be no significant change in the tax position. The legislation will provide the Treasury with the power to make regulations that make the necessary changes to tax legislation so that, as far as possible, individuals can be put in the position in which they would have been, absent the discrimination. We will therefore not oppose the clause.

Lucy Frazer: I am grateful for the hon. Member's indication that he will not oppose the clause, and have nothing further to add.

Question put and agreed to.

Clause 11 accordingly ordered to stand part of the Bill.

Clause 13

STRUCTURES AND BUILDINGS ALLOWANCES: ALLOWANCE STATEMENTS

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

10 am

Lucy Frazer: Clause 13 makes provisions to improve the operation of the structures and buildings allowances for taxpayers. The clause will require relevant allowance statements to include the date that qualifying expenditure is incurred or treated as incurred in cases where its absence could prevent future owners of an asset from claiming the full amount that they are entitled to.

The SBA allows companies to reduce their taxable profits each year by 3% on the cost of construction, acquisition, renovation or conversion of non-residential buildings and structures. The investment is fully relieved after 33 and a third years. A business must hold a valid allowance statement to claim SBA. That document records information such as the relevant building or structure and the amount of qualifying expenditure incurred. It is passed on to subsequent owners to ensure the right records are kept for an asset.

The allowance period is the period over which SBA can be claimed, and it typically begins on the date when the structure or building is first brought into non-residential use. However, in cases where expenditure is incurred or treated as incurred after non-residential use has commenced, the allowance period will begin from that later date. That may be the case where renovation work is being carried out in a multistorey office building and the first tenants move in to one floor of the office building even though some construction continues on a different floor.

Without the inclusion of that date on the allowance statement, subsequent owners of a structure or building may not claim all the relief they are entitled to. Instead, they may reasonably assume that the allowance period began on the day the asset was first brought into non-residential use, not the date of the subsequent expenditure. Clarity for businesses on the remaining length of the allowance period for each portion of expenditure means they will be able to claim the full relief to which they are entitled.

The changes made by clause 13 are wholly relieving and will only benefit firms towards the end of the allowance period of 33 and a third years. The measure will apply across the UK. The clause will be effective for qualifying expenditure incurred or treated as incurred on or after the date of Royal Assent of the Bill. Therefore, it will not be retrospective and will not impact allowance statements already in existence. Clause 13 ensures that, in future, businesses can claim the full tax relief to which they are entitled.

James Murray: Clause 13 concerns the structures and buildings allowance statements. As we heard, it introduces a new requirement for allowance statements to include the date that qualifying expenditure is incurred or treated as incurred when that is later than the date on which the building or structure was first brought into non-residential use. The clause has effects for qualifying expenditure incurred or treated as incurred on or after the date of Royal Assent.

As we know, SBAs are a capital allowance available for the cost of constructing, renovating, converting or acquiring non-residential structures and buildings. When SBAs were first introduced, from 29 October 2018, the allowances were given at 2% per annum of qualifying expenditure on a straight-line basis. That rate was increased to 3% per annum with effect from April 2020. The period over which SBAs are available to be claimed is known as the allowance period.

A business must hold an allowance statement to claim SBAs, which includes certain details such as the date the asset is first brought into non-residential use. As we heard, that is normally the date that the SBA's allowance period of 33 and a third years commences. However, where qualifying expenditure is incurred after the asset is brought into non-residential use, the allowance period starts on a later date. The new paragraph inserted by the clause adds an additional requirement to record that later date on the allowance statement, where relevant, to ensure the correct amount of SBAs may be claimed over the allowance period. The minor amendment to section 270IA(4)(b) of the Capital Allowances Act 2001 ensures consistency with the new paragraph.

We do not oppose the clause, as it is important to ensure the correct amount of SBA is claimed over the correct time to avoid unnecessary hardship or disruption.

Lucy Frazer: I am happy that the hon. Gentleman recognises that this is a clause worthy of Bill.

Question put and agreed to.

Clause 13 accordingly ordered to stand part of the Bill.

Clause 14

QUALIFYING ASSET HOLDING COMPANIES

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

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

Government amendments 1 to 6.

That schedule 2 be the Second schedule to the Bill.

Lucy Frazer: Clause 14 and schedule 2 introduce a new regime for the taxation of certain asset-holding companies being used by funds and institutional investors to make their investments. Asset management firms manage the savings and pensions of millions of UK citizens. The majority of UK households use an asset manager's services, either directly or indirectly, for example through their workplace pensions. The reforms have been developed following extensive consultation as part of the wider review of the UK funds regime announced at Budget 2020. A key objective of the review is to consider reforms to enhance the UK's competitiveness as a location for asset management and investment funds. It is a well-established principle that investors in funds should be taxed broadly as if they had invested directly in the underlying assets.

The new qualifying asset holding companies regime seeks to ensure that, where intermediate holding companies are used to facilitate the flow of capital, income and gains between investments and investors, the tax they pay is proportionate to the limited activities that they perform. With that policy objective in mind, the regime comprises a number of features, including a gains exemption for the disposal of certain shares and overseas property; specific rules where investment returns are passed to investors; withholding tax removed from payments of interest; and exempting repurchases of share and loan capital from stamp tax charges.

The new regime also contains safeguards. For example, the existing taxation of profits from trading activities, UK land and intangibles will not be affected. Furthermore, the new regime will be available only in certain circumstances—to prescribe investment arrangements involving diversified investment funds, charities, long-term insurance business, sovereign immune entities, certain pension schemes and public bodies.

Government amendments 1 to 6 seek to address three technical points better to reflect the original policy intention of the new regime and to ensure consistency with wider tax rules. Those include refinements to the eligibility criteria and ensuring that they are applied consistently. They follow engagement with the industry on the legislation since the introduction of the Finance Bill.

The clause introduces a new regime for qualifying asset holding companies from April 2022 that will build on the UK's strengths as an asset management hub by enhancing the attractiveness of the UK as a location for the establishment of asset holding companies. I recommend that the clause and schedule 2 form part of the Bill.

James Murray: As we have heard, the clause concerns qualifying asset holding companies, and sits alongside schedule 2. The aim of the clause, we understand, is to recognise certain circumstances where intermediate holding companies are used only to facilitate the flow of capital, income and gains between investors and underlying investments to tax investors, broadly as if they had invested in the underlying assets, and to enable the intermediate holding companies to pay tax that is proportionate to the activities they perform.

At Budget 2020, the Government announced that they would carry out a review of the UK funds regime, covering tax and relevant areas of regulation. The review started with a consultation on the tax treatment of asset holding companies in alternative fund structures, also published at Budget 2020. The Government responded to that consultation in December 2020, launching a second-stage consultation on the detailed design features of a new regime for asset holding companies. The Government's response to that consultation was published on 20 July 2021.

The clause and schedule 2 introduce the new regime. We understand that the purpose of the measures is to deliver a proportionate and internationally competitive tax regime for qualifying asset holding companies that will remove barriers to the establishment of such companies in the UK. The Government have said that the new regime will include the following key features: eligibility criteria to limit access to the intended users; tax rules to limit the qualifying asset holding company's tax liability to an amount that is commensurate with its role; and rules for UK investors to ensure that they are taxed so far as possible as if they had invested in the underlying assets directly.

We understand that the eligibility criteria will ensure that the asset holding companies may only be used as part of investment structures where funds are managed for the benefit of a broad pool of investors or beneficiaries. An asset holding company cannot carry out other activities, including trading, to any substantial extent. The tax benefits arising from asset holding company status apply only in relation to qualifying investment activity. The tax treatment of any limited trading activity or any non-qualifying investment activity that is carried on by an asset holding company will not be affected by the company's status as an asset holding company.

We note that the Government have tabled six amendments to schedule 2, which accompanies the clause. Amendments 1 and 2 seek to pin down the definition of investment management profit-sharing arrangements. According to the explanatory statement, that is to ensure that the legislation is capable of encompassing arrangements in which an entitlement to profits arising in connection with the provision of investment management services by an investment manager arises to another person, such as a company or a trust.

Amendments 3 and 6 provide that a fund that is 70% controlled by category A investors meets the diversity of ownership condition. Amendment 4 seeks to allow existing funds marketed before the commencement of the qualifying asset holding company regime to be treated as meeting regulation 75(2) of the Offshore Funds (Tax) Regulations 2009 if certain information has been produced by the fund and has been made available to Her Majesty's Revenue and Customs. Amendment 5 modifies the way in which the interests of creditors are accounted for in determining whether a fund is closed. We will not be opposing clause 14 or the Government's amendments to it.

Alison Thewliss: I am a wee bit concerned that the Government have brought these amendments so late in the day. I appreciate that they have brought them now, rather than seeking to come back and amend legislation further down the road. That is something, I suppose. Does the Minister intend to review this legislation, and on what timescale? I am a wee bit worried about the letter we received yesterday, which said that, as originally drafted, the legislation includes some inconsistencies with wider tax rules and within the regime's eligibility criteria. Given those worries and these amendments, I would like some reassurance from the Minister that the Government are going to keep an eye on this legislation to make sure that it is not exploited or used in the way that it is not intended to be. We need to make sure that people are paying the tax that they ought to be and that the legislation is not used as some kind of dodge.

Lucy Frazer: I welcome the lack of opposition to these clauses, which will support UK growth, by the hon. Member for Ealing North. The hon. Member for Glasgow Central made a point about the fact that the Government have made amendments late in the day. I reassure her that they are technical changes. Following engagement with the industry since the introduction of the Finance Bill, the amendments required were pointed out to us and, therefore, it is important that we include the amendments in the Bill. We keep all legislation under review. We are very concerned, as the hon. Member will have seen from other measures in the Bill, about tackling tax avoidance, so we will keep an eye out for any misuse of the measures. I commend the amendments and clause 14 to the Committee.

Question put and agreed to.

Clause 14 accordingly ordered to stand part of the Bill.

Amendments made: 1, in schedule 2, page 97, line 24, leave out "performing investment management services".

This amendment is one of a pair of amendments designed to secure that the definition of investment management profit-sharing arrangements is capable of encompassing arrangements where an entitlement to profits arising in connection with the provision of investment management services by an investment manager arises to another person (such as a company or a trust).

Amendment 2, in schedule 2, page 97, line 25, leave out from "profits of" to end of line 26 and insert

"investments in connection with the provision of investment management services in relation to those investments."

This amendment is one of a pair of amendments designed to secure that the definition of investment management profit-sharing arrangements is capable of encompassing arrangements where an entitlement to profits arising in connection with the provision of investment management services by an investment manager arises to another person (such as a company or a trust).

Amendment 3, in schedule 2, page 99, line 36, leave out paragraph (c) and insert—

"(c) the fund is 70% controlled by category A investors."

This amendment is one of a pair of amendments that provide that a fund that is 70% controlled by category A investors meets the diversity of ownership condition.

Amendment 4, in schedule 2, page 99, line 42, leave out "6 April 2020" and insert "1 April 2022".

This amendment will allow existing funds marketed before the commencement of the QAHC regime to be treated as meeting regulation 75(2) of the Offshore Funds (Tax) Regulations 2009 if certain information has been produced by the fund and has been made available to HMRC.

Amendment 5, in schedule 2, page 100, line 19, at end insert '—

(i) as if in subsection (4) of section 450 of that Act, the reference to a loan creditor were to a creditor of the fund in respect of a normal commercial loan (within the meaning it has in paragraph 3),

(ii) as if in that subsection, at the end there were inserted "and for the purposes of subsection (3)(d)", and

(iii)'

This amendment modifies the way in which the interests of creditors are accounted for in determining whether a fund is "close".

Amendment 6, in schedule 2, page 100, line 30, leave out sub-paragraph (6) and insert—

"(6) A fund is 70% controlled by category A investors if a category A investor, or more than one category A investor between them, directly or indirectly possesses—

(a) 70% or more of the voting power in the fund or, in the case of a fund that is not a body corporate, an equivalent ability to control the fund,

(b) so much of the fund as would, on the assumption that the whole of the income of the fund were distributed among persons with interests in the fund, entitle that investor or those investors to receive 70% or more of the amount so distributed, and

(c) such rights as would entitle that investor or those investors, in the event of the winding up of the fund or in any other circumstances, to receive 70% or more of the assets of the fund which would then be available for distribution among persons with interests in it.

(6A) For the purposes of sub-paragraph (6)—

(a) a category A investor indirectly possesses something if the investor possesses it through a body corporate or a series of bodies corporate;

(b) the interests of the participants in a category A investor that is a collective investment scheme that is transparent (within the meaning given by paragraph 6(7)) are to be treated as interests of the investor (instead of its participants) if that investor meets the diversity of ownership condition as a result of sub-paragraph (2)(a);

(c) in determining, for the purposes of sub-paragraph (6)(b) or (c), proportions of income or assets persons with an interest in the fund would be entitled to, ignore any interest any person has as a creditor of the fund in respect of a normal commercial loan (within the meaning it has in paragraph 3);

(d) paragraphs 5(5) and 6(5) and (6) apply for the purposes of determining the interests of persons in a fund as they apply for the purposes of determining relevant interests in a QAHC.

(6B) For the purposes of sub-paragraphs (5)(a)(i) and (6A)(c), references to a creditor of a fund are to be treated, in the case of a fund that is a partnership, as not including any creditor who is a partner of that fund." —*(Lucy Frazer.)*

This amendment is one of a pair of amendments that provide that a fund that is 70% controlled by category A investors meets the diversity of ownership condition.

Schedule 2, as amended, agreed to.

Clause 15

Real Estate Investment Trusts

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.

Lucy Frazer: Clause 15 makes targeted changes to the tax rules for real estate investment trusts. These changes alleviate certain constraints and administrative burdens to enhance the attractiveness of the UK's real estate investment trust regime for real estate investment.

A real estate investment trust, or REIT, is a collective vehicle that allows investors to obtain broadly similar returns from an investment in property as they would have had had they invested directly, through a specific set of tax rules. This regime has proved popular since its introduction in 2006, with around 100 UK REITs currently

[Lucy Frazer]

established. However, recent consultations issued as part of the Government's review of the UK funds regime have identified a number of areas where the REIT regime could be reformed to remove unnecessary barriers and make it more competitive. The Government are now acting to amend these areas of their regime to make the UK a more attractive location for holding real estate assets.

The changes to the REITs tax rules will reform a number of areas. They will remove some administrative and cost burdens for existing UK REITs and remove some barriers to entry, widening the scope of businesses able to elect to be a UK REIT. In particular, the changes will remove the requirement for REIT shares to be admitted to trading on a recognised stock exchange where institutional investors hold at least 70% of the ordinary share capital. They will amend the definition of an overseas equivalent of a UK REIT to allow it to be met by companies and jurisdictions without an equivalent regime and remove the "holder of excessive rights" charge, where property income distributions are paid to investors entitled to receive them without deduction of withholding tax.

Finally, the changes will introduce a new, simplified balance of business test, which are the rules requiring that at least 75% of the rights, profits and assets relate to the property rental business, and exclude certain activities relating to the planning obligations from the test.

The targeted changes introduced by the clause and schedule will make the existing REITs regime more attractive, consistent with the Government's objective for the review of the UK funds regime. The changes will come into force on 1 April 2022.

10.15 am

James Murray: As we have heard, clause 15 and schedule 3 concern real estate investment trusts. The clause and schedule amend the REIT rules and, as the Government have said, seek to remove superfluous restraints and administrative burdens. That includes the removal of the requirement for REIT shares to be admitted to trading in certain circumstances; the amendment of the definition of an overseas equivalent of a UK REIT; the amendment of the "holder of excessive rights" charge to corporation tax; and changes to the rules which ensure that a REIT's business is primarily focused on its property rental business. The changes take effect from 1 April 2022.

A REIT is a company through which investors can invest in real estate directly. Specific tax rules for UK REITs were introduced in the Finance Act 2006. The regime has proved popular, and the number of UK REITs steadily increased to 92, as of June 2021. Subject to meeting certain relevant conditions, the company may notify Her Majesty's Revenue and Customs that it is to be treated as a UK REIT. Its property rental profits and gains are then, in broad terms, treated as exempt from corporation tax, subject to ongoing conditions such as the requirement to distribute 90% of its exempt profits as property income distributions, which are in turn treated as property rental income in investors' hands.

At Budget 2020, the Treasury launched a consultation on the tax treatment of asset holding companies, which included questions about investments in real estate. Responses to the consultation led to the inclusion of proposals for changes to the REIT regime in a second consultation on asset holding companies, which was launched in December 2020. The schedule introduces those changes, which are intended to remove restrictions and administrative burdens where they are no longer necessary. For that reason, we do not oppose the clause or schedule.

Alison Thewliss: I have a question about transparency and how the regime will interact with the Government's draft Registration of Overseas Entities Bill. I remember some discussion about people moving ownership to trusts and other things, but I am not quite clear how this interacts with that work on transparency.

Lucy Frazer: I am grateful to the hon. Member for Ealing North for indicating that he will not oppose this aspect of the Bill. As he has said, the regime is very popular. I am very happy to get back to the hon. Member for Glasgow Central on her particular question.

Question put and agreed to.

Clause 15 accordingly ordered to stand part of the Bill.

Schedule 3 agreed to.

Clause 16

FILM TAX RELIEF: FILMS PRODUCED TO BE TELEVISION PROGRAMMES

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

The Chair: With this it will be convenient to discuss new clause 14—*Review of effectiveness of film tax relief provisions of Act and of potential for misuse*—

"(1) The Government must publish, within six months of this Act coming into force, a report on the effectiveness of the provisions of section 16 of this Act.

(2) This review must include an assessment of the extent of, and potential for, misuse of the relief provided in section 16.

(3) The assessment under subsection (2) must include an evaluation of the relevance of the experience of misuse of existing film tax relief.

(4) The evaluation provided for in subsection (3) must include—

(a) the—

(i) total number of enforcement actions, and

(ii) number of successful enforcement actions taken against companies suspected of misusing film tax relief,

(b) the actions taken against the promoters of schemes designed to enable misuse of film tax relief, and

(c) a statement as to the plans the Government has for further action against misuse of film tax relief."

This new clause would require a review of the effectiveness of the provisions in section 16. This review would include assessing actual and potential misuse of the relief, drawing on experience of the present film tax relief regime.

Lucy Frazer: Clause 16 makes changes to the film tax relief to give added flexibility to film producers who might decide to change their distribution method. The Government are ensuring that film producers can claim the film tax relief for films that are broadcast or streamed rather than released in cinemas, provided that the film meets the criteria for high-end television tax relief.

There is an imbalance between release for film and TV where some films that are no longer intended for a cinematic release and switch to streaming lose eligibility for tax relief. The distribution landscape has changed significantly since the introduction of these reliefs, and more films are released directly to video on demand services. This trend has accelerated recently due to the covid pandemic.

The changes made by the clause to the film tax relief will provide greater certainty for producers, ensuring that relief is not lost should a company decide to change its distribution method. This will help ensure that the UK remains an attractive place to invest and encourage the production of culturally British films.

New clause 14 would require the Government to review the effectiveness and potential misuse of clause 16 within six months of the Act coming into force, and would include within it an evaluation of misuse of the film tax relief. That evaluation would include the total number of enforcement actions, and the number of successful enforcement actions, taken against the companies suspected of misusing film tax relief.

The Government oppose the new clause on the basis that it is not necessary, as the Government are already monitoring and evaluating the success of their tax reliefs. This follows the structured approach to evaluating tax reliefs that HMRC began in October 2020 as a general good practice policy approach. HRMC has contracted an independent research agency to evaluate the screen tax reliefs, including film tax relief and high-end television tax relief. That evaluation aims to provide a thorough and independent evaluation of the reliefs, including their effect on employment and business growth. The impact of clause 16 will be noted as part of the evaluation, which is expected to be published next year, although that evaluation will not cover misuse of the relief. The requirement in new clause 14 that a review of clause 16 be published in six months is also impractical, because the measure only comes into effect for accounting periods ending on or after 1 April 2022. It is likely to be at least a year before companies make claims in relation to clause 16, and even longer before enforcement action is taken.

It is also worth noting that HMRC is taking actions to clamp down on the abuses that the new clause is concerned about. The current film tax relief was introduced in 2007 to replace film partnership reliefs. It is a corporate relief, and now focuses on film producers, not on investing partnerships. HMRC continues to settle and litigate historic schemes related to the old film partnership reliefs, but the current regime has not been subject to the same abuse, and has had a positive reputation in the industry.

The corporate film tax relief has proved very successful at attracting inward investment. It is highly popular with film-makers, and has contributed to making the UK a top film-making destination. This new relief is well targeted and has not been subject to abuse like the previous scheme. The change made by clause 16 is therefore to support businesses that meet the qualifying criteria for the relief, and while HMRC will remain vigilant regarding any emerging risks, we do not believe that clause 16 poses any significant additional risk. Further, reviews and disclosure of enforcement action statistics as requested by the new clause would not be useful. As such, I urge the hon. Gentleman to withdraw it.

The changes made by clause 16 will help ensure that the film tax relief continues to support the UK's thriving film-making scene. I therefore commend it to the Committee.

James Murray: As we have heard, clause 16 allows films to remain eligible for film tax relief even if those films are no longer intended for theatrical release, provided they are intended for broadcast and meet the four conditions required for high-end television tax relief. The clause is effective for accounting periods ending on or after 1 April 2022. We do not oppose measures that support the entertainment and hospitality industry, particularly given the ongoing challenges brought about by the covid-19 pandemic. Indeed, the measures contained in clause 16 are, in themselves, sensible and appropriate.

More widely, though, we are aware that film tax relief was introduced by the Finance Act 2006, and applied only to films intended to receive theatrical release. That intention must be met at the end of every accounting period. Similarly, high-end television tax relief was introduced by the Finance Act 2013, and allows companies to claim relief on television programmes so long as they meet certain conditions.

The intention to broadcast must be met at the outset of production activities, and is then treated as being met for the remainder of production activities, regardless of the intention for the programme. That raises the possibility that a film that was initially intended for theatrical release may miss out on either relief if the intention changes part-way through production, and it is instead planned to have a television release. This is the case even when such a film would have been eligible for television tax relief if the decision had been made at the very start of production activities. Clause 16 ensures that where a film would have been eligible for high-end television tax relief if not for the date that the broadcast intention was decided on, it will not miss out on that relief, but will be eligible to claim it.

I am sure that the measures in this clause will provide welcome relief to those in the film industry. However, we would like to take this opportunity to ask the Minister about the operation of the film tax relief more widely, which is a debate that our new clause 14 seeks to encourage. Looking back briefly to 2014, the Public Accounts Committee reported on the misuse of tax relief, including the film tax relief, to which it made explicit reference. The report found:

> "There is a lack of transparency and accountability for tax reliefs and no adequate system of control, following their introduction….Tax expenditures are often alternatives to spending programmes, but are not managed or evaluated as closely…The Departments do not keep Parliament adequately informed of changes in the costs of reliefs…The Departments are unable to cope with the demands of an increasingly complex tax system, including tax reliefs…The Departments do not respond promptly to unexpected increases in the costs of tax reliefs. Data on movements in the cost of reliefs is not available until tax returns are received, and HMRC takes time to react when it notices a cost increase, as it wants to ensure its response is appropriate. However, a longer elapsed time in reacting to an increase in the cost of a tax relief raises the total amount of public money at risk. In the case of film tax relief, it took ten years to resolve the problems and cost over £2 billion."

I am aware that the operation of the film tax relief has been changed in recent years, but it is important to ensure that the tax relief continues to be effective. We need the Government to reassure us that they are taking

[James Murray]

adequate action against the possible misuse of tax reliefs. With that in mind, we tabled new clause 14, which would require the Government to include an assessment of the extent of, and potential for, misuse of the relief provided in clause 16. That assessment must also include an evaluation of the misuse of existing film tax relief more widely.

In relation to that wider potential misuse of existing film tax relief, our new clause requires the Government to set out, first, the number of total and successful enforcement actions taken against companies suspected of misusing film tax relief; secondly, a report of what action has been taken against the promoters of schemes designed to enable to misuse of film tax relief; and thirdly, what plans the Government have for further action against the misuse of film tax relief in the future.

The Minister has set out that she will not accept our new clause, but I ask her to commit to a firm timetable for a review of existing film tax relief that would have a similar effect. There are already reports suggesting that the use of film tax relief is increasing. I remind her that the 2014 Public Accounts Committee report said that

"Departments do not respond promptly to unexpected increases in the costs of tax reliefs."

If the Minister will not commission a review along the lines that we have suggested, I would be grateful if first she could reassure us on the record that she does not believe that there are significant levels of misuse of film tax relief. Following the point that she made earlier, I would be grateful if she could also explain what the timetable is for the publication of the evaluation of film tax relief. If she does not have that to hand, could she write to me before the recess?

Alison Thewliss: I am more than happy to support what the Government are proposing here. Consistency in these tax reliefs is really important to allow businesses to plan. My constituency particularly has a booming TV and film production sector, with the recent announcement of the BBC Studioworks development at Kelvin Hall in my constituency, and an £11.9 million investment, £7.9 million of which is coming from the Scottish Government to invest in the high quality TV and film production in Glasgow.

It is important to acknowledge the wider picture. This is not just about one tax relief; it is about the wider ecosystem. We have lots of independent production companies in Glasgow Central, and more widely in Glasgow, working away and producing high quality stuff. We have post production as well in companies such as Blazing Griffin, which does high-end stuff for the likes of Netflix. However, I would be doing them all a wee bit of a disservice if I did not mention the significance of Channel 4, and the importance of keeping it in its current model and standing away from the plans to privatise it. That model is what supports the wider ecosystem in the city of Glasgow—the model where independent production companies are able to keep their intellectual property and products, and sell them. That allows all the certainty within the sector to continue.

As I said, the issue is not just about this one tax relief; it is about the Government looking at and acknowledging the wider ecosystem that supports independent production within Glasgow. Companies such as Blazing Griffin have pointed out to me that, were it not for Channel 4, we would not have Netflix. One thing in the ecosystem depends on another, and I urge the Government to look at that in the round when it considers such tax reliefs. Where tax reliefs have been withdrawn or changed in the United States, all that happens is that production companies lift and shift, and go elsewhere. We do not want to risk doing that with such changes as those that the Government propose for Channel 4.

Lucy Frazer: I will briefly respond to the points made by the hon. Member for Ealing North. There are four short points: first, I hope the hon. Member has taken some reassurance from the fact that I mentioned that the current regime is not subject to the same abuse as the historic regime. Secondly, I mentioned that we were doing an independent review of reliefs. Thirdly, he asked me for the timing of that project. It started in May 2021, and we expect the project to be finished and to have written a report before the end of March 2022, for publication later in the year.

The hon. Member also mentioned avoidance quite a lot; we are also interested in tackling avoidance, and we will be coming to, later on in this Committee, a whole raft of measures tackling promoters. I am sure that he will welcome those.

10.30 am

On the point that the hon. Member for Glasgow Central made, I am very pleased to see that there are thriving creative industries across the UK. She makes an important point about how we need to look at the industry as a whole, but it would be stretching things slightly to include a debate about Channel 4 within the confines of this Bill.

Question put and agreed to.

Clause 16 accordingly ordered to stand part of the Bill.

Clause 17

TEMPORARY INCREASE IN THEATRE TAX CREDIT

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

The Chair: With this it will be convenient to discuss clauses 18 to 22 stand part.

Lucy Frazer: Clauses 17 to 22 make a series of changes to the creative industry tax reliefs, in order to support the cultural sector as it recovers from the effects of the pandemic. These changes include temporary rate increases for theatre tax relief, orchestra tax relief, museums and galleries exhibition relief and an extension of the museum and exhibitions tax relief. The changes ensure that reliefs remain targeted, free from abuse and sustainable.

The effects of covid on the creative industries have varied depending on the nature of the medium. Social distancing and wider restrictions have had a particular impact on theatres, orchestras, museums and galleries, as they rely on live performances and exhibitions to generate revenue. Clauses 17 and 21 temporarily double the headline rate of relief for theatre tax relief and museums and galleries exhibition tax relief, from 20% for non-touring productions and 25% for touring productions to 45% and 50%, respectively. From April 2023, the rates will be reduced to 30% and 35%, and they will return to 20% and 25% on 1 April 2024.

Clause 19 temporarily doubles the headline rate of relief for the orchestra tax relief from 27 October 2021, from 25% to 50%, reducing to 35% from 1 April 2023 and returning to 25% on 1 April 2024. The temporary higher rates of relief will provide a further incentive for theatres, museums, galleries and orchestras to put on new productions, exhibitions and concerts over the next two and a half years. This is a tax relief for culture worth almost a quarter of a billion pounds.

Clauses 18 and 20 make changes to theatre tax relief and orchestra tax relief to help clear up areas of legislative ambiguity and reinforce the original policy intent. The changes will apply to any new productions commencing from 1 April 2022. The clarifications are as follows: first, the commercial purpose condition for theatre tax relief and orchestra tax relief will be clarified so that productions must be separately ticketed to be considered as having been performed before a paying audience.

Secondly, the educational purposes condition will clarify that it is the audience that is being educated, not the performers. Thirdly, the legislation clarifies that productions made for training purposes will be excluded. Fourthly, teaching costs incurred by educational establishments, which are not directly related to performances, will be specifically excluded from relief. Finally, the definition of a "dramatic piece" will be clarified, so that to qualify for the relief, productions must contain a story or a series of stories and must have an expected audience of at least five people.

Clause 22 extends the sunset clause of museums and galleries exhibition tax relief from April 2022 to April 2024 in order to give certainty to museums and galleries through the recovery from the effects of the pandemic. The Government will also take steps to prevent abuse or attempted abuse of museums and galleries exhibition relief by clarifying the existing legislation. The clause makes minor changes to clear up areas of legislative ambiguity and reinforce the original policy intent. The changes will apply to any new exhibitions commencing from 1 April 2022.

The first clarification will be to the definition of an exhibition, which will be clarified so that the

"display of an object or work"

cannot be secondary to another activity. Secondly, to prevent private companies that are not museums or galleries from claiming on temporary outdoor sites, it will be clarified that being responsible for an exhibition is not sufficient for a company to qualify as maintaining a museum or gallery. Finally, the Government are relaxing the criteria for qualifying as a primary production company to allow more flexibility for museums and galleries scheduling touring exhibitions.

The changes will help UK theatres, orchestras, museums and galleries bounce back by incentivising new productions over the next two and a half years; continue Government support for charitable companies to put on high-quality museum and gallery exhibitions; and ensure that the relief is targeted and sustainable.

James Murray: Clause 17 will temporarily increase the rate of theatre tax credit for theatrical productions that commence production on or after 27 October 2021. From 27 October 2021 to 31 March 2023, companies will benefit from relief at a rate of 50% or 45% for touring and non-touring productions. From 1 April 2024, the rates of relief will return to the existing levels of 25% and 20% respectively.

Companies qualifying for theatre tax relief can surrender losses in exchange for a payable tax credit. The amount of loss able to be surrendered in a period is dependent on several factors, but will ultimately depend on the amount of core production expenditure that has been incurred in the UK or European Economic Area. A higher rate of relief is also available to theatrical productions that take place at more than one premise and are considered touring productions. I would be grateful if the Minister could clarify how the definition of touring will be applied.

Section 1217K(6) of the Corporation Tax Act 2009 defines touring thus:

"A theatrical production is a 'touring production' only if the company intends at the beginning of the production phase—

(a) that it will present performances of the production in 6 or more separate premises, or

(b) that it will present performances of the production in at least two separate premises and that the number of performances will be at least 14."

Paragraph (b) indicates that if a theatre company puts on 14 performances that were split between two venues—perhaps in the same town, just round the corner from one another—it would be eligible for 5% more tax credits than if it kept all 14 performances in the same venue. Perhaps the Minister could confirm whether that is the case.

As we have heard, clause 18 concerns theatrical production tax relief. It amends part 15C of the Corporation Tax Act 2009 to clarify several areas of legislative ambiguity relating to eligibility for theatre tax relief in relation to theatrical productions where the production phase will begin on or after 1 April 2022. We understand that the amendments are made to narrow the focus of the legislation and, according to the background of its explanatory note, to

"reinforce the original policy intent".

Subsection (2) requires the intended audience to number at least five people for a production to be considered a "dramatic production". It also stipulates that for a dramatic piece to qualify as a dramatic production, it must tell

"a story or a number of related or unrelated stories."

Subsection (3) adds productions made for training purposes to the list of productions that are not regarded as theatrical and do not qualify for relief.

Subsection (4) amends the commercial purpose condition in section 1217GA of the 2009 Act so that a performance will not meet the condition unless it is separately ticketed and such ticketing is expected to make up a significant proportion of the performance's earnings. A ticket may cover things besides admission to the performance, so long as such things are incidental to the performance and it is possible to apportion the ticket price between the performance and anything else included in the price. The subsection additionally clarifies that for a performance to meet the commercial purpose condition by being educational, it must be provided mainly to educate the audience.

As we have heard, clause 19 provides a temporary increase to orchestra tax credit. It temporarily increases the rate of orchestra tax relief for concerts or concert

[James Murray]

series that commence production on or after 27 October 2021. From 27 October 2021 to 31 March 2023, companies will benefit from relief at a rate of 50%. From 1 April 2023 to 31 March 2024, the rate of relief will be set at 35%. From 1 April 2024, the rate of relief will return to its existing level of 25%.

Companies qualifying for orchestra tax relief can surrender losses in exchange for a payable tax credit. The amount of loss that can be surrendered in a period is dependent on several factors, but ultimately it depends on the amount of core production expenditure that has been incurred in the UK and the European Economic Area. This temporary rate rise is also being introduced to theatre tax relief, in clause 17, and museums and galleries exhibition tax relief in clause 21. It allows companies to claim a larger tax credit and is designed to support the industries as they recover from the adverse economic impact of the covid-19 pandemic.

Orchestral productions are a tremendously important cultural asset in this country, and we are pleased to support the clause, which provides additional support to a cultural industry that has been hit hard by the pandemic. However, will the Minister outline what measures are in place to support musicians of other genres, or who perform in non-orchestral configurations? This is a welcome relief for orchestras, but other musical groups could be left out.

As we have heard, clause 20 pertains to tax relief for orchestras. This clause amends part 15D of the Corporation Tax Act 2009 to clarify several areas of legislative ambiguity within orchestra tax relief. These changes have effect in relation to concerts or concert series where the production process begins on or after 1 April 2022, and they are comparable to the changes concerning theatre productions in clause 18, in so far as the Bill clarifies that relief is not applicable to orchestral productions that take place for training purposes. It amends the Corporation Tax Act so that a concert will not meet the definition unless it is separately ticketed and such ticketing is expected to make up a significant proportion of the performance's earnings.

Those are uncontroversial provisions that we do not oppose, because they reduce the risk of the tax relief being misused and maintain the spirit in which the legislation was originally developed. However, we note the Chartered Institute of Taxation's concern that orchestras that made a series election before the Budget—for example, an orchestra that made a series election in September for its whole annual season—would appear to lose out on the higher rate of relief for their entire season. That is perceived to be unfair, and we would welcome clarity over whether that is the Government's intention.

Clause 21 provides a temporary increase to the rate of relief afforded to museums and gallery exhibitions that commence production on or after 27 October 2021. From 27 October 2021 to 31 March 2023, companies will benefit from relief at a rate of 50% or 45% for touring and non-touring exhibitions respectively. From 1 April 2023 to 31 March 2024, the rates of relief will be set at 35% and 30%. From 1 April 2024, the rates of relief will return to their existing levels of 25% and 20%.

Companies qualifying for this relief can surrender losses in exchange for a payable tax credit. The amount of loss that can be surrendered in a period is dependent on several factors, but it ultimately depends on the amount of core production expenditure that has been incurred in the UK and European Economic Area. We do not oppose the measure, because it relates to another sector that has been hurt by the pandemic and that we want to see back on its feet, providing the best educational and cultural enrichment that it can to the British people.

However, will the Minister clarify where world heritage sites fit into the legislation, and whether they could be considered museums or gallery exhibitions? According to UNESCO, the UK and Northern Ireland have 33 world heritage sites: 28 cultural, four natural and one mixed.

Finally, clause 22 concerns the aforementioned tax relief to museums and gallery exhibitions, clarifying some legislative ambiguities and amending criteria for primary production companies. Those amendments have effect in relation to exhibitions where the production stage begins on or after 1 April 2022. The relief was introduced with a sunset clause and was due to expire from 1 April next year, but this clause extends the relief for a further two years. Any expenditure incurred after 1 April 2024 will not qualify for relief unless there is a further extension.

As we can see, subsection (1) amends the definition of an exhibition so that a public display of an object is not an exhibition if it is subordinate to the use of that object for another purpose. For example, if a historic passenger train offers rides between two towns, although the train may have historical or cultural significance, its main purpose is to provide passenger transport. This does not preclude the possibility of there being an exhibition on board the train.

Finally, and more broadly, we are aware of concerns from within the industry regarding productions that straddle the commencement dates of these reliefs. For each relief, the increased rate applies only to productions where the production stage for the exhibition began on or after the Budget on 27 October 2021, when the change was announced. So, a production that received the green light on 26 October, or earlier, would not gain the benefit of the increased rate, however long it ran for after the commencement date for the increased rate. We understand there are those in the sector who perceive that as harsh and arbitrary, and we welcome the Minister's thoughts on the matter.

10.45 am

Alison Thewliss: Of course, I support the proposed tax credits. They will be a useful part of the picture of support for theatres, museums and orchestras, of which there are many in my constituency of Glasgow Central—which is, of course, the best constituency in the country, as I am sure everyone would agree. We have the Royal Scottish National Orchestra, the BBC Scottish Symphony Orchestra and Scottish Ballet, as well as Tron Theatre company and the Citizens Theatre company. These proposals may be of assistance to them, so I ask the Minister what communication has been put out to the sector to ensure that it is aware of the relief and taking it up as required.

I share the concerns expressed by the hon. Member for Ealing North, and I, too, seek answers from the Minister to the questions that the hon. Gentleman asked. It strikes me that many of these proposals provide assistance for productions of some kind, but that misses the other side of the equation. It is good to support companies, but if the venues and theatres in which they wish to perform go bust because they do not have the support that they need, that will not solve the problems that the companies have faced for the past year as a result of the pandemic. I urge the Minister to look at support for the sector more widely.

Many who work in the sector—in orchestras and in theatres, behind the scenes and on the stage—are freelancers, and many have received no support whatsoever from the Government during the pandemic. They have faced a very difficult time, and the Government need to resolve that part of the equation. They could perhaps do so by looking at extending the VAT relief that they introduced, as the SNP has called for.

We were very glad that the Government brought in the reduction in the rate of VAT, but it would be useful to see that continued beyond the cut-off in April next year. That would give a sector that has faced such a difficult time a bit of extra support into next year. It does not make much sense to me to cut that off, and not to incentivise people to go out and make use of the theatres and music venues we all have in our constituencies.

The sector has had a very difficult time. The proposed tax credits are useful, but we need to look at the wider picture. If there is no venue in which to perform or to showcase an orchestra, ballet, theatre production or pantomime, because those venues have gone bust and no longer exist, the Government are missing a trick. It is important that we support the venues and those who work in the sector, wherever that is, and that we look at the wider picture, rather than at a narrow bracket of tax reliefs.

Lucy Frazer: The hon. Member for Ealing North asked about world heritage sites. The answer to his question is that a world heritage site would be considered to be a site of cultural significance. It would be considered as an exhibition and would qualify, so long as it is maintained by a charity or local authority.

The hon. Gentleman recognised that those who had commenced productions before 27 October would not qualify for the relief. He is right about that, although we have doubled relief until 2023 and increased it until 2024. Productions that started before the announcement have been able to benefit from the normal rates of relief and the comprehensive package of support provided for the cultural sector over the pandemic. They will continue to benefit from relief at the 2020-21 rates. It is important, and we have made it clear, that these proposals relate to new activity, because it is new activity that we want to support through this particular relief.

The hon. Gentleman also asked about touring and musicians. HMRC has recently issued further guidance where industry has asked for it, in relation to the interpretation of the legislation. I will get back to him about those two points.

The hon. Member for Glasgow Central made a few points; I am afraid I must challenge her on her statement that Glasgow Central is the best constituency in the country. The best constituency is, of course, South East Cambridgeshire—fortunately, no one will have an opportunity to respond to that. She made an important point about communication. The Chancellor mentioned these reliefs in the Budget statement and they were included in all the communications about it at the time, which were highly publicised. The hon. Lady makes an important point, however, and I will continue to ensure that when we make reliefs, those who qualify for them are aware that they do. We are doing quite a lot of work on how to spread the message more broadly to enable companies to take up the reliefs that the Government offer.

Alison Thewliss: The point is that large production companies will have accountants who will know what those companies are eligible for, but smaller companies might not even be aware of what is available because they are too small to fill in the paperwork. They may need extra support to do so. Anything the Government could offer in that regard would be useful.

Lucy Frazer: That is a valuable point. I know in my constituency that small organisations got a variety of grants from the Arts Council and were able to access those reliefs, but I will discuss that point further with my officials. I thought the hon. Lady might want to intervene on the question of which constituency is the best in the country.

Alison Thewliss: There is no question!

Lucy Frazer: I commend the clauses to the Committee.

Question put and agreed to.

Clause 17 accordingly ordered to stand part of the Bill.

Clauses 18 to 22 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—(*Alan Mak*.)

10.52 am

Adjourned till this day at Two o'clock.