Vol. 799
No. 347

Monday
30 September 2019

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

Lords wishing to be supplied with these Daily Reports should give notice to this effect to the Printed Paper Office.

No proofs of Daily Reports are provided. Corrections for the bound volume which Lords wish to suggest to the report of their speeches should be clearly indicated in a copy of the Daily Report, which, with the column numbers concerned shown on the front cover, should be sent to the Editor of Debates, House of Lords, within 14 days of the date of the Daily Report.

This issue of the Official Report is also available on the Internet at
https://hansard.parliament.uk/lords/2019-09-30

The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

House of Lords

Monday 30 September 2019

2.30 pm

Prayers—read by the Lord Bishop of Newcastle.

Oaths and Affirmations

2.34 pm

Baroness Clark of Calton made the solemn affirmation, and signed an undertaking to abide by the Code of Conduct.

Age Appropriate Design Code

Question

2.35 pm

Asked by ***Lord McNally***

To ask Her Majesty's Government when they intend to lay before the House the necessary secondary legislation to implement the age appropriate design code under Section 123 of the Data Protection Act 2018.

Baroness Chisholm of Owlpen (Con): My Lords, it is vital that we lead the world in making sure that our children are safe while they are online. As a result of that, the Data Protection Act made provision for the Information Commissioner to produce an age-appropriate design code. That will be laid before the Secretary of State on 23 November.

Lord McNally (LD): My Lords, I am sure that the Minister shares my confidence that the ICO will produce a very effective code. Will it cover things like the false information about vaccination and immunisation, which is having an impact on take-up, or the grooming of young people into gambling by free games? Would she not agree that there is a lot to do to ensure a real duty of care in this sector, and that this is only a first step?

Baroness Chisholm of Owlpen: The noble Lord brings up two very important subjects which we must sort out. These come under the remit not of the ICO but of the online harms White Paper. Alongside that, the gambling question mentioned by the noble Lord is also being looked at—the DCMS Select Committee produced a report on immersive and addictive technologies. The Government are going to look at that very closely before they make a response.

Lord Griffiths of Burry Port (Lab): My Lords, the noble Baroness has given us the critical path for what we now expect to happen. Enormous claims have been made for the verification code in question. There have been four Secretaries of State at DCMS in the time it has taken to get the Data Protection Act on to the statute book. All kinds of things have been happening in the political world and I am trying to learn how to speak very politely and humanely about these and other matters in your Lordships' House; but certainly, it is an unsettled time. In addition, there is evidence of pushback from certain internet companies that are reluctant to go this way. In the light of the uncertainties, the change-over of the head of the department and all the rest of it, is the Minister prepared to give us some real reassurance that the timetable will be met and that the Government's programme when we begin the new Session will include a commitment to taking this forward? There is little that we could all want more than the safety of our children, especially as this concerns their relationship to and use of the internet.

Baroness Chisholm of Owlpen: As the noble Lord rightly said, the safety of our children is paramount. As we know, this issue is completely cross-party. I know that the Government have every intention of making sure that implementation takes place. Sadly, the noble Baroness, Lady Kidron, is not in her place today; she is the real expert on this subject. However, she sent a brief note to all Peers who are interested. I would like to read what she said because it shows how important this matter is: "The Government has rightly committed to making the UK the safest place in the world for children to be online, from the UN special rapporteur on privacy to the broadband commission, the OECD and the US Federal Trade Commission, currently reviewing its own children's privacy rules. Policymakers around the world are watching the code's progress and waiting to follow to our lead. Introducing a strong code would demonstrate that wider regulation is politically and technically possible".

Lord Black of Brentwood (Con): My Lords, I must declare an interest as deputy chairman of Telegraph Media Group. My noble friend will be aware of serious concerns among news publishers about the scope of the proposed code, which could have a disastrous impact on their commercial position if they were caught accidentally in its terms. Does my noble friend therefore agree that a total exemption for publishers who do not present any danger to children should be written into the code and not left to the chance of guidance?

Baroness Chisholm of Owlpen: That is not a question I can answer at the moment, but the Information Commissioner is certainly talking to stakeholders and everybody concerned with the Act. That is exactly why the matter went out to consultation and why there were more than 1,000 responses. However, there is no doubt that this code is needed and that the Information Commissioner will ensure that it makes our children safe online.

Baroness Hollins (CB): My Lords, I think that I am right that 25% of internet users are children. I am concerned to hear that there has perhaps been some pushback from internet companies on the development of this ground-breaking code. Can we be assured that the code really will be strong and will not be watered down in any way by some of the responses that have been presented?

Baroness Chisholm of Owlpen: My Lords, I think that I can safely stand here and say that that is true. Of course, the code works in conjunction with the GDPR, whose guidelines are already out there. This code is to gold-plate that part of the GDPR. It is true that there has been pushback from online companies. The Information Commissioner is working closely with them for them to understand how important it is. It is up to those companies to realise that this issue is vital and that they have to get their world in order.

Lord Clement-Jones (LD): My Lords, the standards in the code will apply to all users unless there are robust age-verification mechanisms to distinguish adults from children. The BBFC has recently conducted research showing huge support among parents for the age-verification guidance under the Digital Economy Act. Can the Minister confirm that the guidance will be tabled at the earliest possible opportunity—that is, this week?

Baroness Chisholm of Owlpen: Am I right in thinking that the noble Lord is talking about the age verification—

Lord Clement-Jones: Yes.

Baroness Chisholm of Owlpen: As he knows, that has been with the EU. The standard three-month TSRD, where they look at the whole thing, is due to expire on 2 October, which is the day after tomorrow. We have not heard anything from them, so it seems unlikely that they will suddenly come up with a whole lot of comments between now and then, but obviously I cannot guarantee that.

Brexit: Advertising of Duty-Free Shopping

Question

2.43 pm

Asked by ***Baroness Thornton***

To ask Her Majesty's Government what assessment they have made of the compatibility of their recent campaign advertising the return of duty-free shopping after Brexit with (1) domestic law and (2) international charters governing the advertising of tobacco products.

Lord Bethell (Con): My Lords, the recent announcement provides clarity for consumers on the application of duty-free in the event of a no-deal Brexit. It allows businesses and port and airport operators time to prepare. This is a temporary policy only that complies with international laws by broadly treating all individuals in a similar way while aiming to ensure that individuals can continue to cross the border without undue disruption or delay. The Government commit to consulting on a longer-term approach.

Baroness Thornton (Lab): I thank the noble Lord, Lord Bethell, and welcome him to his brief—whether it will be a permanent or a temporary occupation of it. I suspect that we will be seeing quite a lot of each other this afternoon. The Chancellor said:

> "As we prepare to leave the EU, I'm pleased to be able to back British travellers. We want people to enjoy their hard-earned holidays and this decision will help holidaymakers' cash go a little bit further".

Fine. I reassure noble Lords that this is not about alcohol but about tobacco. Accompanying this, information was posted on the Government Brexit website and shown on main television channels containing information about purchasing duty-free tobacco without duty. The law in the UK is quite clear:

> "A person who in the course of business publishes a tobacco advertisement, or causes one to be published, in the UK is guilty of an offence".

So my question to the Minister, which he has not answered, is whether the Government have strayed outside our tobacco regulations and law. Another question I need to ask is whether this is a sign that the Government intend to use Brexit as a way of undermining or relaxing the UK's legal and regulatory position on tobacco regulation.

Lord Bethell: Perhaps I may remind the House that we are talking about a tweet from Her Majesty's Treasury's on its Twitter feed: it was not a paid-for promotion in any way. The advertising authority reviewed the tweet and confirmed:

> "It was posted in non-paid for space, (i.e. their own Twitter account) and features no direct encouragement for consumers to buy or do anything, so it falls outside our rules".

This Government are fully committed to our health policy on tobacco and to bringing down tobacco smoking and consumption in this country. However, a no-deal Brexit creates ambiguity both for shop owners in airports and ports and for consumers, so this was a perfectly reasonable move to bring clarity to a confusing area of policy.

Lord Naseby (Con): Is my noble friend aware that he is absolutely right—it does bring clarity? Nevertheless, the most difficult part of tobacco trading today is the illegal importation of tobacco. Does not the opportunity of a no-deal Brexit give us the opportunity to really clamp down on this illegal importation?

Lord Bethell: That is a benefit of a no-deal Brexit that I do not think had yet occurred to the Treasury, but I personally will be sure to pass that suggestion on and I am sure that it will seize on it as a magnificent opportunity—so I thank my noble friend.

Lord Rennard (LD): My Lords, is not the concept of drawing attention to the possibility of buying cheap cigarettes totally counterproductive to the Government's stated aim of making the country smoke-free by 2030? Is not the truth about this campaign promoting such a possibility that it is all part of the propaganda in favour of Brexit in anticipation of a general election?

Lord Bethell: The Government remain absolutely committed to addressing the harms from both alcohol and tobacco and to improving the nation's health. We have many measures that echo efforts by Governments in the past and have long-term plans in all those areas. However, there is a large number of ambiguous aspects

of a no-deal Brexit in the eyes of both business owners and consumers that we must clear up. Not all of these ambiguities are going to be bad news: some of them might actually be welcomed by consumers and business owners. I can report considerable interest by consumers in the prospect of duty-free and that it is not something that I necessarily regret.

Lord Whitty (Lab): My Lords, in his Answer to my noble friend Lady Thornton, the Minister seemed to be enunciating an interesting doctrine: namely, that if advertising is not paid for at the point of advertising, it does not count as advertising. That seems to me to be a major hole in a lot of our legislation, let alone the campaign on tobacco. Could he look into this and clarify whether not just a Twitter account but anything that is not paid for but is advertising should be considered as advertising?

Lord Bethell: The noble Lord makes a very good point, but the guidelines on what constitutes advertising and was what does not constitute paid-for advertising are very clear. They are laid down by the Advertising Standards Authority, which looked into this in great detail and responded in the extremely clear terms which I read out—so I am not sure that that is an entirely ambiguous point.

Lord Kirkhope of Harrogate (Con): Does my noble friend not agree, however, that many of our provincial airports and other entry points into this country relied for many years on the revenue they received from duty-free sales? Some of them have asked whether they should now be preparing their infrastructure to have this facility again. Surely my noble friend would agree that this whole point is highly hypothetical, as the British Government are seeking a deal with the EU, not a no deal.

Lord Bethell: My noble friend puts it very well: yes indeed, this Government are committed to seeking a deal. That is very much the priority we are focused on at the moment. No-deal Brexit is a contingency for which it is worth planning and on which travel businesses and consumers are naturally very focused. That is why the Treasury has gone to these lengths to try to explain how existing arrangements for travellers will evolve under a no-deal Brexit. The steps taken by the Treasury in this case seem to be extremely reasonable.

Police: Additional Officers

Question

2.51pm

Asked by ***Lord Harris of Haringey***

To ask Her Majesty's Government by what date the additional 20,000 police officers announced by the Prime Minister will be deployed on duty and how many of the following categories of staff in forces in England and Wales they estimate there will be on that date compared to April 2010: (1) police officers, (2) special constables, (3) police community support officers, and (4) police staff.

Lord Harris of Haringey (Lab): My Lords, I refer to my interests as recorded in the register and beg leave to ask the Question standing in my name on the Order Paper.

The Earl of Courtown (Con): My Lords, the Government have committed to recruiting an additional 20,000 police officers over the next three years. Through the police uplift programme, the Home Office and policing partners will also ensure that the wider workforce is supported, including special constables, PCSOs and staff.

Lord Harris of Haringey: My Lords, we welcome the noble Earl to the Home Office portfolio, which he will enjoy with great gusto, I am sure. He has not answered the Question, which asked for a comparison of how many police officers were in position when the Conservatives came to power. Perhaps he has not answered the Question because in fact the so-called 20,000 extra officers will not bring the level back up to the level at that point. Is the noble Earl satisfied, given the documents in the Operation Yellowhammer file that suggested that there may be rioting on the streets in the event of a no-deal Brexit and the comments of a Cabinet Minister to the *Times* in the past few days suggesting that there will be rioting on the streets commensurate with the gilets jaunes in France if Brexit does not proceed, that the police have adequate resources to cope with the pressures that they are now facing?

The Earl of Courtown: My Lords, I thank the noble Lord for his question. He raises the subject of police numbers. The important thing is to look to the future. My right honourable friend the Prime Minister has announced a further 20,000 increase in the police force. Importantly, we will be aiming for 6,000 in year one, 8,000 in year two and 6,000 in year three. I am confident that the police will deal with all the demands on their time.

Lord Wigley (PC): My Lords, does the Minister accept that the clear-up rate for crime has dropped from more than 17% five years ago to under 8% on the most recent figures, and that one element of that is undoubtedly the reduction in community teams as a result of the cutback to the number of police officers available? Can he give a guarantee that, with the increases coming back to we hope somewhere near where the figure stood a few years ago with the 20,000 additional police recruits, emphasis will be given to community teams to ensure that intelligence is picked up?

The Earl of Courtown: The noble Lord makes a good point, particularly on the community teams and the valued work they carry out. The noble Lord will be aware that the deployment of officers is a decision that will be made by the local chief constables and the democratically accountable police and crime commissioners, so where these resources go will be in their hands.

Baroness Harris of Richmond (LD): My Lords, does the noble Earl not think that having all these extra police officers will require management? Does he know whether police superintendents will be included in that

[Baroness Harris of Richmond]
number and, following on from that, whether any other police resources will be given to the Police Service of Northern Ireland, which desperately needs more officers?

The Earl of Courtown: The noble Baroness mentioned police resources in Northern Ireland. I will ensure that my noble friend the Minister is aware of her question; I will ask him to respond to that part of it. The noble Baroness makes some important points. It is so important that we get the training right so that the logistics are in there. This is all part of the scheme. The logistics will be available to properly train these police recruits. There have so far been 160,000 hits on the employment site advertising these jobs, of which over half looked at specific recruitment opportunities.

Lord Kennedy of Southwark (Lab Co-op): My Lords, Ministers have told the House from the Dispatch Box on many occasions that there is no correlation between the number of police officers and the level of crime. Would the noble Earl like to reconsider that statement in the light of this recruitment announcement and the Prime Minister's comments that accompanied it?

The Earl of Courtown: My Lords, as the noble Lord will be fully aware, the important matter is that we will have these extra police additions to the force. They have an important part to play. I will not enter into any discussion over what has happened in the past; I will look toward the future, which is looking a great deal better for the police force of the United Kingdom.

Lord Laming (CB): My Lords, does the noble Earl accept that one of the real concerns about the reduction in the number of police officers has been that many police forces have given up their specialist child protection teams to make child protection part of the general service? Can the noble Earl use his good influence to ensure that, as these new recruits come on, priority is given to the restoration of specialist police child protection teams?

The Earl of Courtown: My Lords, the noble Lord makes an important point about the child protection teams and how they should be able to do their jobs to protect children, which we can all agree is very important. I will pass that on to my noble friend the Minister. As the noble Lord will be aware, and as I said earlier, decisions on extra staffing and where the staffing requirements go will be down to the chief constables and police and crime commissioners.

Baroness Jones of Moulsecoomb (GP): My Lords, when the former Mayor of London—our current Prime Minister—oversaw dismissals, sackings and the emptying out of the Met Police, it was obvious that he removed an awful lot of people who did the backroom jobs and people at sergeant level, who are the sort of people who will make these police officers more effective on the streets. Do the Government have a plan that will back-fill all these roles that are so crucial to the police being effective?

The Earl of Courtown: The noble Baroness makes a good point: it is so important that these extra police we get working on our streets are effective in the work they carry out. It is therefore also important that these new officers are given the right training for modern policing. The college, the National Police Chiefs' Council and the Home Office are working closely together to ensure that sufficient capacity is in place.

Brexit: Access to EU Systems

Question

2.58 pm

Asked by ***Lord Rooker***

To ask Her Majesty's Government how discussions are progressing regarding the United Kingdom having access to the Rapid Alert System for Food and Feed and the Trade Control and Expert System after the United Kingdom leaves the European Union.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, talks are intensifying and we are working to secure a new deal with the EU. The Government remain committed to maintaining the relationship with the Commission on RASFF and TRACES, which will be a matter for the next phase of negotiations as required by the Commission. It is a government priority to maintain high standards of protection for human, animal and plant health.

Lord Rooker (Lab): Has any Minister at all read the latest report on RASFF? The clue is in the title: "Rapid Alert". There are 10 notifications around Europe every single day, some requiring action that day. This is a 28% increase on the year before, which was 2016. Do the Government accept that, because of the rapid information transfer, EU citizens have been protected from serious food safety risks caused by some very nasty bugs—examples of which are given—that can lead to hospitalisation and sometimes be fatal? A country is either inside or outside RASFF; there is no associate membership. Which Minister will take responsibility on 1 November for the inevitable increase in food-borne diseases and their consequences? This is not about trade; it could be life and death.

Lord Gardiner of Kimble: My Lords, as I said, that is precisely why the Government's top priority is to ensure that the UK's food remains safe. The noble Lord was a distinguished chairman of the Food Standards Agency, and he knows very well of its capacity and capability. That has been increased precisely because, whatever the scenario, it is essential that this country remains safe.

I agree with the noble Lord, and that is why, as part of the next phase of negotiations, we would like to retain access to RASFF—not only because it is in our interest but because we are the third-largest contributor to and participant in RASFF, as the noble Lord knows. We in this country contribute a lot to RASFF's work, and that is why we are working on that. I assure

your Lordships that keeping this country safe is hugely important. I take responsibility for that as the Biosecurity Minister, but for all Ministers, both in my department and in the Department of Health and Social Care, this is a prime responsibility and I am prepared to take it.

Baroness Smith of Basildon (Lab): My Lords, I listened carefully to the Minister's Answer, but I am not clear about exactly what the Government are doing. It is all very well to say that that is in the next phase of negotiations, but what if there is a no-deal Brexit? There will be no further negotiations and we will be out of the system. RASFF is not the only notification system: there are others as well. It would be helpful to this House if he could outline the exact steps the Government have taken, as well as why he feels so confident that he can give a 100% guarantee of assurance that our food will be safe.

Lord Gardiner of Kimble: I think we are all subject to 75 words, which is rather a problem.

This is why we have taken the steps to scale up our work with INFOSAN, which is 180 countries strong. New Zealand, Australia, Canada and the United States all participate in it. The FSA is scaling up with new expert scientific committees—as well as others—so that we can be assured that, with that expanded access to scientific expertise, the right advice can be given. New work is being undertaken to ensure that the risk assessment is finely tuned so that we are on top of things beforehand.

I am very happy to write to the noble Baroness with a response detailing why I believe that we have done everything we possibly can for all scenarios. Although I accept that RASFF is an excellent system, it will be in the next phase—to answer that question—as a requirement of the EU. A deal takes two parties, and the European Commission has said—the noble Baroness has got to hear me on this—that the discussion on RASFF and our access to it will be part of the next phase of negotiations. We are not in a position to insist.

Lord Wallace of Saltaire (LD): My Lords, the Minister will be well aware the Prime Minister keeps telling us that the important thing is to "Get Brexit done". As he talks about the next phase of negotiations, is he confirming that we will start a whole series of complex, messy and very long negotiations if we leave on 31 October, which will mean that Brexit will in no sense be done for some years to come?

Lord Gardiner of Kimble: I have no doubt that, as we have seen for the last three years, negotiations will not be straightforward. However, I have spent a lot of time in rural affairs and in rural locations talking to people and I think that, whether they voted to remain or leave, they want to get this done and move on to a domestic agenda. I cannot crystal ball gaze as to the length and time of further negotiations. Getting back to the Question, we think that RASFF has a lot of merit, clearly we would like a deal, and we think that we have a part to play in RASFF outside the European Union.

Baroness Kramer (LD): What does the Minister consider to be the risks we face if we leave without a deal, are outside RASFF, new arrangements have not been negotiated, and there appears to be no substitute for the alert system? As the noble Lord, Lord Rooker, said, it identifies something like 28 dangerous bugs released into the food environment every day.

Lord Gardiner of Kimble: First, if food was sent to this country from within the EU, there is under European Union law a requirement that we would be notified. That is in place, and I have already said that the FSA is expanding its contacts and increasing our level of engagement with the International Food Safety Authorities Network, and scaled up the FSA's capacity. Some 180 countries including New Zealand, Australia and Canada are involved. We have heard from them, and they are not complaining about the capability of INFOSAN.

Metropolitan Police Report by Sir Richard Henriques

Private Notice Question

3.06 pm

Asked by ***Lord Lexden***

To ask Her Majesty's Government what representations they have made to the Metropolitan Police to publish the full report by Sir Richard Henriques of the Independent Review of the Metropolitan Police Service's Handling of Non-Recent Sexual Offence Investigations Alleged Against Persons of Public Prominence.

Lord Lexden (Con): My Lords, I beg leave to ask a Question of which I have given private notice.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, the Home Secretary wrote to the Metropolitan Police Service on 14 August welcoming its commitment to publish as full a version as possible of Sir Richard's report, and encouraging it to do so at the earliest opportunity.

Lord Lexden: Is there not an overwhelming national interest in ensuring that the report is published in full, so that all the lessons that arise from it can be learned? Is not full publication also essential to ensure, among other things, that complete justice is at last done to the late Lord Brittan, a great servant of our state; and that those whose misconduct added to his distress and that of his courageous wife in his last days are exposed and dealt with?

Baroness Bloomfield of Hinton Waldrist: I recognise the strength of feeling from noble Lords on this subject, but the Metropolitan Police Service has already committed to publishing the report. The Home Secretary has made it a personal priority to ensure that lessons are learned from the failings of this investigation, and she met the deputy commissioner a fortnight ago. Investigations of individual officers are a matter for the IOPC, which will also publish its report shortly.

Lord Kennedy of Southwark (Lab Co-op): I welcome the noble Baroness's comments but, in the light of them and the fact that it is a personal mission of the Home Secretary, why is neither the Government nor the police and crime commissioner for Wiltshire, Mr Angus Macpherson, prepared to look at the issues around Operation Conifer and the allegations surrounding Sir Edward Heath?

Baroness Bloomfield of Hinton Waldrist: Again, I do not believe that I can go much further, except to say that the reports of the IOPC and the Metropolitan Police Service will be published, and that further questions will be answered at that stage.

Viscount Hailsham (Con): My Lords, given that it is in nobody's interest that people should suggest that there have been redactions in the report to protect the interests of anybody involved in the investigation, might the report be independently reviewed—and any redactions authorised—by, for example, the inspectorate of constabulary or a senior judicial or legal figure?

Baroness Bloomfield of Hinton Waldrist: Redactions are made to protect the anonymity of victims coming forward and to make sure that we do not discourage other victims from coming forward in future cases. We expect the Home Office to consider the Henriques report and the IOPC recommendations and, at that stage, will consider whether any further steps should be taken.

Baroness Brinton (LD): My Lords, Sir Richard Henriques said he could not understand why the Metropolitan Police was looking for further redactions. He said to the *Telegraph* in July:

> "I am racking my brains trying to think of what possible covert methodology [the Met Police] are referring to. There were no secret bugs or undercover officers… There may be some areas that would need to be taken out because I looked at a number of other investigations and some information is not in the public domain, but that only constituted a tiny proportion of the … report."

So even the author of the report wants it published. Please can the Government push ahead to make sure this happens as soon as possible?

Baroness Bloomfield of Hinton Waldrist: I am afraid that I cannot make that undertaking at the moment, but the Government agree that there should be a general right to anonymity before charge for all offences. But there will be exceptional circumstances where there are legitimate policing reasons to name a suspect—for example, to make a public warning about a wanted individual. In other cases, it is important to preserve the anonymity of those coming forward with allegations that may not pass the threshold, as they would damage their reputation if they were made public.

Lord Campbell-Savours (Lab): My Lords, in her initial response, the Minister used the phrase "at the earliest opportunity". Why not tomorrow? What is blocking the publication of this report? Is it not fair to conclude that at no stage, post Henriques, has any police force, police commissioner or police chief had the good sense to say that there will be a full review of how sexual offence accusations will be handled by the police in the future? Therefore, we can only look forward to further blunders, injustices and lives destroyed, as in the cases of Lord Brittan, Lord Bramall and, indeed, Mr Harvey Proctor, who at least can now take these people to court and see justice.

Baroness Bloomfield of Hinton Waldrist: Regarding why it has taken so long to publish the report since the Metropolitan Police announced it on 14 August, the noble Lord will agree that, before publishing these reports, every individual named is given the opportunity to respond. That has taken some time. The Met has been concerned to follow the proper process before publication. The report contains sensitive material and it is right that care is taken, so that further distress is not caused to those mentioned in the report, including Bramall, Proctor and others.

Lord Cormack (Con): My Lords, I remind my noble friend that many noble Lords are utterly convinced that there were no victims of Lord Brittan. As Parliament has a little time on its hands at the moment, could we not have a debate, before Prorogation, on the rule of law—in which I strongly believe—and the presumption of innocence?

Baroness Bloomfield of Hinton Waldrist: That is something we can discuss within the usual channels. It is not in the scope of my purview here.

Lord Harris of Haringey (Lab): My Lords, notwithstanding the errors that may have been made in the specific investigations that noble Lords have talked about today, could the Minister tell us whether it is the Government's view that, when accusations are made against people of prominence, such investigations must be seen to be carried out properly and appropriately?

Baroness Bloomfield of Hinton Waldrist: As I have said, the Home Office will carefully consider the ramifications of the reports that are to be published shortly and reflect on the testimonies therein. It will then ensure that appropriate action is taken with policing partners to address such issues, and that there can be public confidence in the fairness and impartiality of these reports.

Lord Tugendhat (Con): My Lords, does the Minister agree that my noble friend Lord Cormack speaks for many and that the House should consider his point? We had a Statement recently about the increase in police numbers. Numbers are all very well, but they will not do much if leadership is wanting. The problem with Operation Midland, Operation Conifer and the rest of them is that they have created a crisis of confidence in the quality of police leadership.

Baroness Bloomfield of Hinton Waldrist: Police issues are not a matter for government; they are a matter for the police. If my noble friend would like to take up through the usual channels the suggestion of having a debate on this subject, I am sure it would be welcome.

Lord Forsyth of Drumlean (Con): My Lords, would my noble friend think it appropriate to suggest to the Home Secretary that this could be a moment when she might take back control?

Baroness Bloomfield of Hinton Waldrist: As always, my noble friend's interruptions are very welcome.

Lord Hamilton of Epsom (Con): My Lords, does my noble friend share my concerns about the police investigating crimes against people who are dead and incapable of defending themselves in court?

Baroness Bloomfield of Hinton Waldrist: That is surely why we are having these discussions in your Lordships' House and why these reports are being so carefully considered by all sides.

Lord Laming (CB): My Lords, the Minister will understand that there is a degree of impatience on this subject, partly because of the answer she gave that all these matters are ones for the chief constable and the PCC. The police service is a public service and is publicly accountable for the way in which it carries out its functions. I do not think it reasonable to say that chief constables are free to do whatever they wish. I hope the Minister will consider that.

Baroness Bloomfield of Hinton Waldrist: Of course the Government will consider that, just as we will consider all the recommendations in both reports and many of the questions raised in the House today.

Lord Campbell-Savours: I say to the Minister that some of us believe that Mr Rodhouse should never have been given his last appointment.

Baroness Bloomfield of Hinton Waldrist: I am sorry: the noble Lord has the advantage of me there. My brief does not cover that point.

Baroness Butler-Sloss (CB): Can the Minister help the House regarding when we are going to see the reports?

Baroness Bloomfield of Hinton Waldrist: I reassure the noble and learned Baroness that it will be imminently, but no more than that.

Non-Domestic Rating (Lists) Bill

Second Reading

3.17 pm

Moved by ***Viscount Younger of Leckie***

That the Bill be read a second time.

The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government (Viscount Younger of Leckie) (Con): My Lords, the Bill gives this House the opportunity to support a measure widely requested by businesses. It will improve the business rates system by ensuring that rating assessments are more up to date and fairer. It is a Bill which will increase the frequency of business rates revaluations. A move to more frequent revaluations has been one of the most repeated requests from the business community, including from representative bodies such as the Federation of Small Businesses, the Confederation of British Industry and the British Retail Consortium.

Business rates are a tax on non-domestic property. They are paid not just on business premises but on local and central government buildings, hospitals, utility networks and even the very building we are in today—the Palace of Westminster—so although this Bill may seem small and technical it is in fact important to very many ratepayers and local authorities across the country. The tax base for business rates is the property's rateable value which, in broad terms, is based on its annual rental value. Like all rateable values, the assessment of the Palace of Westminster can be seen on the current non-domestic rating list, which dates from 2017 and is available to view on the website of the Valuation Office Agency. Before noble Lords reach for their iPhones to look up that website, I can save them some time and effort: the rateable value of Parliament is currently £16.09 million.

Rateable values are currently based on the rental market values as at 1 April 2015, and the purpose of regular revaluations is to ensure that those values keep pace with the changes in the rental property market. The next revaluation was due to take place in 2022 but this Bill will bring it forward to 2021. As I have said, this has been requested by a wide range of business groups. Preparation for the revaluation is already under way and it will be based on the rental property market as at 1 April 2019.

It may be helpful to noble Lords if I explain how the revaluations work and why they are so important to businesses. Revaluation is a significant undertaking. The Valuation Office Agency has collected details of hundreds of thousands of rents to ensure that it has a good evidence base for the revaluation. It is now analysing that rental information and preparing valuations on more than 2 million properties. This is clearly a substantial exercise and one of the most important undertaken by the agency. This Bill will ensure that the results of its work will come into force one year early on 1 April 2021.

I shall give noble Lords an example. Take a shop on the high street. A shopkeeper will currently pay business rates based on the market value of rents in that high street as at 1 April 2015 and will have been paying that since 2017. Clearly, much has changed since 2015 and businesses rightly expect to see the information underpinning their bills updated accordingly. Over recent months, the Valuation Office Agency will have been collecting all the new rental evidence it can on that high street. This evidence will come from new leases and tenants moving into empty shops and from lease renewals and rent reviews on existing shops. The agency will have collected these rents on official returns and will now be analysing the results. Having regard to all this rental evidence, the valuation officer will then take a view—in line with certain statutory

[Viscount Younger of Leckie]
assumptions—of the market rental value of that high street as at 1 April 2019, which, as I have said, will be the valuation date for the 2021 revaluation.

This new assessment of market rental values will then be used to update all the shops on that high street, so the 2021 revaluation will therefore reflect the change in rents on that high street between 2015 and 2019. This exercise is repeated across all high streets, shopping centres, industrial estates, business parks and offices in order to give a full picture of the change in the relative value of non-domestic property across England and Wales. It is on this updated picture of rateable values that the new bills are based. I hope noble Lords will be able to see how important the revaluation and this Bill are to those businesses. More frequent revaluations will ensure that business rates bills are more up to date and more closely reflect the current rental value of the property and relative changes in rents.

However, in deciding whether to have more frequent revaluations, we need to strike a balance between the more up-to-date assessments that would flow from such a reform and the uncertainty that more regular changes to bills will create; and of course there is a cost to more frequent revaluations. The 2021 revaluation is expected to cost about £50 million over its duration. We believe that revaluations every three years strike the right balance, so this Bill will ensure that that happens after 2021.

Finally, the Bill will change the latest date by when draft rateable values can be published before the revaluation from the end of September to the end of the preceding December. Ratepayers have told us that they accept the trade-off that comes from increasing the frequency of revaluations and favour fairer, more up-to-date assessments. Shortening the period of the draft rating list is part of this trade-off and ensures that the time the list remains in draft continues to be proportionate to the shorter revaluation cycle. This change in the publication of the draft rating list will help pave the way for three-yearly revaluations. However, the Bill will still allow the valuation office to publish rateable values earlier than the end of December, so we will give ratepayers as much notice as possible of their draft rateable values and new rate bills within the new three-yearly cycle.

This Bill makes a step-change improvement to business rates. It is supported by the business community and is necessary to allow the Valuation Office Agency to complete the 2021 revaluation. Last, but no means least, I greatly look forward to the maiden speech from my noble friend Lord Randall of Uxbridge this afternoon. I beg to move.

3.24 pm

Lord Randall of Uxbridge (Con) (Maiden Speech): My Lords, I thank my noble friend Lord Younger for his kind words and for introducing the Bill.

When I made my first contribution in the other place back in 1997 to a similarly packed Chamber, little did I suspect, or even dream, that I would have to go through a similar experience in this Chamber. I never cease to be in awe of this country and its democracy that has allowed a son of a retail furnisher and a school meals organiser to become a Member of this most historic and illustrious House. It is a privilege and an honour that is difficult to put into words.

Like so many newly appointed to this House, I have been struck by the kindness and friendship of noble Lords—including those adversaries from another place and another time—and not least the kindness and wisdom shown by my supporters, my noble friends Lady Fall and Lord Young of Cookham. I cannot think of a better mentor and guide than my noble friend.

For 12 of my 18 years in the other place I served as a Whip, both in opposition and as Government Deputy Chief Whip. One thing that I learned there was that trust and compromise can serve better than confrontation and artifice. I think, and hope, that I will be at home in this Chamber.

I had no hesitation in choosing my territorial title, as Uxbridge has been my lifetime home and somewhere that I am immensely proud of. If noble Lords will indulge me, I will relate two moments in history when Uxbridge was at the centre of this nation's destiny.

The first is little known, perhaps because it was ultimately doomed to failure. In early 1645 there was a significant but abortive negotiation to try to end the first English Civil War. Parliament drew up 27 articles in November 1644 and presented them to Charles I at Oxford. Much input into these *Propositions of Uxbridge*—often referred to as the treaty of Uxbridge—was from a gentleman by the name of Archibald Johnston. The royalists stayed on one side of the high street, the parliamentarians on the other. Sadly, the negotiations failed and, to coin a phrase, the rest is history.

The other, perhaps more well known, connection that I would like to mention is the Battle of Britain. The No. 11 (Fighter) Group Operations Room, housed in what is now known as the Battle of Britain Bunker on the former site of RAF Uxbridge, was responsible for planning and co-ordinating the air defence of London and south-east England during the Second World War. As well as bearing the brunt of the Luftwaffe onslaught during the Battle of Britain, the operations room was responsible for controlling fighter operations in the south-east and over occupied Europe throughout the Second World War, including the Dunkirk evacuations and the Normandy landings. It is of course also a tribute to the airmen of many nations who played their part in the struggle for freedom, most notably the Poles and the Czechs.

If noble Lords find themselves in Uxbridge, I can commend a visit to the wonderful museum that has recently opened where the operations room is shown exactly as it was on 15 September 1940—the day on which Winston Churchill visited and witnessed the conduct of the most significant day of the Battle of Britain. It is also where the then Prime Minister said the immortal words:

"Never in the field of human conflict was so much owed by so many to so few",

before repeating it here in Parliament some days later.

Noble Lords have been extremely indulgent with this first contribution of mine. I blame my loquaciousness on the fact that for more than a year my role as the

environment adviser to Theresa May in No. 10 rendered me silent in this place, but the floodgates are now open. I will have a lot to say on the subject of the environment, as wildlife and conservation in particular have been passions of mine since my very earliest days. Some of what I say will be controversial. I also want to pay tribute to the former Prime Minister. I cannot think of anyone who is more of an embodiment of a life devoted to public service than Theresa May.

My spell in No. 10 also once again reinforced my opinion that the Civil Service has some of the most dedicated, hard-working and best brains in the UK. My co-conspirator in the environment office, Anouka Dhadda, fits all those descriptions.

The fact that we are debating anything today is a result of extraordinary circumstances, but it has allowed me to take part in your Lordships' proceedings earlier than I thought would be the case. This Bill is a very apt one for me to speak on as it appears to be pretty uncontroversial if its passage through the other place is anything to go by. And so it should be, as allowing for more frequent rating valuations for business premises is something for which businesses and business organisations have been asking for a considerable time, and this will finally deliver previous commitments made by the Government. As a former businessman—in fact a hereditary retailer—I know exactly how difficult that sector is, and I hope that this will assist. There is no silver bullet for remedying our ailing high streets, but I hope that this is one step.

Noble Lords have been more than patient with me today. I conclude by saying that I still find it strange to have a title that makes me sound more like a pub in Uxbridge. However, I am also delighted that the family firm, Randalls of Uxbridge, which started in 1888 and ceased trading in 2015, lives on in this place in a different guise in my title. I think my forebears would be somewhat surprised.

3.30 pm

The Earl of Lytton (CB): My Lords, it is an absolute honour to follow the noble Lord, Lord Randall of Uxbridge, and to congratulate him on an outstanding maiden speech. He speaks with very great authority on the retailing and modern worlds from his experience with the family firm. I regret having received the speakers' list only when I came into the Chamber, so I have not had the opportunity to discover anything embarrassing about him that I can share with the House. However, like many of us, he has a wiki page, which tells me that he studied Serbo-Croatian. Of course, we know of his distinguished career as a Whip in the other place. He will therefore be not only familiar with the usual channels, but unsurprised at some of the stranger bits of double Dutch and jargon that inhabit the business rates world. I look forward to many more of his contributions.

Many years ago, I made my own maiden speech on what is colloquially known as the poll tax Bill. Noble Lords with long memories will remember its fate. I hope that this Bill fares a little better, although, unlike the noble Lord, Lord Randall, I am not at all convinced of its greater worth. I take this opportunity to congratulate the Minister on his appointment and his arrival into the hypothetical world of rating assumptions, in which only really the property and the bills are tangible and most of the rest is some sort of statutory assumption. That is worth bearing in mind. However, the economic outcomes are real enough. The noble Viscount should therefore be especially wary of the complexities and risks. I certainly look forward to working with him on this sector. At my stage of life I have no particular axe to grind, though. As a Local Government Association vice-president, I see all sides. Having a professional involvement of 44 years with this area of local government finance, here is my contribution to what I hope will be a bit of semi-honest brokerage from a ratepayer's perspective.

A few years ago this Bill, which mainly increases the frequency of rating revaluations, would have been welcome. At this stage, though, my fear is that it is too little and almost certainly too late. We have a five-year revaluation cycle—or did, until it suited the Government of the day to defer the 2015 revaluation date. They argued that that gave certainty to ratepayers. Perversely, it did so, but at the expense of pegging their business rates to the historically high levels of the antecedent 2008 valuation date, which in turn informed the 2010 valuation list. More realistically, it guaranteed certainty of tax yield to the Treasury. Let us not kid ourselves, then, that this was anything particularly to do with benefiting businesses.

The resultant seven-year gap up to the 2017 valuation list meant significant adjustments, which in many cases would have created welcome reductions in rates burdens were it not for something called transitional relief. That operates to shield ratepayers from sharp increases in rates, but is financed by negating the benefits of reduced assessments for the others. It also protects the taxman from falling tax yields and is, I understand, reputed by some experts to have given him a large windfall. It is the extended revaluation gap in a time of rapid change, though, which amounts to the Government taking their eye off the ball.

There is also something called fiscal neutrality. I apologise for inflicting this jargon on noble Lords; it is a Treasury mantra that means that any changes to concessions, such as transitional and small business reliefs, have to be off-set—effectively funded—by higher charges to the remaining ratepayers. At the same time, it provides a safety net, if not a windfall, for the taxman, so it appears at the very least to be somewhat asymmetric as to effect.

Unlike rents, which ultimately have to follow market reality, the national rate yield is a fully protected upward-only construct. This has resulted in extraordinary increases in overall rates burdens on businesses over recent years—extraordinary by comparison with other applicable indices. As a result, there has been mounting pressure for reform of a property tax that is now the highest of any comparable impost anywhere in the EU or the OECD area.

The Minister will tell us, no doubt, that the industry has asked for these valuations. The noble Lord, Lord Randall, also referred to that. I believe that the British Retail Consortium has, indeed, asked for that, but I understand that everybody else has been asking for still more frequent revaluations plus a host of

[The Earl of Lytton]
other reforms. I therefore do not feel that the justification for the Bill is entirely there. In any event, it only scratches at a fundamentally much deeper problem.

In effect, the system has been gamed to breaking point, not only by some unscrupulous consultants, but by HMRC and the Valuation Office Agency. Nobody in the business community now has much confidence in it, perceiving it as unjust, unfairly administered with an overly complex system of redress called "check, challenge, appeal", or CCA, to use its acronym, which is consciously designed, it would appear, to impede fair rights of challenge and appeal.

I commend to the House consideration of a closely argued submission made in March this year to the Treasury Select Committee in another place by Mr Jerry Schurder of Gerald Eve. He is an acknowledged expert in the business rates field. He outlines failings in all the main areas on which a tax properly and reliably rests. However, even if the Minister does not believe Mr Schurder, he cannot deny the evidence that businesses across the land are voting with their feet in responding to business rates burdens as a major consideration in their retailing, office and industrial space occupancy and decision-making, while investors hesitate to commit in the face of empty rates charges. When a taxation system causes behavioural changes on this scale, it is wise to consider carefully the underlying policy, which has certainly contributed to high street atrophy and business reticence. When anyone involved in upgrading their premises finds that they are in receipt of a higher rateable value, removing at a stroke much of the benefit of the improvement, it is also a retrograde system.

Business tax payers need confidence that they are being fairly treated. Here, I fear, they know that they are not. No Government can claim to be business friendly while presiding over unfair local business taxation. The results for retail streets, for visitor attraction to towns, for investment, pension scheme portfolios and so on are negative. However, I am afraid HMRC still does not get it and will shortly have to find radical and costly solutions that will not be fundable on the fiscal neutrality principle, as more and more people trade online or migrate to other methods of trading not involving high-value, high-priced premises. Business rates are not solely to blame, but they and their administration are now widely seen as a very significant factor.

To finish, and given the parameters I have outlined, along with the failure to keep to five-yearly revaluations previously and the subsequent attrition in Valuation Office Agency resources, can the Minister say how the proposal in the Bill will be implemented and funded? Will the additional costs of more frequent valuations ultimately have to be met by the ratepayers themselves? If so, how much more mismanagement should they be expected to fund? When it comes to billing authorities having 100% business rate retention, as we believe is the ultimate intention, what factor of reliability does he think will be a realistic measure of future rates yield? This clearly matters to local government finance officers. However, if the current system collapses through failure to rectify, modernise or resolve the deep mistrust now prevalent—I believe we are close to that situation—the consequential expense of replacing the system will be incalculable, along with a needless destruction of valuable taxation and valuation stock in trade. I refer, of course, to the information base on all properties that go into making up the valuation list.

I really cannot express much enthusiasm for this particular policy tick-box of a Bill, nor do I see it as tackling the real issues. However, given that there is an intention to do something—anything—it is at least welcome to that extent.

3.40 pm

Baroness Pinnock (LD): My Lords, it is always good to follow the noble Earl, Lord Lytton, on the subject of business rates because he has such considerable knowledge about how they work and what the consequences of any changes might be. Before I begin my comments, I draw the attention of the House to my interests as a vice-president of the Local Government Association and as an elected councillor on Kirklees Council. I welcome the Minister to his new role and look forward to our exchanges. I am sure they will be very positive and constructive.

The principle of the Bill, which is obviously to reduce the gap between revaluations of properties liable for non-domestic rates from five years to three, is one which we support. It is generally supported by the business community and, in essence, it should provide more certainty for businesses, as there should be less chance of wild fluctuations in valuations which are, after all, dependent on rental value, which is itself a reflection of the national and local economy at any one moment. However, such a change raises questions about implementation and wider concerns about the sustainability of the business rates regime.

The first question is one of practicality. Can the Minister confirm that additional funding will be made available to the Valuation Office Agency to ensure that revaluations can be fulfilled in the much reduced timescale? Obviously, he has also already referred to the current cost of £50 million, but clearly that has been over a longer timescale than the three years being proposed in this legislation.

Secondly, local government is now reliant on business rates income for basic service provision. Will the Minister confirm that any fall in the total national take from business rates will not lead to a reduction in funding from this revenue stream for local government? A briefing from the Local Government Association has drawn attention to the fact that more regular and accurate information is required from businesses so that the valuation office can provide more accurate revaluations. A consultation was apparently due last year but has not taken place. Can the Minister explain how more accurate information is to be supplied to the valuation office so that it can make judgments about revaluations in a timely manner?

Thirdly, we are concerned about the number of appeals that flow from any revaluation. Currently—as I am told in the Local Government Association briefing—there is a very large backlog of appeals, even from the 2010 revaluation, for which councils had to set aside more than £2.5 billion in case appeals were granted. That money is obviously set aside to cover those risks.

That is a considerable amount of council funding to be set aside when councils are under such pressure for the provision of services.

Then there are more fundamental questions about the sustainability of the existing business rating regime. There have been many questions and comments in your Lordships' House over the last few years on the failure of the current system to demonstrate that it is, in principle, fair to businesses. I suggest that a fundamental and radical reform of business rates is needed. The noble Earl, Lord Lytton, also drew attention to that. The Government are allocating funding in a desperate attempt to revive declining town centres. However, at the same time they fail to appreciate that one of the biggest costs for small businesses, including independent retailers, is the business rates bill. Meanwhile, town centre businesses are competing with online businesses, which are able to operate from out-of-town warehouses and pay significantly less, pro rata, in business rates. The model is broken and must be reformed.

The Liberal Democrats have agreed a policy for such reform, which would scrap business rates altogether and replace them with what we have called a commercial landowner levy. The basic principle of this tax system is to tax the land, rather than the property and the investment in improvements that sometimes goes with it, as the current system does. It is estimated that businesses would receive a significant boost to profitability in this way, particularly in those areas of the country that are in desperate need of a funding boost to kickstart a revival in their fortunes.

The Government have occasionally hinted at the need for a more substantial reform of business rates. Can the Minister provide any indication of whether businesses may anticipate some policy statement to that effect from the Government? Will he also reflect on the challenge to the climate change emergency of favouring out-of-town warehouses, highly dependent on road transport, over more local shopping habits, and whether the latter should be encouraged rather than the former? With that array of questions, I look forward to the Minister's responses.

3.47 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, I welcome the noble Viscount to his new role and look forward to our future debates on a variety of matters.

I congratulate the noble Lord, Lord Randall of Uxbridge, on his excellent maiden speech. The noble Lord had a distinguished career in the House of Commons, and his contribution here will be very welcome on all sides of the House. He was the Government Deputy Chief Whip in the other place, and I am sure that his skills will be in much demand on the Government Benches. I agree with him that trust and compromise are welcome and much-needed qualities; they are often on display in this House, which is why this House works so well. I look forward to hearing him very many times in the future.

I refer the House to my relevant declaration of interest as a vice-president of the Local Government Association.

The Opposition support the Bill as far as it goes. We welcome the proposal to bring forward the revaluation by one year to 2021 and to hold revaluations every three years thereafter. The noble Earl, Lord Lytton, is an expert on these matters, and I look forward to the response of the noble Viscount to the very many points the noble Earl made. The Bill was of course promised back in 2017, and I am pleased that it is finally here.

There is, though, a serious problem: these proposals will not address the damage being done to our high streets. The noble Baroness, Lady Pinnock, made reference to the broken model of high streets and online businesses, and I very much agree with her comments. I am very supportive of the Save Our Shops campaign run by the trade union USDAW, which has real expertise in understanding how important our high streets are. Our high streets are in real trouble in many parts of England. We need proper, co-ordinated action: a proper industrial strategy for retail that deals with taxation in general, commercial rents and business rates. This is desperately needed so that we can ensure a level playing field for different types of retailers and deliver the framework to support local communities and the wider and local economy. When shops close and businesses move out, it destroys communities.

CAMRA, which I have been a member of for many years, has a campaign focused on saving the great British pub, and I fully support its campaign. Pubs currently pay 2.8% of the entire business rates bill but account for only 0.5% of the total business turnover, which is an overpayment by the sector of around £500 million. CAMRA is calling on the Government to conduct a full review of how the system works, and it has my full support in that. This review needs to look at how to address the current system, in which pubs are unfairly burdened. In addition to being local businesses, pubs provide a community service and often a community hub that needs to be both supported and protected. As I said at the start of my remarks, we support the Bill as far as it goes, but much more needs to be done.

Another issue I want to raise in this short debate is that of unresolved valuation appeals, of which 65,000 were lodged in 2010 and are still not resolved. This has led to local authorities diverting £2.5 billion to allow for the possibility of a successful appeal. This cannot be allowed to continue, and the Government must address this. Perhaps the noble Viscount can respond to that point when he responds to the debate shortly.

In conclusion, I wish the Bill a speedy passage. Maybe the noble Viscount can tell us what is going to happen with this Bill in the next few days—obviously I want to see it on the statute book—but we have a really serious problem here and this Bill does not yet attempt to address that. At some point, we need to do that quickly.

3.51 pm

Viscount Younger of Leckie: I thank noble Lords for their contribution to this short debate. I shall deal with all the points they have raised in just a moment, but I start by paying tribute to the excellent maiden speech from my noble friend Lord Randall of Uxbridge.

[Viscount Younger of Leckie]

I am pleased to know that his voice can now, at last, be heard in this Chamber. I found the speech rather reflective, not just of the historical context of Uxbridge—it was interesting to hear of the role of air defences in the Battle of Britain—and more; my noble friend was also quite right that in this House there is more of a focus on compromise. Perhaps it is fair to say that there is a lot more courtesy in this House. He did not say "compared to the other place" but, given the climate at the moment, his point was well made.

I also thank all noble Lords for their kind words about my new appointment. It is not lost on me that I have big shoes to fill. My predecessor, my noble friend Lord Bourne, held the role for some time, so I have much to learn.

A good number of points were raised by the noble Baroness, Lady Pinnock, and the noble Earl, Lord Lytton. If they will forgive me, I will address their points towards the end of my remarks.

As I said in my opening speech, business rates are an important tax, providing a vital source of revenue to help local government pay for local services. We believe that in this country we offer a highly competitive basket of taxes, which ensures that public services are funded in a balanced and fair way. Of course, we also recognise that some businesses need help. Since the 2016 Budget we have announced reductions in business rates worth more than £13 billion coming up over the next five years.

For example, we have made 100% small business rate relief permanent and doubled the threshold for 100% relief from 2017. This means that 675,000 of the smallest businesses now pay no rates at all. For the high street, at Budget 2018 we announced the business rates retail discount, providing eligible retailers with a rateable value of less than £51,000 with a third off their bills for two years from April 2019. That is delivering help now worth an estimated £1 billion and is in addition to the Prime Minister's plan to unite and level up cities, towns and coastal and rural areas across our country. In July, we announced a £3.6 billion towns fund to re-energise local economies so that everyone can share in a new era of prosperity.

I listened carefully to the remarks made by the noble Baroness, Lady Pinnock, and the noble Lord, Lord Kennedy, about high streets, and they are absolutely right to raise the issue. The point should be made that we want to encourage people into high streets as well as out-of-town retail centres. The high streets are a focus at the moment and have a crucial role to play as we work to grow the economies of all parts of the country, so the fund I just mentioned includes an accelerated £1 billion future high streets fund. This will support local areas in England to renew and reshape town centres and high streets in a way that improves experience, drives growth and ensures future sustainability. I add one more thing, which is that it provides an excellent experience for those who want to come into the high street, and we have much more to say about that as we take the policy forward.

More than 300 local authorities bid for a share of the funding in round one. More than 100 places have now been successful in progressing to the next phase of developing, detailed business cases; 51 places were announced on 5 July and a further 50 on 26 August. Successful local authorities will each receive up to £150,000 revenue funding and support from officials.

In response to the noble Baroness, Lady Pinnock, who asked about the impact on local authorities of the rates retention scheme, I assure her that local authorities will be compensated for the revaluation. As was the case at the 2017 revaluation, we intend to make any adjustments as are necessary to the rates retention scheme to ensure that locally retained income is, as far as practicable, unaffected by the 2021 revaluation. However, to reassure her further, we will consult local government on how to make those revaluation adjustments to the rates retention scheme nearer the time. This is something we successfully achieved for the 2017 revaluation, and I am confident that that can be repeated for 2021.

We are aware of concern from local authorities that changing the date of the draft rating list from the end of the previous September will impact on their billing and budgeting process. The Bill provides only that the end of December preceding the revaluation is the latest date by which the draft list must be published. It may be that a sensible time to make the draft list available is at the time of the autumn Budget, alongside the confirmation of the multipliers and transitional relief. That is something that we will discuss with local government, and the Bill will allow us to do just that.

For local authorities, we intend to make any adjustments as are necessary to the rates retention scheme to ensure that locally retained income is, as far as practicable, unaffected by the 2021 revaluation. As I said, we will consult local government on that.

I recognise that this matter was raised in Committee on the Bill in the other place, and we are working with the Local Government Association and other local government representatives to ensure that the publication of the draft list fits with the local government budgeting process. My officials met the LGA in August to discuss this matter, and we continue to work with the sector. As was noted by Councillor Watts of the LGA when giving evidence to the Bill Committee in the other place, we are confident that this matter is perfectly soluble.

I turn to another question raised by the noble Baroness, Lady Pinnock. She asked about scrapping business rates and explained the Liberal Democrat policy. I just say that the Government concluded a fundamental review of the business rates at Budget 2016 and decided to retain business rates as a property tax. Respondents to the review agreed that property-based taxes were easy to collect, difficult to avoid, relatively stable and clearly linked with local authority spending. Some respondents suggested alternative tax bases. However, there was no consensus, as respondents were clear that other taxes, such as a land value tax, have their own issues, including agreement on how land should be valued, and would not address the perceived unfairness between high street and online retail. I should not expect the noble Baroness to agree with that, but that is based on real evidence that we produced.

The noble Baroness also asked about resources for the Valuation Office Agency. I reassure her and the noble Lord, Lord Kennedy, that we believe that good progress has been made, particularly in clearing

outstanding appeals, which were mentioned, going back to the 2010 list. At 30 June, there were around 62,000 outstanding appeals from the 2010 list. The majority of these—more than 50,000—are waiting for the resolution of litigation. We understand that the VOA is on track to clear the 2010 appeals within its control by the end of September 2019. I believe that good progress has been made. While I do not have completely up-to-date figures to hand, I understand that the VOA is expecting to have cleared the remaining appeals today—the end of the month. If for any reason situations arise where this does not occur, I have been assured that a timetable will be agreed with the ratepayer or their agent for the resolution of their case. I recognise the seriousness of this matter, but I hope that noble Lords are reassured that we are on the case and have the evidence to support that.

The noble Earl, Lord Lytton, raised a number of questions. He started by saying that this is too little, too late. He might not be surprised to hear that I do not agree with him. However, I shall address his question. The first was about whether the 2021 revaluation will be revenue neutral and how the multiplier will be adjusted. We will adjust the multiplier from 2021 to 2022 to offset the estimated change in total rateable value due to the valuation after allowing for inflation and forecast future appeals. He will know that we are required by law to do that. He further asked whether we plan to move to more frequent revaluations. To be fair to him, I understand how annual revaluations would further improve the rating system. It is something we will certainly consider in future, but in deciding whether to have revaluations more frequently than three years, rather than five years, we will need to strike a balance between the more up-to-date assessments which would flow from such a reform and the uncertainty that it would create by more regular changes to bills, and we will need to take the cost into consideration.

The noble Earl also asked about the revaluation process and the unacceptable burden on businesses. As I said earlier, and as he will know, revaluation is an important part of the business rates system that ensures that bills are more closely aligned with relative market values. The majority of businesses saw no change or a fall in their business rates liability following the 2017 revaluation. A £3.6 billion transitional relief scheme is providing support for the minority of businesses facing an increase in their bills. An additional £435 million of support to businesses was announced at the 2017 Spring Budget. I hope that reassures him that it is not the problem he thinks it might be.

The noble Earl also said that the CCA system was criticised at the Commons Treasury Select Committee. The numbers show that the system is operational and customers are using the service to make checks and challenges. The VOA published its road map in 2018, which set out the IT improvements that it will make to the system as it continues to deliver against that plan. The VOA has delivered some key improvements to the system, addressing specific concerns from stakeholders, including adding frequently requested features, such as an application programming interface—a so-called API—on check and streamlining the registration process to make the system easier to use. As of 31 March 2019, the VOA has registered more than 100,000 checks and more than 17,000 challenges under the new "check, challenge, appeal" system.

Towards the end of his remarks, the noble Earl asked how the revaluation will be delivered. I fully understand concerns regarding funding for the Valuation Office Agency, some of which I addressed earlier. Rating valuation is a specialised field, but we are confident that it can secure the staff it needs to discharge its statutory duty now and in the future. We are keeping a very close eye on it. I confirm that the agency is currently on track with preparations and resourcing for delivering the 2021 revaluation. The agency is also actively working to train and recruit staff to ensure that it can continue to fulfil its statutory duties. To this end the agency is continuing to develop and train its workforce for the future, including a targeted rolling recruitment campaign for chartered surveyors and those studying for accredited surveying qualifications.

I am ever grateful to all noble Lords this afternoon, for their many helpful points and questions raised. Your Lordships have that expertise and knowledge in the field of local government, and it is my first experience of that. Noble Lords' expertise in the field of business rates valuation is less well known but equally appreciated. I am delighted that we have the noble Earl, Lord Lytton, here to keep us up to the mark—put it that way.

The Bill looks small and technical but, in fact, has widespread application in improving the business rate system for over 2 million ratepayers. It underpins the £50 million revaluation project currently being delivered by the Valuation Office Agency.

Bill read a second time and committed to Committee of the Whole House.

Human Medicines and Medical Devices (Amendment etc.) (EU Exit) Regulations 2019

Motion to Approve

4.05 pm

Moved by ***Lord Bethell***

That the draft Regulations laid before the House on 24 July be approved.

Lord Bethell (Con): My Lords, I am confident that all noble Lords have a shared intention to protect and improve the safety of patients using medicines, while enabling their access to the most innovative treatments. As my noble friend Lady Manzoor stated previously:

"Our regulator, the Medicines and Healthcare products Regulatory Agency, MHRA, has over 30 years' experience as a leading regulator in the EU. This expertise and experience is globally recognised and respected; we want to ensure that this continues, to the benefit of UK patients. It is with this at the forefront of our minds that the UK's plans for the regulation of medicines … in a no-deal scenario have been developed".

[Lord Bethell]

As my noble friend set out on 7 March 2019, it is important to reiterate our aim to retain a recognised regulatory system, which ensures that,

"patients in the UK and the EU continue to have timely access to safe and effective medicines".—[*Official Report*, 7/3/19; col. 758.]

The system for regulating medicines is currently set out in EU legislation, and we have made legislation to ensure that our national regulatory system continues to function without any detriment to our ability to protect the public health in the event of the UK leaving the EU without a deal. We will then be considered a third country by the EU and, in this scenario, the UK regulator will take on the functions currently carried out by the EU. Additional changes are now being made through the SI in areas the Department of Health and Social Care has identified would benefit from further clarification. This is being done in response to comments from stakeholders, including industry and the life sciences sectors, and from internal review.

The changes proposed do not in any way represent changes in any underlying policy; rather, they are technical in nature, correcting minor drafting errors and omissions, and seek to ensure only that the original policy intention is delivered in legislation. The amendments proposed by this SI continue to be based on the department's priority to ensure timely availability of safe, effective medicines and medical devices, while minimising disruption to patients and businesses, and to ensure that the regulator can continue to protect public health.

Noble Lords will note that the original regulations were developed through close consultation and co-operation with stakeholders, and that the department has published an impact assessment. After a period of informal consultation in August last year, the MHRA published an initial proposal for the UK's medicines regulation framework and followed this up through a four-week public consultation in October. The feedback from that consultation—which received about 170 responses—led to revised proposals, which were published in January, and informed the development of the system that will come into place in the event of no deal. Noble Lords will have seen the published impact assessment, which was developed by experts at the MHRA and influenced by responses to the consultation. Noble Lords will want to be reassured that none of the proposed amendments change this impact assessment.

I will now give some specific detail of the arrangements set out in this SI. The majority of the changes being made are technical in nature and have arisen as we have reviewed the legislation and identified areas requiring changes to the legal text to ensure that it gives effect to the published policy. There are no new policy changes introduced in this SI.

This SI makes the following amendments for medicines specifically. First, it makes clear the requirements for a responsible person for import and RPI and for a wholesaler's licence to hospitals importing human medicines directly from a country on an approved list for their own use. Secondly, it clarifies that UK generic applications can rely on data supplied in relation to medicinal products whose EU marketing authorisations were cancelled pre-exit on grounds other than safety, quality and efficacy. Thirdly, it gives additional detail in relation to the process by which companies may make representations to the Commission on Human Medicines about decisions on rare disease medicines and paediatric matters. Fourthly, it provides for a temporary exemption, subject to a specified condition, from the obligation to maintain a UK pharmacovigilance system master file for companies whose UK authorisations are included in an EU file. This also includes the condition that information required by the licensing authority be provided by the marketing authorisation holders on request. Fifthly, it clarifies that the temporary exemption as to the geographical location of an appropriately qualified person for pharmacovigilance applies to all marketing authorisations and herbal registrations that a company holds, whether granted before or after exit day. This is provided that they are covered by a single pharmacovigilance system in respect of which there is the same qualified person. Lastly, it adds the Republic of Korea to the approved list of countries with equivalent regulatory standards for the manufacturing of active substances on exit day. This is to reflect the updates to the EU list since the no deal SI was made.

For medical devices, there are some changes resulting from amendments made by the EU to the underlying medical devices regulations since the no-deal SI was made via the recently published corrigendum. The changes range from grammatical and reference corrections to a change concerning what is included in the transitional arrangements. Two further changes are inserted to ensure that products mainly used for cosmetic purposes are required to comply with common specifications and to require the information registered with the MHRA about medical devices to be updated by the manufacturer.

In conclusion, in the event of no deal these regulations will put in place technical changes that will ensure that the UK's medicines regulations legislation continues to function effectively after exit day. These provisions will minimise any impact on patients and businesses and will ensure the timely availability of safe, effective medicines in the UK market.

Baroness Thornton (Lab): I thank the Minister and welcome him to the world of EU health statutory instruments and their amendments—whether it is just for today or for a longer period. I also thank him for his explanation. I really hope that the Government have managed to get it right this time—I am not quite sure whether I have visited this twice or three times in the last year or so.

This statutory instrument comes into force immediately before exit day to correct the defects and omissions in the Human Medicines (Amendment) Regulations 2019 and the Medical Devices (Amendment etc.) (EU Exit) Regulations 2019. They come into force on exit day and, as the Minister described, amend our various regulations to ensure that they are fit for purpose in the case of the UK crashing out of the European Union without a deal.

As noble Lords know, EU law provides that the EU medicines regulatory system—of which the UK is currently a part—ensures, for example, the recognition of prescriptions across the EU and EEA, provides for

the monitoring of the safety of medicines and incentivises the development of medicines to treat rare diseases and children. EU law also provides for an EU regulatory system for medical devices and in vitro diagnostic devices. This provides a conformity and safety before these things can be placed on the European Union market—so they are very important.

I have a few questions. First, it is said:

"The new Medical Devices Regulations … and in-vitro Diagnostics Regulations … have been applied directly in UK law since May 2017 and will be fully implemented in the EU from May 2020 and May 2022 respectively".

So my question is: what is happening to them in the meantime? If we leave the European Union in six weeks' time, will these things still be implemented or not? I just want to know whether my reading of that—from the Explanatory Notes in this case—is right.

4.15 pm

Secondly, the notes say that the European Union,

"has created a comprehensive code for the marketing, manufacturing, packaging, distribution, advertising and monitoring of human medicines",

and that the framework,

"is set out in Directive 2001/83/EC and Regulation (EC) No. 726/2004".

I realise that these are complex regulations, but they are the ones that create the safety that we require for our medicine supply in the UK. So I would like the Minister to reassure us that their duplication is possible and is in hand or has been done. Time is short, so I would like to know that the last two or three years' work has not been wasted and that these things will indeed happen.

Thirdly, the notes go on to say:

"After EU exit, the licensing authority will be responsible for carrying out",

the functions that we have talked about in terms of the Commission on Human Medicines, as in the Human Medicines (Amendment etc.) (EU Exit) Regulations 2019. What progress has been made to ensure that these regulations will kick in, and what resources have been made available to ensure that they will do so?

The reason I ask those questions is that this SI could not be more vital to the health and well-being of UK citizens. If the Prime Minister has his way and we leave the European Union at the end of October, and if there is a deal in place, will the Minister confirm that all the work we have done in the past two to three years will take us into a transition which will resolve these matters of regulation and research? But if we crash out, as the Minister has said, we will immediately become a third party in exactly the same position as all other countries across the world. I think we could all accept that that will present huge challenges in the area of health and social care. My noble friend Lord Rooker spoke about food safety during our Questions this afternoon; the same applies to medical safety and the safety of our medicines.

Can the Minister explain how these regulations will protect us from, for example, a flood of fake medicines? Can he describe to the House the resources that are in place to ensure the safety of our supply under these circumstances? The context of this is a report published last week by the National Audit Office, which examines the progress made by the department in implementing the continuity of supply programme. It looks at the department's plan and records its progress, because, of the 12,300 prescription-only or over-the-counter medicines used in the UK, 7,000 come from or via the EU and the vast majority use short channel crossings. More than half the clinical consumables that the UK uses come from or via the EU, and the vast majority use short channel crossings. Half of all the supplies for clinical trials come from or via the EU, and half of those—25% in total—come through short channel crossings.

So it is not surprising that there are very many worried people. They include those with long-term conditions such as diabetes and those who have cancer and need a safe and reliable supply of medical isotopes, which we know cannot be stockpiled. I realise that now is not the time to get into yet another debate about what a risky process the Government have embarked upon. However, can the Minister assure the House that the safety and supply of medicines is safe and sufficient?

Lord Rennard (LD): My Lords, I begin by declaring my interests as in the register. My work with the British Healthcare Trades Association has identified concerns among the manufacturers of medical devices about what might happen with the future regulation of their products as a result of Brexit.

The regulation of medical devices and medicines is, of course, very necessary to protect patient safety, and it enables businesses to sell their products in the UK market, the much larger EU market and overseas. The evident need for the technical amendments that we are now considering suggests that the Government's preparations to leave the EU are being made in great haste. It is also clear from them that there will be no benefit to anyone in changing the basis of the existing provisions for the regulation of medicines and medical devices.

Most countries recognise the great worth of current EU standards when they consider whether to allow products to be imported and sold to their citizens. If we leave the EU on 31 October, existing products that have been approved by the EU regime will of course continue to be approved, but surely problems will arise with new products as standards diverge in future—as inevitably they will. Will the Minister therefore say something about the potential impact of this legislation on the innovation of medicines and medical devices? British businesses will in future have to apply for licences to UK authorities if they want to sell new products here, and they will also have to seek approval from EU bodies if they wish to sell those new products in the European market and in the many other countries that already respect EU standards. This will mean two application processes, a potentially longer wait for approval and two sets of costs incurred in securing approval for new products.

Does the Minister accept that some businesses will feel inhibited in seeking approval for new products on that basis, that they might be tempted just to continue trying to sell old products that have already been approved, and that such inhibition might have a damaging

[LORD RENNARD]
impact on patient care and on the capacity of businesses to grow, especially if they seek to export new products? Will the Minister say something about how this impact on innovation might be ameliorated?

Most fundamentally, will the Minister confirm that leaving the EU on a no-deal basis will mean that we deny ourselves, and the rest of the EU, the benefits of sharing costs and expertise concerning the regulation of medicines and medical devices? Furthermore, does he accept that in the long run we need to work towards greater worldwide acceptance of standards to avoid new products requiring the approval of multiple agencies in the UK, the EU and elsewhere?

Lord Lansley (Con): Perhaps I may add a few words on the subject of medical devices. I apologise that I was not able to be here to talk about these regulations earlier in the year, but I would like to say something about the regulation of medical devices now. The world has slightly moved on and, from my own point of view, that is rather helpful. I want to focus on medical devices in particular.

I remember the 2017 European regulations, to which the noble Baroness, Lady Thornton, referred and which will come into effect next year for medical devices and in 2022 for in vitro diagnostics. The ones on medical devices stemmed from the breast implant activity from way back when I was Secretary of State. I remember a conversation with my then French counterpart, Xavier Bertrand—now, I think, in charge of the Nord-Pas-de-Calais region. In response to that activity, his contention was that we had to change EU regulation so that all medical devices went through exactly the same authorisation process as all medicines. That would have been a complete disaster for the industry. Happily, that did not happen, but these regulations represent a considerable tightening of the risk classification processes under the EU regulations.

I think that the answer to the question from the noble Baroness, Lady Thornton, is that the intention—I think it is already in our regulations in preparation for a no-deal exit, if necessary—is to continue to recognise EU regulations for medical devices and in vitro diagnostics, and to recognise them in the future. Clearly, we would do that under a transitional process with the withdrawal agreement and I think our intention is to do so in any case. That means that, if we leave and are treated as a third country, we will recognise a CE marking from the European Union but it will not recognise an authorisation made in the United Kingdom. It will not be a mutual recognition process, which ideally is what we are aiming for and which a transition process under the withdrawal agreement would have enabled us to negotiate for a future relationship. That is much to be wished for.

This is not a small deal. In the European Union context, something like 40% of the highest-risk medical devices in Europe have in the past been authorised by the UK's Medicines and Healthcare products Regulatory Agency. Approaching 50% of bodies requiring a certificate of conformity have gone to UK notified bodies, so the UK notified bodies are in an extremely strong position and, as a necessity of our leaving the European Union, to some extent they will lose that position. For example, the British Standards Institution will be a notified body in the United Kingdom, but it is also a notified body in the EU by virtue of being based in Amsterdam—as indeed the European Medicines Agency has gone to Amsterdam. There is a transition process which, unfortunately, is not the one under the withdrawal agreement but one away from the United Kingdom, which is to be regretted.

The point I particularly want to make today—and all of this will be well known to the Minister and the department, and I am not asking him to comment on all of it—is about the combination of changes all occurring at one time. We may leave the European Union at the end of October or at the beginning of next year. In either case, it is very close to the point at which the medical device regulation comes into force in May 2020. The European Union is not ready. In a report published by KPMG a couple of weeks ago, only 27% of the 200 manufacturers of medical devices sampled said they were ready for the changes in the regulations next May. They may be ready by May, but they have had quite a lot of notice and are finding the new requirements very difficult.

The European Commission has recognised this and given a grace period for a number of products to enable the introduction of the new requirements to be pushed off to 2024. Frankly, at this stage it would be in our interests to encourage the European Commission to extend that grace period for all products through to 2024. New products coming in would be required to be certified in line with the new regulation, but all existing products would be grandfathered through and given until 2024 to go through the process. At the moment, there are only five notified bodies in the whole of the European Union, and that is not enough. If we leave at the end of next month without a deal, UK medical device manufacturers will have to go to notified bodies in the European Union to secure authorisation for their products within the EU—they cannot place them on the market by virtue of a United Kingdom authorisation. There are a range of coincident changes, and the more we can do at the moment to try to encourage the European Commission to push all existing products off from the requirements of this new regulation into 2024, the better it will be. I hope our Government, even if they seem to have taken the rather perverse decision not to engage with the European Commission while we are planning to leave, should engage with the European Commission and ask for this to happen.

Perhaps the European Commission might even embrace the thought that they were not ready, because the new Commission President, Commissioner Ursula von der Leyen, has decided to shift the responsibility for medicines and medical devices from DG Grow to DG Santé. Perhaps DG Santé, recognising that it has this new responsibility in the midst of all this transition—yes, even more—can say that the starting point is to put in place an extended grace period for all manufacturers, given the lack of capacity in the EU notified bodies system in the short run.

I do not expect my noble friend to reply on that, but I hope he will at least say that he will encourage the department to see whether it and the MHRA might engage their counterparts in the European regulatory system with that view in mind.

4.30 pm

Lord Bethell: My Lords, I thank noble Lords for a stimulating debate in the exciting area of medical SIs. I also thank noble Lords for the warm welcome they have given me. It is a thrill to be here.

The noble Baroness, Lady Thornton, put it very well: this SI is technical but vital. It is vital for those who depend on these medicines and devices for their health and well-being. It is also important for the businesses in Britain that the noble Lord, Lord Rennard, referred to, which have exciting, innovative and important inventions that they are trying to sell on a world stage. Getting this right is a big priority for the Government.

When I look through the SI and the detailed changes it includes, I must admit I have a slightly different sensation. As a neophyte, what I find remarkable is how small and detailed the changes are, and how much hard work must have gone in to getting this right—or more or less right—in the first place. I commend the House for the contribution it made to the scrutiny of these important SIs when they came before us earlier this year and also the officials who have turned an incredibly difficult challenge of Brexit into something that is clearly workable and has passed the scrutiny of a large number of organisations.

Safety and security are massive priorities for the Government; I very much want to convey that to the House. The Government are fully committed to a system of medicines and medical device regulation that intelligently balances patient access to new, innovative, world-leading products on the one hand with an assurance of acceptable safety. The MHRA will have in place a suite of licensing routes for medicines and vigilant systems for medicines and devices. We are committed to offering a competitive regulatory environment to ensure that the UK has access to medicines and devices meeting high standards of safety and efficacy. This SI makes technical amendments to achieve these aims, which are important and necessary.

I will take a moment to answer a couple of the questions that came up. The noble Baroness, Lady Thornton, asked about resources and regulations taking effect. I reassure her that, as I stated, this SI makes minor changes to the SI made earlier this year. The Government are confident that the hard work put in by the MHRA has made it ready for this challenge. It has an impressive roster of staff in place to step up to the work.

The noble Baroness also asked about EU legislation currently in force and what will happen when we leave the EU. The noble Lord, Lord Rennard, asked similar questions. I reassure noble Lords that all relevant EU law will be retained EU law for the purposes of the European Union (Withdrawal) Act 2018. Much of it has already been transposed, including the human medicines regulations and the medical devices regulations.

Questions were raised about the important NAO report, which the Government take very seriously. I reassure the House that the Government are taking every possible step to ensure the uninterrupted supply of medicines in the event of a no-deal Brexit so that patients continue to receive the medicines they need. We are working closely with suppliers to put in place stockpiles, reroute supply chains and ensure medical freight companies are ready for any changes to customs procedures.

Our guidance to suppliers is that there should be at least six weeks' stock of prescription-only medicines, pharmacy medicines and medical devices. However, stockpiling is only one part of our approach, as some medicines have short shelf-lives or are tailored to individual patients. An example of the kind of measure we are putting in place is that we have supported suppliers to test and secure new routes. We are working closely with the Department for Transport on precuring our own dedicated health channels for critical products needed within a 24 to 48-hour timeframe.

The noble Lord, Lord Rennard, asked particularly about duplication. The UK has put in place an innovative licensing route to ensure that companies, particularly innovative companies, have a route to market that is efficient, cost-effective, speedy, effective and trusted. This allows them to produce their products on to the UK market at the same time as the EU. They will simply have to provide the MHRA with the same information as they do to the EU. The architecture for this was designed specifically to avoid duplication.

The MHRA intends to provide free scientific advice for UK-based small and medium-sized enterprises and to introduce a new targeted assessment, as well as an accelerated assessment route to enable licensing more quickly than the EU. It is very much part of the principle of the Government's approach to Brexit that we want to have a competitive regulatory environment, particularly in life sciences, that gives companies the chance to compete effectively on the world stage.

My noble friend Lord Lansley reminds us that huge changes in this exciting industry have nothing to do with Brexit at all. In fact, Brexit is not the only challenge. There are massive regulatory innovations across the industry. He makes a strong argument to delay the implementation by the EU of new medical device regulations. I reassure my noble friend that I will certainly pass this up the line and ensure that the MHRA is made aware of his concerns.

This SI is detailed and was put before the House promptly before the summer. I believe that we all agree that it is important in its intent. For that reason, I beg to move.

Motion agreed.

Insolvency (Amendment) (EU Exit) (No 2) Regulations 2019

Motion to Approve

4.38 pm

Moved by ***Lord Duncan of Springbank***

That the draft Regulations laid before the House on 22 July be approved.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy and Northern Ireland Office (Lord Duncan of Springbank) (Con): My Lords, these regulations address the consequences of the change in the UK's departure date from the EU to the insolvency regulations previously

[Lord Duncan of Springbank]
approved by Parliament. The purpose of the new regulations, as with the previous regulations, is to ensure that the UK's insolvency law operates effectively after Brexit, in all circumstances. The regulations laid before your Lordships make two changes that are necessary to address the introduction of the modernised Scottish insolvency rules, which came into force after 31 March, and the coming into force of Article 25 of the original EU regulation, which creates an integrated insolvency register across the EU.

These latest regulations update the Scottish rules by removing references related to the EU regulation to ensure a consistent approach to the UK courts' jurisdiction to commence insolvency proceedings. The changes are made at the behest of the Scottish Government and with the support of the Scottish Parliament, following consultation.

The changes to UK insolvency necessitated by Article 25, which seeks to integrate member states' insolvency registers, would carry an immediate cost that would be incurred without certainty of reciprocity after exit day. The current regulations would revoke Article 25 of the EU regulation if we leave the EU without agreement.

I stress that it is not the Government's preferred outcome for the UK and the EU to cease co-operating on cross-border insolvency issues. We have listened carefully to industry professionals, who have outlined the risks that such an outcome would pose to the efficient management of insolvency cases. None the less, we must ensure that the UK's approach to insolvency is legally correct irrespective of the nature of our exit.

Our assessment of the impact of losing automatic recognition for UK insolvencies in the EU was carefully made; the cost to business would be in the region of £2.7 million per year. We note also that a similar cost will befall EU insolvency practitioners applying to UK courts. However, both sides can retain the benefit of reciprocity only if there is a deal. In the absence of such an arrangement it is important to provide businesses and individuals with certainty regarding the rules governing insolvency in the UK.

These two changes ensure that the impact of leaving the EU will not be exacerbated by retaining inoperable law, which would lead only to confusion and cost. On that basis, I commend the regulations to the House.

Lord McNicol of West Kilbride (Lab): My Lords, I thank the Minister for taking time before the discussion on the Floor of the House to go through some of the more technical detail of the SI. As he said, the regulations make amendments to the Insolvency (Amendment) (EU Exit) Regulations 2019, which were agreed by this House in January. Those regulations were mostly welcomed by the industry and, although concerns were raised by the Joint Committee on Statutory Instruments at the time, the House ultimately passed them. They dealt with the core policy, which I will not seek to reopen, while the No. 2 instrument debated here today appears to make only minor technical amendments.

I shall move on to the substance of today's regulations. Despite Parliament making it clear that it does not wish the UK to crash out without a deal, it appears that much of this instrument is necessary only to facilitate such a scenario. As the Minister will be aware, both Houses have repeatedly rejected the UK leaving the EU without a deal. Why spend the time and money, therefore, moving forward with SIs that should play no part in the future of our decision-making? Are there any further SIs yet to be laid that deal specifically with a no-deal scenario?

As noted, another element and purpose of this instrument is to amend the Scotland-only regulations, as insolvency is partly devolved. I note from the EM at the back of the SI paperwork that consultation was carried out with the Administration in Scotland. It would be helpful to get a little more detail about what consultation was carried out between the department here and the Scottish Administration. I am curious too about timing. Why have the regulations been brought forward only now, when the new Scottish insolvency laws came into force in April this year?

With regard to the drafting of these regulations, I mentioned earlier that the previous insolvency regulations were mostly welcomed by industry. As the Minister has pointed out, there is a financial cost. I am curious about whether any further discussion or consultation has taken place with the industry.

We have no intention of opposing these technical regulations, though I would be grateful if the Minister could offer assurances in relation to a number of the issues that I have raised.

4.45 pm

Lord Fox (LD): My Lords, I thank the Minister for introducing this SI and for his explanation. I associate myself with the comments of the noble Lord, Lord McNicol, about the necessity for no-deal statutory instruments if the Government are, in good faith, going to follow the law. I notice that the noble Lord, Lord Callanan, is also sitting on the Front Bench opposite, and he has repeatedly said—when I have been in this Chamber and often when I have not—that the Government will observe the law, so I hope that means the spirit as well as the letter. However, the SI has been tabled and it is incumbent on me to make some comments.

It is, perhaps, appropriate that we should be talking about insolvency because, in the event that there is a no-deal Brexit, insolvency will be an issue for many businesses in this country, small, medium and large. Perhaps this gives us a chance to soberly reflect on the stupidity of a no-deal exit. These rules are welcome and it is very hard for us to stand in their way. The Explanatory Memorandum talks about avoiding an "inefficient insolvency process". What is an efficient insolvency process other than a disaster? In not opposing these rules, I suggest that these Benches do not wholeheartedly endorse the current system on insolvency. There is, many people feel, an overdominance of HMRC's call on insolvency in the current rules. This is not for debate today, but I put that down as an issue.

The Minister talked about reciprocity, a word that should be used carefully. However, it seems to me that this is a unilateral assertion of reciprocity, which, by its nature, is not reciprocity. What guarantee does the Minister have that the EU 27 will turn this into a

reciprocal process and not merely watch us put our cards on the table while they decide not to? Without the EU 27 participating in this, we do not have the systems in place that we need for the Government's definition of efficient insolvency to apply. Can the Minister tell us what assurances are in place?

Paragraph 2.11 of the Explanatory Memorandum says that we will,

"maintain a modified version of the EUIR's jurisdictional tests".

What are the modifications to the EUIR's test? If they are different, how can we expect the EU 27 to reciprocate in process? I would have thought that the whole idea to keep reciprocity would be to have harmony, rather than modification, between those rules. I wonder what those differences are and how they have been presented to our EU 27 partners.

Paragraph 2.2 of the Explanatory Memorandum says that the other purpose of this statutory instrument is to avoid the creation of uncertainty. There are lots of ways of avoiding uncertainty, but changing the rules governing insolvency is not really the way to do it. There is uncertainty about standards; there is uncertainty about regulation; there is uncertainty about whether people who work for our businesses today will be able to work for them after 31 October. If the Government really are in the business of certainty, perhaps they could address those issues.

Finally, a number of Bills are currently crashed or in the holding tank of the other place. We were told that these Bills were essential to planning for no-deal Brexit. Now we are told by the Leader of the other House that the Government have all the rules they need to manage no-deal Brexit. I find these two positions irreconcilable. Perhaps the Minister can tell us how many more statutory instruments we can expect that will be substituting for those Bills. I remind your Lordships' House that those Bills have proper scrutiny. They have the right sort of scrutiny that enables us to produce the right sort of legislation. Statutory instruments are not a substitute for primary legislation. They are an unscrutinised version of regulation. To substitute one for the other, which seems to be what the Government intend to do, is wholly unsatisfactory.

Lord Flight (Con): My Lords, the UK has a great advantage over most European economies and the US when it comes to effecting a sorting out and recovery of a business that is failing. Can the Minister confirm that whatever EU rules we may be moving in tandem with will not damage our advantage in sorting out businesses?

Lord Duncan of Springbank: My Lords, this has been a short and relatively sweet debate in some respects. There seems to be a recognition that these modest adjustments are necessary, primarily as a consequence of the earlier date not being met. I suspect there is a question about reciprocity. Let me tackle that head on. One of the challenges we have here, even allowing for the legislation made in the other place, is that the situation regarding the EU depends upon the EU. We cannot provide for what it will do in these circumstances. That is why we must be absolutely certain that in any circumstances in this area of insolvency we are legally sound and entirely correct. It would be wrong to do otherwise. However, it is important to stress that if we secure a deal, these regulations will become moot. We will not be pursuing them in that regard, so we will end up in a transition period and then, I do not doubt, the future relationship will examine a number of these aspects and we will see a very different outcome. However, these regulations are necessary. We have spoken with a number of bodies representing those responsible for insolvency to ensure that they are content with the way we are taking this forward.

In relation to some of the points raised by the noble Lord, Lord McNicol, we have looked at this very carefully to establish exactly where the costs rest. Had they been above the £5 million threshold, of course we would have done a full impact assessment. The current assessment is that the figure is £2.7 million and therefore it does not fall into that category. We have done a thorough consultation to ensure that there is no risk whatever that this will suddenly conflagrate beyond that.

As to timing, the noble Lord rightly pointed out that the Scottish Government moved forward its legislation in April, just after the previous proposed exit date. It is not a question of dawdling on our part, but of trying to put these two things together and move them forward, and we would have done so before that exit date in October because it would be necessary to do that. As to the level of consultation with the Scottish Government, it will not surprise noble Lords that we did a thorough consultation with them. One of the Scottish Parliament's committees did an investigation and affirmed that this was the right approach. We spoke to several bodies in Scotland about this. The changes we are making at this point are relatively modest. They correct the legislation which emerged after 31 March to make sure that it is legally sound. It could not have been done before then because at that point we were not sure what was going to happen by that date, so the legislation could not anticipate the situation in which we ultimately found ourselves. I think the Scottish Government are relatively content, but I am quite happy to provide more information, should that be required, on the official level of engagement that has taken place.

The noble Lord, Lord Fox, made a point about the wider insolvency framework and touched on the balance of powers in respect of authorities. He will be aware that a review in 2016 looked at this. I believe that out of that, some of the issues the noble Lord has raised will be addressed looking at international best practice. We will look at European best practice. It would be foolish not to, given that we are so often involved in cross-border insolvency matters. I expect that in years to come we will see a very different approach to how we examine the wider insolvency question, while also keeping pace with where the EU finds itself.

Both noble Lords asked whether there are any more no-deal SIs. The answer is, not from me. I hope that is the answer they are looking for. I am probably going to have correct that if it is not true. I am nearly certain: not from me, and if I am wrong, I will confirm that later. The important thing to stress is that much of the work I have done today and last week was modest adjustments primarily resulting from the adjustment to the date. It is not my intention to bedraggle you for much longer.

Lord McNicol of West Kilbride: I just want to follow up on that and seek some clarification from the Minister. If, for some unknown reason, we do not exit the EU on 31 October, will we need to be back here changing the dates in the SIs all over again to whatever the next date is?

Lord Duncan of Springbank: That is very easy and straightforward to answer. It is the Government's policy to leave on 31 October, but the laws have been drafted to ensure that, going forward, we will not have to revisit these regulations. I reiterate that, come Halloween, we will be on the other side.

Lord Fox: Can the Minister clarify the point about the modified version of the jurisdictional tests?

Lord Duncan of Springbank: I had written that down but then forgot to mention it. The noble Lord will be aware that one element of the original regulations was the jurisdictional tests. The modification that we are talking about here is to ensure that those tests are broadly compliant with the changes that have been brought in. The jurisdictional tests themselves remain broadly intact. Their purpose is to ensure that the legal jurisdictions of the various courts function after Brexit.

Lord Fox: To be clear, the modification is with us rather than with Europe.

Lord Duncan of Springbank: Absolutely—the modification is with us. However, the point is that broadly the tests are part of retained EU law and we have made the adjustments to make sure that they are compliant with our own statute book.

Lord Flight: My Lords, will these changes in any way damage the superior insolvency legislation that this country has at present?

Lord Duncan of Springbank: My noble friend is right to remind me of a point that I had almost overlooked by gazing at the Benches opposite. No, it should not damage that legislation. In fact, the UK is a good jurisdiction in which to address insolvency issues. I think that that is widely recognised in the EU and around the globe. We have an advantage there, and if we can maintain that advantage, this will be a place where such law can be made and we can maintain our leadership credentials. On that basis, I would be content to move forward with the regulations.

Motion agreed.

Health Infrastructure Plan

Statement

4.56 pm

Lord Bethell (Con): My Lords, with permission, I shall now repeat an Oral Statement made by my honourable friend the Minister of State for Health in the other place on the health infrastructure plan.

"Health is the nation's biggest asset and the NHS is the Government's top domestic priority. We are backing our commitment to our NHS with record levels of funding. As part of this, today I am pleased to update the House on the biggest, boldest hospital building programme in a generation.

Through our new health infrastructure plan we are supporting more than 40 hospital building projects across the country, with six getting the go-ahead immediately—HIP 1. This includes £2.7 billion of investment that gives those six large hospitals the funding to press ahead with their plans now, alongside last Friday's investment in technology to ensure that no CT scanner is more than 10 years old.

The six hospital trusts are Barts Health NHS Trust, Epsom and St Helier University Hospitals NHS Trust, West Hertfordshire Hospitals NHS Trust, Princess Alexandra Hospital NHS Trust, University Hospitals of Leicester NHS Trust and Leeds Teaching Hospitals NHS Trust. Under HIP 2, a further 21 schemes have been given the go-ahead, with £100 million of seed funding to go to the next stage of developing their plans, subject to business case development. The £2.8 billion of capital investment follows on from August's £850 million for the new hospital upgrades. This included, for example, a £72.3 million investment in the Greater Manchester Mental Health NHS Foundation Trust. All this comes on top of the £33.9 billion cash increase in funding for the day-to-day running of our NHS.

The announcement represents another part of our long-term, strategic investment in the future of the NHS, properly funded and properly planned, to ensure that our world-class healthcare staff have world-class facilities to deliver cutting-edge care and meet the changing needs and rising demand that the NHS is going to face in the 2020s and beyond. Capital spend on NHS infrastructure is fundamental to high-quality patient care, from well-designed facilities that promote quicker recovery to staff being better able to care for patients using the equipment and technology that they need. It is also essential to the long-term sustainability of the NHS's ability to meet healthcare need, unlocking efficiencies and helping manage demand.

The investment we are making in our buildings, technology and equipment is vital in itself, but it is most important because it gives our fantastic NHS staff the tools they need to do the job. Our staff are at the heart of the NHS, which is why we have invested in the NHS's workforce. Our interim NHS people plan has set out immediate actions we will take to reduce vacancies and to secure the staff we need for the future, including addressing pension tax concerns, increasing university clinical placements by over 5,000 and bolstering the workforce.

It is only right that we invest in the buildings that staff work in and in which they provide first-class care for patients. For too long, Governments of all parties have taken a piecemeal and unco-ordinated approach to NHS buildings and infrastructure. The healthcare infrastructure plan is going to change that. In the future, every new hospital—built or upgraded—must deliver our priorities for the NHS and happen on time and in a planned way, not the current start/stop that we see.

But NHS infrastructure is more than just large hospitals. Pivotal to the delivery of more personalised, preventive healthcare in the NHS long-term plan is a more community and primary care setting from hospitals. That requires investment in the right buildings and facilities across the board, where staff can utilise technology such as genomics and artificial intelligence to deliver better care and empower people to manage their own health.

This, of course, is only the beginning. The full shape of the investment programme, including wider NHS infrastructure, digital infrastructure and wider capital investment to support the economy and the health system will be confirmed when the department receives a multi-year capital settlement at the next capital review.

This is a long-term strategic investment in the future of our NHS, properly funded and properly planned, to ensure that our world-class healthcare staff have world-class facilities to deliver care and to meet the changing need and rising demand, so the NHS can face the 2020s and beyond with confidence".

5.01 pm

Baroness Thornton (Lab): I thank the Minister for repeating that Statement. He is getting a full range of ministerial experience today, including what I always regard as the most terrifying thing that you can ever do from a Government Front Bench—handle a Statement. I hope that we will make this as painless as it can be. However, I have to say that some clarifications need to be made and some context given.

Since 2010-11, capital spending by the DHSC has declined in real terms, from £5.8 billion in 2010-11 to £5.3 billion in 2017-18—a fall of 7%. This means that the capital budget in 2017-18 was 4.2% of total NHS spending, compared with 5% in 2010-11. This fall is explained mostly by transfers by the DHSC from capital to the revenue budget to focus on more funding of day-to-day running costs. According to the Health Foundation, the fall in the DHSC's capital budgets has contributed to the UK having a low level of capital investment in healthcare by international standards. The UK now spends about half the share of GDP on capital in healthcare compared with similar countries and is far behind countries in, for example, the number of MRI and CT scanners per capita. So, although capital to revenue transfers have reduced capital spending, the UK would still have very low capital spending by international standards had these transfers not occurred. That is the context in which this announcement is being made.

Yesterday, the Secretary of State—and, indeed, the Prime Minister—announced that they would build 40 hospitals. I heard it myself early in the morning on the news. It has to be said that that very quickly unravelled and it turned out that, in fact, there is the money for six hospitals. So will the Minister please confirm whether the plans for the 34 other hospitals will go ahead? If so, when is that likely to happen? Like many people, I saw the Secretary of State on television, answering questions about the plans for the NHS. I thought that he was vague, to put it mildly, about where the money for this infrastructure plan will come from. What source of government money tree or money forest will be plucked to provide this plan? Given the Government have repeatedly cut capital budgets, as I have already said—by more than £4 billion in recent years—to transfer money to the day-to-day running of the NHS, can the Minister confirm that this will not happen to this new money? Also, as a point of information, this is not the biggest hospital-building programme ever. That was actually done under the last Labour Government.

I have two issues to raise with the Minister. One concerns the maintenance backlog—the repair bill—which has spiralled out of control in the NHS and has now hit £6 billion. The backlog designated high-risk and significant is at £3 billion. This repair bill is compromising patient care. Research has revealed that ward ceilings are falling in, sewage pipes have burst in treatment centres and surgeries have been delayed and, as I have already said, we have some of the lowest numbers of MRI and CT scanners per head of the population, so we are failing to meet our targets on diagnosis. What impact will this new money—if it is new money—have on that repair bill and maintenance backlog?

The second issue I will raise is mental health. The Government's policy, which we have always supported, is parity of esteem for mental health illness. Sir Simon Wessely's review of the Mental Health Act called for £800 million of capital investment in some Victorian, antiquated mental health facilities that we should, as a modern country, be ashamed to have on our estate. But not a single mental health trust was on the list yesterday, so does this show that the Government forgot mental health services, are neglecting them or have some plans for them that they have yet to reveal? These services involve some of the most vulnerable patients that we have, so I would like to know why mental health was not included in this capital budget. If it is going to be, when will we see that happen?

Baroness Pinnock (LD): My Lords, I am not my noble friend Lady Jolly, as you might have noticed. She is on holiday, so I have the pleasure of responding to this Statement. Clearly, any additional funding is to be welcomed in our NHS and will be a huge relief to those hospital trusts seeking to deliver world-class care in wretched buildings.

However, it seems the funding is inadequate compared with the desperate need. The NHS England chair, the noble Lord, Lord Prior, said that £50 billion of capital investment is required to bring the NHS estate up to scratch. In comparison, this £2.7 billion is a drop in a very large ocean. In addition, as the noble Baroness, Lady Thornton, has said, an additional £6 billion-worth of urgent repairs have been identified on the NHS estate. They too need capital funding. It is no good having political headlines when basic needs are being neglected. In that context, this seems too little and too late. Further on the funding question, we ask where the money will come from. Presumably it will be government borrowing, which will therefore have a revenue consequence. I am sure the hospital trusts want to know whether that will be passed on to them to fund, as revenue consequences from capital investment.

The next area that I want to explore is the apparent ending of the PFI funding approach, which has put such a burden on too many hospital trusts that have

[Baroness Pinnock]

PFI payments on their bottom line. The IPPR think-tank published a report on this—earlier this month, I think—in which it said that NHS hospital trusts have been crippled by the private finance initiative and will have to make another £55 billion in payments by the time the last contracts end in 2050. Those payments relate to an initial £13 billion of private sector-funded investment in new hospitals, so the approach will cost the NHS in England a staggering £80 billion by the time all contracts come to an end. Some trusts are having to spend as much as one-sixth of their entire budget—I stress, one-sixth—on repaying debts due as a result of the PFI scheme. Can the Minister supply the evidence that has resulted in such a U-turn on how capital builds are now being funded? Presumably, the Government are changing from a PFI approach to their own funding approach. Have they decided that PFI funding is not value for money? If such a conclusion has been reached, can the Minister assure the existing PFI hospitals that additional funding support will be provided to those hard-pressed trusts?

Moving on to the list of those hospital trusts that are to benefit, I am obviously pleased that the six in the first phase of the scheme are there. But the question remains: how were they chosen? Where is the data to support such choices and will the Government please publish it, so that we can all be assured of the transparency of decision-making? I am absolutely sure that plenty of hospital trusts across the country are wondering why their particular hospital was not in that first six. Why are there only six in the first list? If there are so many in urgent need of renewal why are there not seven, eight or 10? If the Government are so keen on having world-class facilities, perhaps they ought to be more ambitious.

I move on to what I call the "maybe" list. The headline in the Statement is about,

"40 hospital building projects across the country",

but we have the six—so that is a reduction—and then we find that there are 21 identified somewhere. I have a little list somewhere of which they will be; I was not filled with optimism about them. What I have discovered from the list of 21 which are to have seed funding is that there are absolutely none in my own Yorkshire and the Humber area. I think there are three in the north-west but none in the north-east at all. Perhaps the Government will be able to tell me that there are no hospitals in Yorkshire and the Humber, or in the north-east, that require any seed funding to develop plans for new builds. If the Minister is struggling to answer that, perhaps I may refer him to the Huddersfield Royal Infirmary, which is in desperate need of investment. Perhaps he will be able to explain why it and other hospitals are not on this list of 21. It leads me to wonder, if that list gets us to 27, where are the other 13? I am sure that many Members around the House will be able to supply the Minister with the names of hospitals that could be added to this list.

We then move on to the fundamental issue of recruitment of doctors and nurses, as referred to by the Minister in the Statement, to enable the NHS to deliver the high quality of care that we want in the new buildings that are apparently to be built. We know that there are currently 40,000 vacancies for nurses in hospital trusts and 20,000 vacancies for doctors. The Statement as it was published in the Printed Paper Office refers to the,

"wonderful staff … at the heart of the NHS"—

we can all agree with that—and talks about "bolstering the workforce". However, there is then a phrase that the Minister omitted when reading it out. The published Statement says,

"bolstering the workforce through greater international recruitment".

I wonder why the Minister omitted that phrase, because, unless that is the case, we will be unable to have a sufficient number of qualified nurses and doctors in our hospitals.

Finally, I want to draw attention to the conclusion of the Statement, which refers to,

"a long-term, strategic investment in the future of our NHS".

Where is it and where is the money that goes with it? Announcing funding for six hospital trusts is not a strategic plan; some of us would probably call it an electoral bung. Where is the funding and where is the plan for a wholesale upgrade of the NHS trusts estate? If there is no funding, I have to conclude by saying that fine words butter no parsnips.

Lord Bethell: My Lords, I thank noble Lords for the warmth of my welcome to this initiation in the art of Statement-giving; I shall try my hardest to answer as many questions as were put. They were terrific questions.

I start by reiterating the point made by the noble Baroness, Lady Pinnock, which is that this is fabulously good news. An announcement of an investment such as this does not come often. It is a cause for celebration and something in which we should take pride as a country.

The question of new money is always important when there is a major spending announcement, so let me cut to that first of all. This is additional funding; it is not moving cups around, and it comes directly to the department's capital budget, the CEDL, which is being increased accordingly. The vast majority of the funding will be in the form of public dividend capital, which is commonly understood as a grant, but the one caveat is that where schemes have related land disposals the proceeds from those land disposals will contribute to the scheme funding.

The funding for this investment is £2.8 billion; £2.7 billion is for the six schemes that I mentioned and £100 million is seed funding to assist the further 21 HIP schemes in developing their plans. That is very important money and I shall come back to it later in my response. Future funding will of course be agreed with the Treasury in due course.

On the number count, the noble Baronesses, Lady Thornton and Lady Pinnock, raised questions about the 40. Let me explain. Six new hospitals are getting the full go-ahead now and 21 more schemes will get the green light at the next stage of developing their plans. Some of those schemes are multi-site: therefore, there are 30 hospitals within the 21 schemes. That is why we get to a number that is over 40.

Maintenance was brought up. It is critically important. We can invest all we can in the staff and the science but, if we do not have good infrastructure—clean, non-leaking hospitals with wi-fi and the latest technology—the system will not work properly. I think that the NHS acknowledges that its infrastructure has fallen behind. This investment is a recognition of that fact. There is a maintenance backlog: the Government have put in £3 billion in capital funding to fix the leaking roof. We provided an additional £1 billion in August, which will enable the NHS across the country to take forward existing plans for more investment and to address urgent capital issues in line with local priorities. The NHS's full capital needs will be provided for as part of the DHSC's settlement in the next capital review.

I thank noble Lords for bringing up mental health. Of course, some of the hospital projects have mental health dimensions to their locations. However, I confirm that the health infrastructure plan covers all types of investment, including mental health. We will invest in community and mental health facilities when the long-term capital budget is confirmed in the second round.

I can confirm that none of these projects will be financed using PFI. We will see a return to financing major health infrastructure projects from the government grant. This is part of a change in approach that will see a long-term plan for health infrastructure that can be fine-tuned as the years go by, informed by NHS England and interactions with stakeholders. It can be a really clear route map for how we do investment, and it can be funded reliably and without dependency by government funds, which means that there is no negotiation or third party that we have to handle in funding these hospitals.

I thank noble Lords for asking how the hospitals were chosen. It is a very important question. NHS England conducted a strategic assessment of hospital estates and came up with a list of priority schemes selected on the basis of age and/or where a combination of other metrics indicated a high need for investment in the estate. Based on that, a small number of schemes were identified as suitable for full funding now, given their advanced level of readiness to deliver in the near future. I emphasise that point: the number of shovel-ready plans on the conveyor belt and ready to go today is quite limited. A very limited list met the criteria. The £100 million that has been set aside to help hospitals invest in those plans is a really important part of developing the capability and resources within hospital and trust capital planning teams, so that they can put together the thoughtful and persuasive plans that mean that they will qualify for the next round. The remaining list of priority schemes was then filtered, based on a combination of criteria including the level of critical infrastructure risked in the estate and the overall check of regional breakdown, to make sure that no regions were overrepresented or underrepresented.

It is a concern for the Government to make sure that we have enough staff to fill these new hospitals. That is why the noble Baroness, Lady Harding, is putting together her workforce plan for the NHS, which we hope will answer the question of how we will develop the NHS workforce to man these hospitals.

5.24 pm

The Earl of Listowel (CB): My Lords, I thank the Minister for presenting this important sum of money to the health service. I am a patron of Best Beginnings, a perinatal service supporting mothers around the births of their children. I will stretch a little beyond the Statement and ask him about the future for health visitors. Since health visiting was placed under local authority responsibility and taken out of direct health service responsibility in 2014-15, there has been a serious decline in health visitors. It seems as though the Government have their chequebook out at the moment so, as he begins his brief, will he consider looking at the future for health visitors and what might be done to stem their loss?

Lord Bethell: I thank the noble Earl for his helpful question. Members of my family have benefited from the work of health visitors and I share his concerns about their role and their funding. The decline of health visitors is not part of the Statement given by the Minister earlier, but I will be sure to pass on the noble Earl's comments, as requested.

Lord Clark of Windermere (Lab): My Lords, the title of the Statement, "Health Infrastructure Plan", is a slight exaggeration, but let us welcome it for what it is. The Government have a woeful record, so anything they bring forward on the health service has to be welcomed. Can I press the Minister on some of the figures? I accept that these are quite difficult. Is there agreement that six hospitals will be rebuilt, or modified to that extent, and that the cost will be somewhere in the region of £2.7 billion? I think that was the figure. If that is the case, what about the other 34 hospitals? If they were all found to be suitable, are the Government guaranteeing that they will be funded for the same level of rebuild as the six announced today? If I do the maths very quickly, I believe that will cost in excess of £20 billion. Will the Government give an assurance that the money is there? The Prime Minister has promised us 40 new or severely modified hospitals, so the House is justified in asking this.

My second question is about the interim people plan. We desperately need not an interim plan but a fully fledged work plan on people. We are short of not only nurses but doctors and almost every single profession in the health service. This means it is very difficult for the service to continue. Looking at the issue of nurses—

Noble Lords: Come on!

Lord Clark of Windermere: There is plenty of time; there are 20 minutes. I want to ask this question. I know it is uncomfortable, but the Government are responsible for the reduction in and the shortage of nurses. Will the Minister apologise and say that they got it wrong when they cut the number of nurses in training by in excess of 10,000 after 2010? We have not made up for that. I finish by suggesting to the Minister that he reinstate the nurse training bursary scheme, so that we do not have to rely completely on the international recruitment of nurses but have our own nurses indigenous to this country.

Lord Bethell: My Lords, the noble Lord raises an important question about how infrastructure spending is approved and green lit. He is quite right that today's

[LORD BETHELL]
announcement sees the final green light given to six hospitals and a further 21 projects—some of which are multisite projects—are on the runway but are not 100% green lit. That is because their plans are not yet ready, but there is a full intent by the Government to work with the trusts involved to develop those plans to final proposals and to have the money available to finance those plans in their current form. It has been publicly put out by NHS England that the rough current estimated cost of those projects is around £10 billion and that that money is put aside and allocated for those projects, as long as they meet the requirements of infrastructure scrutiny.

Lord Lansley (Con): My Lords, I welcome what my noble friend said from the Dispatch Box in repeating the Statement. I say that as one who became Secretary of State in 2010. Although the noble Baroness, Lady Thornton, seemed to think that I had a large capital budget, it did not seem like it at the time. It was consistently underspent, because the spending of many of the trusts was determined by their resource. Capital and resource have to travel hand in hand. What is really important, as I hope my noble friend will confirm, is the commitment to future increases in resources for the NHS. The revenue alongside the capital is really important. It got to the point where, as we know, capital was raided to support revenue. Now we have a capital budget that will be supported by increases in the revenue budget.

If the noble Baroness, Lady Pinnock, had spent 10 years visiting hospitals as I did as shadow Secretary of State and then as Secretary of State, she would not ask, "How do you know which hospitals need rebuilding?" I stood in many of these hospitals, such as Epsom and St Helier, and looked at them. Why not Huddersfield Royal Infirmary? I went to Huddersfield and the truth is that it has never agreed what it wants to build, whether at Huddersfield or elsewhere. Some decisions have to be made before putting forward a capital project.

May I ask my noble friend a key question? We are abandoning PFI. The largest capital building programme that Labour talked about is a bit of an own goal, because it was all PFI and that is no good, but we must not throw the baby out with the bathwater. What was proven before the PFI project was extended and went wrong was that fixed-priced contracts deliver greater efficiency and that the NHS is not necessarily very good at building new hospitals. Can we make sure that we get some really good fixed-price contracts for these projects? They are funded through PDC and land sales, which is great, but can we make sure the NHS brings in additional expertise to make sure we have good designs and cost-effective delivery? In my experience, that was not available within the NHS. We do want not to go back to the days when every hospital invents for itself how to build a hospital. We want to go beyond that.

Lord Bethell: My noble friend makes powerful points. His point on income over capital is extremely well met. If it were the case that the income of the NHS had been driven down last year and we plonked a large amount of capital on top there would be a really big problem, but this capital announcement is on top of a record cash increase up to £33.9 billion a year by 2023-24 to the NHS budget. It feels, to the Government at least, that this is the right balance between income and capital.

However, the implementation of this infrastructure plan is definitely challenging and it is worth stepping back and thinking about how we will implement a massive step change in the capital infrastructure of our hospitals. The Government are aware of two areas where there is a need to focus resources. The first, as I referred to earlier, is on the actual design and planning of hospitals to ensure that they are to the highest standards and take into account the long-term needs of the community. Secondly, as my noble friend mentioned, NHS trusts will need greater capability in the management of contracts and the building of the hospitals. We will put aside money and expertise to ensure that those resources are in place.

Lord Redesdale (LD): I declare an interest as the CEO of the Energy Managers Association. Many of my members are energy managers of hospitals. I echo the points made about backlog maintenance, which is a massive problem in hospitals. I urge the Minister to look at the work done by Modern Energy Partners looking at the public estate and how we can make hospitals more energy efficient. The major problem raised by many noble Lords is that an MRI scanner uses enormous amounts of energy and it is very much easier to get money for replacing an MRI scanner than for a pumping or heating system. Hospitals are incredibly complicated structures and many are made up of buildings of many ages from the Victorian period through to the present—some of the worst are PFI, obviously. Will the Minister say what money will be reserved for dealing with backlog maintenance of energy? If we are to meet our climate change commitments as set out in the *Net Zero* report by the committee chaired by the noble Lord, Lord Deben, we have to look at the public estate and how we are going to make it more energy efficient. The energy budget is often overlooked in these calculations.

Lord Bethell: The noble Lord makes a powerful point which opens up one's thoughts about how this infrastructure build is going to be implemented and the opportunities for applying the latest technology not just in energy, but in the way the employment environment can be shaped for NHS employees, travel, biodiversity and the range of challenges we face as a society. This infrastructure plan will be a massive opportunity to put to work ideas such as those that he talked about. I do not know the work of Modern Energy Partners, but I will be sure to pass it on to the Minister.

Lord Scriven (LD): My Lords, existing capital budgets cover not just equipment and buildings but research and development so, every time capital budgets are raided to bring revenue budgets into balance, we see not only a further backlog in buildings, equipment and maintenance but less for research and development. If the Government are now so assured that the amount

going into both revenue and capital is better, what accountancy rules will they bring about to ensure that there will not be mass raiding of capital budgets to prop up revenue budgets? If there are not going to be changes, how can we have any guarantee that capital is not going to be raided for revenue in future?

Lord Bethell: I thank the noble Lord for a detailed question. I cannot possibly pretend to know the details of the accounting rules that govern these kinds of arrangements, but I will be glad to write to reassure him on this matter. All I can say is that by designing and publishing a detailed long-term plan, the scope for fiddling around and moving money from one bucket to another is greatly diminished.

Lord Lilley (Con): I congratulate my noble friend on a Statement which proposes a large amount of capital investment that is not being financed by PFI. There is a case for PFI when there is a genuine transfer of risk to the private sector. That has almost never been the case in the health service. It was simply a device to keep borrowing off the Government's balance sheet. When Enron did that, it went bust and people went to jail. It is a great relief to many of us that the Government are no longer using a criminal form of Enron accounting.

Lord Bethell: My noble friend puts it very well, and I endorse his emotion.

Baroness Scott of Bybrook (Con): My Lords, I am sorry to keep on about PFI. I welcome the Government's announcements today—who could not welcome this sort of investment in our health service? But we have a two-tier health service with PFI hospitals. Although it is not part of this announcement, I urge the Minister to please look at the issue of PFI funding. When you are trying to join together health and social care, primary and secondary care, having a PFI hospital within that mix in an area creates considerable challenges for that funding. I urge the Government to look at that further.

Lord Bethell: My noble friend puts the point very well. I think the Statement makes it clear that the lessons have been learned on PFI and that that episode is now behind us. The question of how the existing contracts continue to be managed and the impact that has on communities where there are PFI hospitals is clearly one of concern to the House, but I am afraid that it is outside the scope of this Statement. However, I will raise it with the Minister and if there is anything helpful I can provide, I will be sure to pass it on.

Baroness Redfern (Con): Will the £200 million of extra money that is going into upgrading MRI and CT scanners start in the first phase? We want even earlier diagnosis and screening.

Lord Bethell: I am almost certain that it will. Let me confirm that in detail, so as not to waste the time of the House.

Brexit: Positions on the Pound

Statement

5.41 pm

The Minister of State, Department for Exiting the European Union (Lord Callanan) (Con): My Lords, with the leave of the House I will now repeat in the form of a Statement the Answer given in the other place earlier today by my honourable friend the Exchequer Secretary to the Treasury.

"It is not appropriate for the Government to comment on specific currency market movements, nor on market positioning. We accept the market-based price of sterling and do not have a view on what level this should be. If the Government were to speculate on the value of sterling, it could hurt confidence in our macroeconomic framework. However, as the price of sterling fluctuates in the normal way, Her Majesty's Treasury believes that investors should be entitled to hedge, including by short-selling. The foreign exchange market is a global market and it is essential that we work with other jurisdictions to ensure a consistent international approach to the oversight of these markets. That is why the UK has supported the work of the Bank for International Settlements to create a single global foreign exchange code and work is ongoing to ensure that it embeds common standards of good practice in this area. The United Kingdom will leave the European Union on 31 October, whatever the circumstances. We must respect the referendum result. We would prefer to leave with a deal and we will work in an energetic and determined way to get a better deal done".

5.42 pm

Lord Tunnicliffe (Lab): My Lords, the noble Lord, Lord Macpherson, one of the country's leading civil servants, a Permanent Secretary to the Treasury for over a decade and a man who probably knows more about these issues than the rest of us put together, made a statement yesterday. Does the Minister agree with the noble Lord's comment yesterday when he said that it,

"is right to question the political connections of some of the hedge funds with a financial interest in no deal … They are shorting the pound and the country, with the British people the main loser"?

Lord Callanan: No, I do not agree with the comments of the noble Lord, Lord Macpherson, and it is frankly sad that a person of his reputation is indulging in these ridiculous conspiracy theories. As *Forbes* business magazine put it, this is yet another "tin-foil-hat conspiracy theory".

Lord Lea of Crondall (Lab): Is it the Government's policy to avoid the pound falling below parity with the euro?

Lord Callanan: The Government supports a floating pound and it would be wrong of me to comment on what the appropriate level should be—it is for the market, at the end of the day.

Lord Robathan: My Lords, has my noble friend heard any evidence whatsoever about the scurrilous accusations made against the Prime Minister, and does he agree that this is one of the most ridiculous and absurd conspiracy theories that I have heard outside of very cheap novels?

Lord Callanan: No and yes.

Baroness Falkner of Margravine (Non-Afl): Does the noble Lord agree that the logic of these allegations that if people have any evidence, we are a well and highly regulated country in our financial markets, and they should report that evidence to the existing regulators? In saying that, I need to declare that I am a member of the Bank of England's enforcement decision-making committee.

Lord Callanan: The noble Baroness speaks with great authority on this subject. Of course, there is no evidence for anybody to report, but if they have evidence, there is regulation on short selling, which is enforced. But I am not aware of anyone providing any evidence beyond scurrilous rumours.

Lord Dykes (CB): Would the Minister, with his great interest in the history of currencies, care to comment on the long-term record? At a time when the euro is only three points behind the United States dollar as the international leading currency and is shortly due to overtake the dollar for the first time on a long-term basis, does he agree that it is rather sad that, in comparison, the pound sterling has been devalued nine times since the war—three times by government action and six times in the marketplace?

Lord Callanan: I am tempted to reply that if I knew how currencies were going to move, I would be betting on the exchanges myself, but of course I do not because it is a floating market mechanism. The noble Lord is of course welcome to do so if he wishes.

Baroness Kramer (LD): Perhaps the Minister can help us more on the conflict of interest issue. I am sure that he will confirm that there has been extensive short selling against the pound—that is not illegal—on scales that we have not seen before, and short selling against the shares of major companies in the UK. Does he not agree that there is short selling on the grounds that a no-deal Brexit will do so much damage to the UK economy that, by betting against Britain, some people stand in a position to make millions? Does he consider it to be a pure coincidence or one worth exploring that many of those short sellers—I think they take the name of "vultures" by their own choice—were also donors to Boris Johnson's leadership campaign and are donors to the Tory party? Does that need examination?

Lord Callanan: I really did think that the noble Baroness was better than that, but obviously not. These instruments are not just a speculation tool. Companies can use shorting as a hedging tool to protect themselves from future fluctuations, it can be used by big multinationals and, as she will be well aware from her time in government, the existence of the financial markets in the City of London is of great benefit to the United Kingdom. We gain 11% of our tax revenues from those liberal markets and we should not do anything to damage those trades.

House adjourned at 5.48 pm.