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HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

Grand Committee

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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

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House of Lords

Monday 23 March 2020

2.30 pm

Prayers—read by the Lord Bishop of Southwark.

Death of a Member: Lord Graham of Edmonton

Announcement

2.36 pm

The Deputy Speaker (Baroness Morris of Bolton) (Con): My Lords, I regret to inform the House of the death of the noble Lord, Lord Graham of Edmonton, on 20 March. On behalf of the House, I extend our condolences to the noble Lord's family and friends.

Integrated Security, Defence and Foreign Policy Review

Question

2.37 pm

Tabled by ***Lord West of Spithead***

To ask Her Majesty's Government whether the Integrated Security, Defence and Foreign Policy Review will inform the 2020 Comprehensive Spending Review.

Lord Collins of Highbury (Lab): My Lords, on behalf of my noble friend Lord West of Spithead and with his permission, I beg leave to ask the Question standing in his name on the Order Paper.

The Minister of State, Foreign and Commonwealth Office and Department for International Development (Lord Ahmad of Wimbledon) (Con): My Lords, the integrated review will define the Government's ambition for the UK's role in the world and the long-term strategic aims for our national security and foreign policy. The comprehensive spending review will be informed by the integrated review.

Lord Collins of Highbury: I thank the Minister for his Answer. My noble friend wanted to ask about two strands of work and whether they are being undertaken. First, although this is in breach of international law, the Minister will be aware that a number of countries are developing, stockpiling and weaponising even more dangerous pathogens. Is work being undertaken in the review to increase national resilience to such an attack? Secondly, is the review identifying an action plan with the United Nations Security Council to rebuild the tapestry of nuclear arms control agreements and confidence-building measures that limit the possibility of nuclear exchange by miscalculation?

Lord Ahmad of Wimbledon: My Lords, in response to the first question, Her Majesty's Government's biological security strategy draws together our work on building national resilience to natural, accidental and deliberate risks from biological agents. I concur with the noble Lord that there are countries around the world which still engage in the activity he described. I reassure him that we work very closely with international partners to strengthen co-operation against potential biological threats, including through the Biological and Toxins Weapons Convention and the UN Secretary-General's Mechanism. To make this very topical to the current crisis, the FCO and Her Majesty's Government are working very closely with their diplomatic network to monitor the spread of coronavirus throughout the world. We are working with international partners to tackle this global challenge.

Baroness Northover (LD): My Lords, does the Minister agree that, for years, there have been warnings about pandemics? Did he note that, in the 2015 review, there was a declared need to tackle threats that did not recognise borders? On epidemics, it said:

"No single nation can act alone on such transnational threats."

It also stated:

"We have detailed, robust and comprehensive plans in place and the necessary capacity to deal with infectious diseases, including pandemic influenza".

Does he agree that, once we are through this crisis, we will need to pay close attention to not only the health but the economic and social implications of our interconnectedness, and that poverty in one part of the world and the practices rooted in it can quickly affect all of us? This must be part of the upcoming review.

Lord Ahmad of Wimbledon: My Lords, I agree with the noble Baroness that the current crisis and the challenges it imposes have asked us to redefine all relationships. If there is one conclusion we can draw from where we are today—we are still on the cusp of the crisis here in the United Kingdom—it is the sheer interdependency of humanity. This crisis does not know borders, political differences or geographical space. It knows one thing: that it will affect us all in some shape or form, as we are seeing. Once we are over this crisis, it is important that, not just as a nation but collectively through international partners and the relationships we have, we learn lessons and share experiences so that when this kind of pandemic hits again, we are even better prepared.

Lord Robathan (Con): My Lords, during the 2010 defence review I was working at the Ministry of Defence and it was said throughout that it was not Treasury-driven. I regret to tell noble Lords something they may not know: it was entirely Treasury-driven. At the moment, during the current crisis, I see on the front page of the *Times* calls for troops to go and help; sailors are going to be delivering food to prisons and the like. Will my noble friend pass on to the Government that with the geopolitical problems and the problems caused by the current crisis, now is not the time to even think of reducing the number of personnel that we need in the armed services?

Lord Ahmad of Wimbledon: My Lords, I agree with my noble friend. I reassure him that this is well understood by the Government. Indeed, we remain committed to the NATO guidance to spend 2% of GDP and, furthermore, this is protected against any inflationary increase that may occur. As I said to the noble Baroness, Lady Northover, there may be further lessons to be learned from the crisis. I am sure the House will join me in paying tribute to our Armed Forces who, not just in times of challenge globally but, as we are seeing, domestically, step up to the mark.

Lord Harris of Haringey (Lab): My Lords, my understanding is that the security and defence review has been put back six months. Can the Minister tell us what is now the best expectation of the timetable going forward? If there is to be rather longer to prepare, is it the intention to have a more root-and-branch look at the resilience of the whole security apparatus and the extent to which we are able to respond to all sorts of crises, those which are natural as well as those that are initiated by hostile actors?

Lord Ahmad of Wimbledon: Again, I find myself very much in agreement with the noble Lord's last point. We need to ensure that there is a thorough review of all the challenges we face, whether it is from Mother Nature and pandemics or from sinister actors. Let us not forget that it is not that long ago that we were impacted by chemical weapon attacks on the streets of Salisbury. On the integrated review itself, given the ongoing coronavirus epidemic, we are, of course, keeping all non-related government work under review. The Prime Minister has already said that he will lead the review and bearing in mind his leadership on the current crisis, of course we will look to ensure that the learnings from this crisis can be fed into the review itself.

The Earl of Courtown (Con): My Lords, with the leave of the House I suggest that we adjourn until 2.48 pm to allow noble Lords to leave the Chamber and other noble Lords to move in for the next Question.

2.43 pm

Sitting suspended.

BAME Students: Pupil Referral Units

Question

2.48 pm

Asked by ***Baroness Lawrence of Clarendon***

To ask Her Majesty's Government what assessment they have made of the experience of BAME students referred to Pupil Referral Units; and what steps they are taking to ensure that any such students are able to re-enter mainstream education.

The Parliamentary Under-Secretary of State, Department for Education and Department for International Trade (Baroness Berridge) (Con): My Lords, 27% of pupils in PRUs, alternative provision academies and AP free schools are BAME, compared with 32% in all schools. There is variation among different groups, however, and it is important that we seek to understand those differences. We are committed to improving outcomes for all pupils in alternative provision and will build on the good practice identified by our £4 million AP innovation fund. Three of the projects focus specifically on reintegration into mainstream education.

Baroness Lawrence of Clarendon (Lab): I thank the Minister for her Answer. In the last few months, the *Evening Standard* has been running a campaign to raise funds for young people who have been excluded from school, so that the school can keep them and educate them within its premises instead of sending them off into PRU units. As we all know, young people are very vulnerable and are exposed to gangs once excluded from school. We know that the trap exists for young people who are not in mainstream schools. Do the Government have any policies for reducing the numbers of pupils in PRUs and getting them back into mainstream schools? As we all know, the majority are young black boys. Also, with the partial closure of schools that we have now, are there any thoughts on excluded children?

Baroness Berridge: I am grateful to the noble Baroness for raising a number of issues there. If I may begin with the current policy, yes, AP is included within the request to schools, so that, if at all possible, head teachers should keep that provision open. We believe that about half of the pupils within AP will qualify under the definition of "vulnerable" but we trust that the head teachers will make the correct decisions on the ground. It is of course correct that education is one of the strongest protective factors for young people, and it is this Government's ambition that there should be an expansion of alternative provision and that being excluded from mainstream education settings should not be an exclusion from excellent education. We have the same aspirations for those in the AP sector as we do in other educational settings.

Lord Woolley of Woodford (CB): My Lords, Diane Abbott said many years ago that once you have excluded a black child from school you can almost put a time and date on when they will turn up in prison. That is still true today. According to the excellent coalition of BME education practitioners, there should be no more exclusions. School exclusions cost the taxpayer an eye-watering £2.1 billion a year. Many children go to pupil referral units, but only 1% of them go on to achieve good GCSEs. However, two-thirds of pupils in PRUs will at some point go to prison. Clearly PRUs are not fit for purpose. Does the Minister agree that we should stop all school exclusions, as some places do, such as Northampton? I witnessed that when I was a children's commissioner. Given that BME and other disadvantaged children are more likely to be excluded, I say, as I did last week, that we must recruit more black teachers and teachers from other disadvantaged backgrounds, including Roma, Gypsy, Traveller and white working-class. I apologise for going on.

Baroness Berridge: The noble Lord makes an important point. We are aware that educational outcomes for students in alternative provision are not high enough, but last year 85% of all state-funded schools did not permanently exclude any pupil. The Government support head teachers having the power, as a last resort, to exclude pupils, but that should not be a ticket into education that is less than excellent. In fact, 83% of alternative providers were judged by Ofsted to be good or outstanding. That is only slightly less than overall for schools, which is 86%, and more than for secondary schools. Although there are issues, I pay tribute to the workforce in the alternative provision sector, who are doing an excellent job dealing with behavioural and educational issues.

Baroness Nicholson of Winterbourne (Con): My Lords, is the Minister willing to consider a mandatory physical check-up—particularly of teeth, eyes and ears, for example—for excluded students, not only BME ones? I speak as a former foster parent of a BME student. I recall well the wish not to be difficult and therefore not to talk about having, perhaps, a simple pain which could be sorted out.

Baroness Berridge: The noble Baroness raises an interesting issue. Children in AP settings will often have been placed there by the local authority, which has various safeguarding duties. If a student in its care cannot be educated due to health reasons, I would expect it to take the appropriate course of action.

Lord Addington (LD): My Lords, does the Minister accept that certain hidden or non-obvious conditions, such as dyslexia, tend to be even slower to be picked up among the BME community than in others, usually due to things such as it being more commonly working-class, and that many of these conditions are seen to be white, middle-class problems which are identified by the parents and then fought through the education system? When are we going to get better provision in schools to sort this? Having more working-class and black teachers would help.

Baroness Berridge: I am grateful to the noble Lord. On the recruitment of teachers, a £2 million project with the diversity hubs is aimed specifically at increasing the diversity of the workforce, which is an important factor. On non-diagnosis, for every child who is not meeting the requisite attainment standards, graduated action on their attainment gap should be taken by teachers and SEN co-ordinators, regardless of a diagnosis. We are aware that 81% of the children in alternative provision also have special educational needs and disabilities, so we need to intervene earlier. That will be part of the SEN review, to avoid this correlation.

Baroness Blackstone (Ind Lab): My Lords, I am not clear on what the Minister said in response to my noble friend Lady Lawrence. Can she make it clear whether, in the current circumstances, all pupil referral units will remain open and take in all the children who have been to referred to them for treatment, care and education? If not, will those children be admitted immediately to mainstream schools to ensure that they are not left out, because they are among the most vulnerable?

Baroness Berridge: The noble Baroness will be aware that some pupils who are in a pupil referral unit are still on the roll of a mainstream school and are in alternative provision on a part-time basis. We expect alternative providers to remain open because we are aware that just under half of their cohort will qualify under the definition of vulnerable. We trust head teachers presented with somebody who might not technically be within the letter of "vulnerable" to make that decision, and we will support them in doing so if they view the young person in front of them as vulnerable; for instance, if they had contact with them two or three years ago, they can make that decision.

Baroness Uddin (Non-Afl): My Lords, in the other half of the statistic mentioned by my noble friend Lord Woolley and the noble Baroness, Lady Lawrence, lie numbers of Muslim young boys, in particular, as well as those who are autistic. That statistic makes them vulnerable students and pupils. Some of them may be vulnerable to county lines, about which we heard last week, and sexual exploitation, about which we have heard many times. Given the crisis that we face, what will the Minister do to ensure that local authorities take seriously the gaps that may begin to emerge, with these young people falling through the system because they are not classified as vulnerable children?

Baroness Berridge: My Lords, any child who is not in an educational setting should be. We do take action. We recognise that they are particularly vulnerable to the phenomenon now called "county lines". The Government have provided £20 million to fund more national co-ordination on county lines. Since September 2018, four weeks of criminal justice interventions have led to 2,500 arrests; more importantly, they have resulted in more than 3,000 people being identified as having safeguarding concerns. We are doing what we can and taking action to deal with these issues.

The Earl of Courtown: My Lords, I understand noble Lords' concerns over adjourning the House for five minutes. With the leave of the House, I will stick with five minutes for today but we will reassess this practice later today so that we can perhaps have shorter adjournments between Questions tomorrow. I beg to move that the House do now adjourn during pleasure until 3.03 pm.

2.58 pm

Sitting suspended.

Rivers: Catchment Management

Question

3.03 pm

Asked by ***Baroness McIntosh of Pickering***

To ask Her Majesty's Government what is their policy on catchment management for rivers, and how this relates to natural flood defences.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, working with natural processes can help mitigate flood risk, alongside other actions, including traditional defences, especially when considered across an entire catchment. The 25-year environment plan encourages strong local leadership to take a joined-up approach to deliver multiple benefits at a landscape and catchment level. The Environment Agency is currently rolling out a more integrated approach to engagement at the catchment and river basin district scale to secure local involvement.

Baroness McIntosh of Pickering (Con): My Lords, I am mindful that many of those who were evicted from their homes in the winter floods may not be back home yet and have the extra anxiety of coronavirus. One simple measure the Government could take would be to stop the automatic right to connect new developments to antiquated Victorian pipes that cannot take them, and which force the sewage into people's homes. That unique measure, together with full catchment management, SUDS and soft flood defences such as Slowing the Flow at Pickering, would save many more houses. Can the Minister take the message back to her department, urgently, to stop the automatic right to connect to public sewers?

Baroness Bloomfield of Hinton Waldrist: I am aware of my noble friend's valuable input and interest in the Slowing the Flow scheme at Pickering and other natural flood management measures; this is not the first time that she has raised this issue. Current planning guidance has a hierarchy of sustainable drainage options that developers can choose from for rainwater drainage. These favour options such as soakaways and sustainable drainage systems—for example, to a local pond or stream—over connecting to public sewers. We need to include the option of connection to the wastewater sewer, as this is a matter of public health. Removing the overall right to connect to an existing sewer would offer no clear benefits and could slow down housing development. But I acknowledge my noble friend's consistent concerns about this issue, which I will raise again within the department.

Lord Faulkner of Worcester (Lab): My Lords, does the Minister agree that the towns served by the River Severn, starting in Shrewsbury, then down through Ironbridge, Bewdley and my own city of Worcester, have been particularly badly affected? Worcester is used to flooding; we lose our racecourse every winter and often, sadly, the cricket ground as well. However, the flooding in Bewdley and Ironbridge is on an unprecedented scale this year. Does the Minister agree that a task force consisting perhaps of the Environment Agency and the local authorities along the line of the river, working together to find a long-term solution, might be a good idea?

Baroness Bloomfield of Hinton Waldrist: The noble Lord makes an extremely interesting point which I am happy to take back to the department. As he will know, this year in England we received 258% of our average February rainfall, with some areas, including his own, experiencing a month's-worth of rain in 24 hours. I know that a number of people are still not able to get back into their homes. In the short term, we helped by quickly activating the Bellwin scheme, the flood recovery framework and the farming recovery fund. In the longer term, the Government announced in the Budget £200 million for place-based resilience schemes to help 25 local areas take forward wider innovative actions that improve their resilience to flooding. A scheme for the River Severn might fall within that purview.

Lord Oates (LD): My Lords, can the Minister tell the House what level of financial support the Government have provided to develop and apply catchment management policies over the past 12 months?

Baroness Bloomfield of Hinton Waldrist: In the Budget, we announced £5.2 billion for a new six-year flood defence capital investment programme starting in 2021, which will protect 336,000 properties from flooding. Some £120 million has already been announced to repair flood defences which were damaged last winter, along with £39 million to repair the Environment Agency's network of water supply and water navigation assets, to ensure that waterways remain open and navigable while contributing to flood and drought mitigation. In the longer term, we will set out policies to tackle flooding, and the Environment Agency will be publishing its updated flood and coastal erosion risk management strategy. The Government, as noble Lords will know, are committed to investing in flood-risk management, which continues to play a key role in improving protection for those affected. Since 2015, we have invested £2.6 billion, protecting 200,000 homes with over 600 flood defence schemes.

Lord Naseby (Con): Is it not clear that matters to do with planning go much deeper now than previously? Some families have been flooded three times in the current year. We know that climate change is coming and getting worse. As someone who sat for a new town in the other place, is it not time for a much stricter review of planning for housing anywhere near any of these rivers or dams, and should we not concentrate our resources much more on garden cities and garden towns to provide decent homes for our people?

Baroness Bloomfield of Hinton Waldrist: My noble friend will be aware from questions I have previously answered at the Dispatch Box that building on flood plains is already banned in certain categories, but the Government are taking a number of measures to encourage new natural flood management schemes. Our current policy is that all options should be assessed for measures to manage flood risk. There are 40 government flood defence programmes that include these new measures, and the Government expect this to increase. We have announced a £640 million investment in the nature for climate fund, which will invest in the natural environment by planting trees to cover an area the size of Birmingham, restoring peatlands, and providing more funding to protect the UK's unique plants and animals. The Government continue to develop

the new environmental land management scheme—a £3 billion scheme that will be the cornerstone of Defra's new agricultural policy. This will enable farmers and other land managers to enter into agreements to be paid for delivering a range of public goods, as set out in the 25-year plan. Much of this will be involved in the reduction of and protection from environmental hazards such as flooding and drought.

3.10 pm

Sitting suspended.

Covid-19: Holiday and Caravan Parks

Question

3.15 pm

Asked by ***Lord Redesdale***

To ask Her Majesty's Government what plans they have to ensure that residents in holiday or caravan parks who are self-isolating due to COVID-19 are not adversely impacted by the closure of such parks.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con): My Lords, the Government are doing absolutely everything they can to tackle the pandemic and mitigate its impact. We are mobilising every bit of government to defend our people and our country. The public, including residents in holiday or caravan parks, have a crucial role to play in delaying the spread of the virus, making sure that they stay at home if they have coronavirus symptoms. The Government have issued guidance to the public advising them against all non-essential travel. Under that advice, travelling to caravan parks for either leisure or self-isolation purposes is non-essential. The public should remain in their primary residences. Nobody should become homeless as a result of coronavirus, and the Government are committed to helping ensure that park-home residents have a safe place to live.

Lord Redesdale (LD): My Lords, I thank the Minister for her response. I declare my interests as listed in the register. Does she not agree that this is a very complex issue? For many residents, the holiday park is their primary residence for 11 months of the year and it would be a major problem if they were asked to move, especially as some have their second home abroad. Will the Minister work closely with industry organisations, such as the BH&HPA, and the larger park owners, many of whom have offered their parks for essential workers and for looking after the children of essential workers, to move this forward?

Baroness Barran: The noble Lord is quite right. We are aware that caravan and holiday parks are used in this way. As with everyone else, it is important that the residents of these parks stay in their accommodation and do not go out unless it is absolutely essential to do so. In that regard, it is helpful that the cafes, restaurants and pubs within the parks are now closed and offering only delivery and takeaway services. In response to the noble Lord's second point, Ministers are already heavily involved with stakeholders across the industry. My honourable friend the Minister for Tourism and the Secretary of State have been actively engaged—they were on the phone with the industry this morning—and that work is being co-ordinated by VisitBritain's Tourism Industry Emergency Response Group. I know that the BH&HPA has been in contact with officials and all those concerns are being actively considered.

Baroness Watkins of Tavistock (CB): My Lords, can the Minister consider giving clear advice to people who are leaving the cities that the number of hospital beds, and indeed their own GPs, are linked to population distribution, and point out the difficulties they might have in accessing healthcare if they leave their primary residence?

Baroness Barran: As ever, the noble Baroness makes a very wise point. I hope that she agrees that the Government's guidance on the matter this morning has been very clear. It says:

"Essential travel does not include visits to second homes, camp sites, caravan parks or similar, whether for isolation purposes or holidays",

and that people must not put

"additional pressure on communities and services that are already at risk."

We all have a part to play in that.

Lord Blunkett (Lab): Does the Minister agree that, in that perfectly understandable and justifiable circumstance, some sort of simple identification system for those whose residence is in those parks might be made available? As the powers are strengthened, and greater enforcement is brought to bear, I fear that some of those people will find themselves at the end of enforcement measures to which they are not actually subject.

Baroness Barran: The noble Lord makes a helpful suggestion. He will also appreciate the extraordinary pressures that all our public services, many businesses, charities and the voluntary sector are under at the moment. I will feed the noble Lord's suggestion back to officials.

Baroness Blackwood of North Oxford (Con): My Lords, sophisticated and continuous Covid-19 response is going to require the NHS to predict demand across the country so that we can ensure that each CCG area will have the staff and equipment it needs. If people travel unnecessarily, not only are they going to be spreading the virus, but they will undermine the NHS's ability to respond and protect the most vulnerable. I am sure that the Minister agrees that we each have our part to play in listening to the latest advice, staying at home and saving lives. Does she also agree that, if we do not do that, more stringent measures may be necessary and that we will all be responsible for that?

Baroness Barran: I agree with my noble friend that we all have a part to play. I also accept that, as human beings, all our lives have been turned upside down in

[Baroness Barran]
the last few weeks. I am sure that some of the people whom we saw on the TV heading to the countryside perhaps did not appreciate quite how many people were going to be there with them. My noble friend puts her finger on the critical point that we must all be practising social distancing and that must include not undertaking any non-essential travel. However, that is only one part of the strategy. The Government are aiming to have an absolutely comprehensive strategy in this regard.

Lord Stevenson of Balmacara (Lab): My Lords, those who are temporarily resident fall under the points previously made; the Minister has carefully explained how that is happening. However, is there not also a danger that, for those who have more than just temporary residence in parks—which may not have sufficient local resources—that aspect of their lives may not be taken into account? Can the Minister confirm that detailed information about those residences is collected and shared with health providers in the area, to ensure that there is no gap in provision for those who think themselves covered in one area but turn out not to be?

Baroness Barran: The noble Lord will be aware that there is a huge amount of mapping of exactly that sort of data, particularly in relation to the most vulnerable groups. An enormous amount of work on this has been going on for several weeks.

3.22 pm

Sitting suspended.

Covid-19: Critical Care Capacity

Private Notice Question

3.27 pm

Asked by ***Baroness Thornton***

To ask Her Majesty's Government, in the light of Northwick Park Hospital's declaration of a "critical incident" and an increasing number of patients across the UK with Covid-19, what steps are they taking to increase critical care capacity in the NHS.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, Covid-19 is the major challenge of our generation. This Government's priority is to protect life, which is why we are taking urgent action significantly to increase care-bed capacity throughout the NHS, including freeing up almost a third of existing beds. Yesterday, the Government announced a major deal with independent hospitals. That will add to the NHS's pandemic response 8,000 hospital beds, 1,200 more ventilators and a significant front-line staff number of 10,000 nurses, 700 doctors and 8,000 other clinical staff.

Baroness Thornton (Lab): I thank the Minister for that Answer. It is of course incredibly worrying that, at this stage in the pandemic, Northwick Park Hospital was forced to declare a critical incident over the weekend. That means that it ran out of critical care beds and had to ask neighbouring hospitals to take its Covid-19 patients. It is likely to be two weeks before we may see a steadying of the spread as a result of social distancing measures. If one hospital is already finding itself in such a position, then more might do so in the coming weeks and months. As the Minister said, it is urgent to expand capacity by increasing the number of intensive care beds and ventilators available. Will the Minister detail how many ICU beds and ventilators the Government aim to have in place by the end of the two-week period, at which we hope infection rates will reflect the new measures?

Also, the House may be aware that a fit and healthy 36 year-old nurse is now on a ventilator in Walsall Manor Hospital, having contracted Covid-19. Are the Government confident that the supply of personal protective equipment is no longer an issue after an increase in delivery in recent days and that there are plans to further increase the production of such equipment?

Lord Bethell: My Lords, the decision by Northwick Park was entirely welcome, because we welcome the realism and practicality on the part of the management in seeking help when it is needed. We are moving at pace to address the issues around PPE, and I can confirm that there is a massive amount going into the system as we speak. We currently have 3,700 critical care beds; total usage is currently 2,428, of which 237 are Covid-19 related; and our ambition is to increase this dramatically to perhaps 30,000 in time for the crisis arriving in full.

Baroness Barker (LD): My Lords, to increase the number of freelance locums working in the health system, will the Government make specific changes to the NHS Pension Scheme, in particular the death in service benefits, so that we can increase the number of qualified staff? Can the Minister also confirm that the Government are making sure that all GPs and pharmacists have sufficient stocks of asthma and COPD medicines to keep people out of hospital?

Lord Bethell: My Lords, we are greatly relying on an influx of staff such as freelance locums in order to increase the numbers at the front line in dealing with Covid-19. Arrangements for the pension scheme are included in the Bill that we will bring to the House tomorrow. On supplies to GPs and pharmacies, a huge procurement programme is going on at the moment, and we are taking stocks out of our no-deal preparations in order to ensure that both GPs and pharmacies are well stocked.

Baroness Watkins of Tavistock (CB): My Lords, many healthcare workers are concerned about their own health, particularly with regard to carrying the virus from their work into their homes and infecting their families. The *Financial Times* reported this morning that the Government have approached Amazon to deliver coronavirus tests urgently to front-line health and social care workers. This of course would provide

some reassurance to staff and enable them to know whether they are infected, and therefore whether they should stay at work. Can the Minister offer an estimate as to when such a scheme could be rolled out?

Lord Bethell: My Lords, the bravery and commitment of our front-line staff are to be commended. I think I speak for all of us when I pay tribute to everyone who has put their safety and health on the line. There is no doubt that those in the NHS who are working with those affected with Covid-19 are taking a huge risk, and it is our commitment to support them where we can. Hotel rooms are being booked for NHS staff who are reluctant to return home and who would quite wisely prefer to seek alternative accommodation. Tests are absolutely essential in order to get not only front-line clinical and ancillary staff but the whole country back to work. The Government are committed to finding a way to roll out a testing programme that gives British people confidence that we can beat this virus.

Lord O'Shaughnessy (Con): My Lords, can the Minister be a bit more specific on the diagnostic front? The deal with the private sector is incredibly welcome, and the situation with Northwick Park demonstrates how important it is. However, it is not just about beds and ventilators but people. We know that staff are having to self-isolate because someone at home seems to be ill but they themselves may not be. What kind of numbers are we talking about? The Prime Minister has talked about getting up to 25,000 a day; there are 65 million people in the country. What is the ambition, not just in four weeks but in eight and 12 weeks, of what we might get to and how we will get there?

Lord Bethell: My noble friend Lord O'Shaughnessy asks entirely reasonable questions, and he is quite right to press me for numbers. The tests we are talking about for this virus are new—some of them are only a few weeks old. It requires the tests to be tested to ensure that they are delivering accurate results, and for that reason it is difficult to commit to the kinds of numbers my noble friend searches for. However, it is very much the Prime Minister's desire to have testing as a central part in our battle against the virus, and that is why we are putting enormous resources into it.

Baroness Northover (LD): My Lords, I think I was the first in your Lordships' House to go through this virus, and I wish other noble Lords the best should they face what I did. I would like to flag to the Minister my experience of the lack of capacity in the NHS only a few days ago. It included: paramedics not knowing that breathing difficulties were associated with coronavirus; no proper delineation of red and green zones when we were in the isolation part of the hospital—we were taken through the A&E part to get there; and inadequate protective clothing of those in that isolation unit. Above all, the poor doctor who was looking after me told me that her colleagues could not be tested for coronavirus even though they were getting ill and had treated and given transfusions to known coronavirus cases. That was two or three days after Chris Whitty briefed us here about how testing was vital and would be continued during what was coming down the track—that is, the so-called delay phase. Can the Minister reassure us that such lack of capacity, which was astonishing in a north London hospital, is being actively addressed?

Lord Bethell: My Lords, I welcome the testimony of the noble Baroness and cannot help but be moved by the situation she describes. This virus has moved incredibly quickly. Hospitals are doing amazing work to adapt to the conditions that dealing with the virus requires, and everyone is learning how to do it on the job.

Baroness Blackwood of North Oxford (Con): My Lords, I welcome the reassurance that we have been given by the Minister that testing is being scaled up, especially for health workers, but surely a serological or immunity test will be the real game-changer, because it will allow us to track those who have already had the virus, even unawares, and who are safe to return to work and help the most vulnerable. It is also essential that PPE is available, especially on the front line, to ensure infection control. Can my noble friend update us on whether availability of that is improving and on the training available to ensure that it is used most effectively?

Lord Bethell: My noble friend Lady Blackwood is right that there are two types of test. The first is an antigen test to ensure that those in hospital, as workers or patients, do not currently carry the virus, and the second is a serological or antibody test that will confirm that a person has the antibodies and can therefore return to work, either on the front line or elsewhere. Both those tests exist, but mass production is restrained. We are working extremely hard with manufacturers around the world, and with British firms, massively to escalate our capacity.

Business of the House

Motion to Agree

3.37 pm

Moved by ***Baroness Evans of Bowes Park***

That, in the event of the Coronavirus Bill having been brought from the House of Commons:

(1) Standing Order 40(1) (*Arrangement of the Order Paper*) be dispensed with on Tuesday 24 March and Wednesday 25 March to enable proceedings on that Bill to be taken before oral questions on those days;

(2) Standing Order 46 (*No two stages of a Bill to be taken on one day*) be dispensed with on Tuesday 24 March and Wednesday 25 March to allow more than one stage of that Bill to be taken on those days; and

(3) Standing Order 48 (Amendments on Third Reading) be dispensed with on Wednesday 25 March to allow manuscript amendments to be tabled to that Bill and moved on Third Reading.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, this Motion will allow us to take all stages of the emergency Coronavirus Bill tomorrow and Wednesday. It will also allow the House to sit early, at noon, on both days, while leaving Oral Questions at their usual time. The Legislation Office will accept amendments for the Marshalled List from when the Bill has been read a first time tomorrow until 5 pm. I urge all noble Lords who are considering tabling amendments to do so via phone or email. Any amendments submitted after 5 pm tomorrow will be accepted as manuscript amendments.

Along with other necessary changes in how we are operating, I want to inform your Lordships of changes to Divisions that will be in operation from today and throughout the current exceptional circumstances. These changes will help us follow the Public Health England advice on social distancing. The procedure has not changed, but the location has. Divisions will take place in the Royal Gallery. To minimise queuing, when a Division is called, Members wishing to vote should follow instructions from the doorkeepers so that the flow into the Royal Gallery is regulated. Members not in the Chamber can go direct to the Royal Gallery if they so wish. In the Royal Gallery, the Not-Content Lobby will be to the left, by the depiction of the Battle of Waterloo, and the Content Lobby will be to the right, by the Battle of Trafalgar. Those Members who would normally vote in their place can still do so. Whips will be in the Prince's Chamber to assist all Members, and this information will be circulated to all Members electronically so that everybody is clear—hopefully, we will not need to do it, but, if we do, everyone will be clear. I beg to move.

Motion agreed.

Parliamentary Works Sponsor Body

Membership Motion

3.39 pm

Moved by ***Baroness Evans of Bowes Park***

That Lord Best, Lord Carter of Coles, Lord Deighton and Baroness Scott of Needham Market be appointed as Parliamentary members, and that Brigid Janssen, Elizabeth Peace (chair), Marta Phillips, Dr Simon Thurley and Simon Wright be appointed as external members, of the Parliamentary Works Sponsor Body.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, this Motion appoints both the parliamentary and external members of the Parliamentary Works Sponsor Body ahead of the commencement of the relevant sections of the Parliamentary Buildings (Restoration and Renewal) Act 2019. I beg to move.

Motion agreed.

Deputy Chairmen of Committees

Motion to Agree

3.40 pm

Moved by ***Baroness Evans of Bowes Park***

That, until 21 July 2020, and notwithstanding the normal practice of the House, any member of the House may perform the duties of a Deputy Chairman without further motion.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, when the Lord Speaker made his personal statement on Thursday last week, he signalled that his team of Deputy Speakers would be further strengthened. This Motion will allow that to happen at the best possible speed and with the minimum of fuss. I thank all those who have taken on this task. I beg to move.

Lord Faulkner of Worcester (Lab): My Lords, as one of the Deputy Speakers temporarily standing down, I wish the new Deputy Speakers taking on this very important duty the best of luck. I hope that those of us who are a little older than they are will have the chance to come back some time later this year.

Motion agreed.

Business of the House

Motion on Standing Orders

3.41 pm

Moved by ***Baroness Evans of Bowes Park***

That Standing Order 10(6) (*Hereditary peers: by-elections*) be suspended until Tuesday 8 September.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, this Motion will prevent the House having to hold any hereditary Peer by-elections for the time being. I am sorry not to see in his place the noble Lord, Lord Grocott. Without this, one would have to have been held before 26 June, owing to an imminent retirement. I beg to move.

Lord Faulkner of Worcester (Lab): In the absence of the noble Lord, Lord Grocott, I will ask the question that I am sure he would have asked had he been here. If it is possible to suspend the Standing Order to make this possible now, why is it not possible otherwise, bearing in mind that his Bill had almost unanimous support from your Lordships' House?

Baroness Evans of Bowes Park: I am sure noble Lords agree that this is a very sensible step in the circumstances. No doubt we will debate this matter further when we return to normal circumstances.

Motion agreed.

3.42 pm

Sitting suspended.

Extradition (Provisional Arrest) Bill [HL]

Report

3.47 pm

Schedule: Power of arrest for extradition purposes

Amendment 1

Moved by ***Baroness Ludford***

1: The Schedule, page 3, line 15, leave out from "judge" to end of line 19 and insert "as soon as practicable."

Member's explanatory statement

This amendment is to make the period within which a person must be brought before a judge consistent with other provisions of the Extradition Act 2003.

Baroness Ludford (LD): My Lords, my noble friend Lady Hamwee, who has led for the Liberal Democrat Benches until now, regrets that under the advice of the Government and the Lord Speaker she cannot be here today.

Amendment 1 addresses new Section 74A, which requires someone who is arrested to be brought before a judge within 24 hours of arrest. However, no account is taken of weekends and bank holidays in calculating 24 hours—so, for example, someone could be arrested without judicial involvement on the Friday afternoon before a bank holiday until the following Tuesday. Concerns were expressed about this on Second Reading, and in Committee on 5 March in debate on my noble friend Lady Hamwee's then Amendment 3. We have now reworded the amendment so that this Amendment 1 would add that someone should be brought before a judge "as soon as practicable". The Government claim that wording other than that in the Bill is operationally unworkable because the courts do not sit at the weekend, but in Committee the noble and learned Lord, Lord Judge, who sadly also cannot be in his place today, said in support of changing the wording:

"Would you believe it, there is a judge on duty all weekend, every weekend, and all night",

and that, if the provisional arrest happens over the weekend,

"it can be treated as urgent business."

Both the noble and learned Lords, Lord Judge and Lord Mackay, took issue with what the phrase "brought before" means in 2020, with the noble and learned Lord, Lord Judge, pointing out that:

"It is questionable whether the word 'brought' requires the physical presence of the judge and the particular person so that they should be facing each other directly. Nowadays we have all sorts of technology that enables people to encounter each other while not in one another's physical presence."

The noble Lord, Lord Parkinson of Whitley Bay, said on behalf of the Government in Committee that it was

"the *statutory intention* that the person should be brought before a judge in person. It is an additional safeguard and a better situation for them to be seen in person before a judge."

I am not really in a position to assess it, but I must admit that I am not convinced that is necessarily the case. We will of course see remote digital contacts in the justice system rolled out even more in present circumstances. In any case, the noble and learned Lord, Lord Judge, responded:

"If that is the problem, we need to amend the legislation to make it clear that 'brought before' does not mean that there is a personal, direct, physical confrontation."

He said he was very willing to talk to the Government about that.

On another angle, we were told in Committee that it was the Government's

"intention to replicate the … provisions under the Extradition Act",—[*Official Report*, 5/3/20; cols. GC 367-368.]

with the implication that new Section 74A did that. But the noble Lord, Lord Parkinson of Whitley Bay, also explicitly acknowledged that the words in that Extradition Act 2003, in Sections 72(3) and 74(3) covering both an arrest under warrant and a provisional arrest in a Part 2 scenario, say:

"The person must be brought as soon as practicable before the appropriate judge."

That is precisely the wording we want in Amendment 1. We on these Benches remain simply puzzled. If the Bill replicates or mirrors an existing provision—one we have not managed to find—can the Government explain precisely how? At the moment I cannot see how that is the case. In the absence of that explanation, we continue to believe that the Government need to change course. As far as we can see, it is Amendment 1, not the wording in the Bill, that mirrors that in the 2003 Act and aims for—and, we believe, achieves—clarity and consistency.

Lord Wood of Anfield (Lab): My Lords, the amendment tabled by the noble Baroness, Lady Hamwee, highlights the need for caution over any period of detention before an individual is brought before the judge. From the points just made, I think the House can agree that it is unclear why these detention periods are inconsistent in different cases. The efforts to draw the House's attention to this certainly have the support of this side of the House. I hope the Minister can offer the House an explanation as to the reason behind this inconsistency between urgent cases under the 2003 Act's category 1 and category 2.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): I thank the noble Baroness, Lady Ludford, for her explanation and the noble Lord, Lord Wood. As noble Lords will know, the courts to which all extradition suspects must be taken, whether arrested under Part 1 or Part 2 of the Extradition Act 2003—as currently or as amended by this Bill—are Westminster Magistrates' Court for England and Wales, Edinburgh Sheriff Court for Scotland and Belfast magistrates' court for Northern Ireland. Currently, the person arrested under the Act must generally be brought before the appropriate judge "as soon as practicable" following arrest. Under the new power of provisional arrest in this Bill, it must occur "within 24 hours".

The reason the Bill was originally drafted in this way was to strike a balance between getting arrested individuals before a judge as quickly as possible—the point the noble Lord, Lord Wood, makes—and allowing the police sufficient time to gather supporting information.

[Baroness Williams of Trafford]
This mirrored, in a more stringent form, the approach to provisional arrest in Part 1 of the Extradition Act 2003, which requires an individual to be brought before an appropriate judge within 48 hours of arrest. But I am conscious that the drafting departs from the general requirement currently imposed on the police after they make arrests under other existing powers in the Extradition Act 2003—the point that the noble Baroness, Lady Ludford, makes.

I listened carefully at Second Reading and in Committee, and I have concluded that the new power of arrest in the Bill should be consistent in this respect with existing law and practice in relation to Part 2 of the 2003 Act and should therefore mirror the wording "as soon as practicable". This will ensure that individuals are not detained for any longer than is strictly necessary. If, for example, an individual is arrested in central London, "as soon as practicable" would in all probability be within 24 hours. Our operational partners have already proved themselves effective at producing wanted persons before courts within strict timeframes, and the three UK extradition courts have proved strict arbiters of police actions under the "as soon as practicable" requirement.

Therefore, I intend to introduce a government amendment to this effect at Third Reading to address those concerns. The amendment will leave out the words "within 24 hours" and insert "as soon as practicable" in their place, as well as consequently deleting the express exclusion of weekends and bank holidays in the calculation of the 24-hour period. While the language will not explicitly rule out production on weekends or bank holidays, these factors will, of course, be relevant to the practicability of bringing an individual before an appropriate judge. If public holidays or court opening times were to change in future, the legislation would not need to be amended to take account of that. It remains the Government's intention that the arrested person be brought before a judge sitting in court and so the concept of "as soon as practicable" will remain subject to court sitting times, which are determined by the judiciary. There may, of course, be a multitude of other factors which affect, in the individual case, the practicability of bringing an individual before a judge, such as distance, natural disasters or illness of the arrested individual. We continue to think it is right, therefore, that the judiciary is the arbiter, in the individual case, of whether this test of "as soon as practicable" is met, and it will be able to do so in determining any application for discharge under Section 74D(10).

I hope that the noble Baroness and the noble Lord are content with those intentions, which I will bring back at Third Reading, and that the noble Baroness will be happy to withdraw the amendment.

Baroness Ludford: My Lords, I am very grateful to the Minister for having productively reflected on this. I can see the original attraction of a rigid time limit, and the Minister is right that there is inconsistency in the Extradition Act 2003, because there is a 48-hour limit for provisional arrest in Part 1. Perhaps that is what guided the drafting of the original Bill. As the Minister said, the experience of the relevant courts dealing with extradition in the different jurisdictions is that they are prompt and do not sit on these things. Therefore we can rely on the operations of the courts to make sure that "as soon as practicable" happens and that it is only some kind of force majeure that stops that being very soon, taking into account what the noble and learned Lord, Lord Judge, said at Second Reading and in Committee about the ability of a judge to be available, certainly in the Westminster court, on a Saturday. I am very grateful and look forward to the amendment that the Minister intends to bring back at Third Reading.

Forgive me if, in all the turmoil at the moment, my knowledge of procedure has gone slightly AWOL: I think I still need to move the amendment. No? Okay, then I shall withdraw it. I am obviously not very good at this—that is why we need my noble friend Lady Hamwee here. I end by saying that on the basis of the assurances and promises of the Minister, I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

4 pm

Amendment 2

Moved by ***Baroness Ludford***

2: The Schedule, page 4, line 38, at end insert—

"( ) Regulations made under subsection (7)(a) shall designate no more than one territory."

Member's explanatory statement

This amendment would require regulations which add, vary or remove a reference to a territory under Schedule A1 to contain no more than one territory. This will allow Parliament to reject a particular territory.

Baroness Ludford: My Lords, again I am moving this amendment on behalf of my noble friend Lady Hamwee. It is the same as Amendment 9 in Committee, though with a slight drafting change to refer to "regulations" rather than "orders". We are pleased that the noble and learned Lord, Lord Judge, and the noble Lords, Lord Anderson and Lord Kennedy, have added their names and we understand why they are not able to be here today. I think that the noble Lord, Lord Inglewood, would have added his name had there been space.

As my noble friend Lady Hamwee explained in Committee, it is essential to allow additions to the Schedule for only one territory at a time. We can envisage a scenario in which the Government wish to add a whole raft of states to the Schedule all at once. For the sake of argument, let us imagine that would consist of all EU and EEA states and that in the list there is a country that might be an EU-associated country, such as Turkey, but one over which considerable human rights concerns exist. I seem to be quoting a lot from the noble and learned Lord, Lord Judge, but he always says very wise things. In Committee, he said:

"We all know that there are countries in the world that do not respect the rule of law. I will not set about trying to give your Lordships a list because the list itself changes. Countries that

respected the rule of law no longer do. Weimar Germany did; Hitler's Germany did not. This is a moveable feast."—[*Official Report*, 5/3/20; col. 378GC.]

That is a very good point. Turkey was making very good progress in democracy and human rights a decade ago, but it regressed, regrettably.

There is great concern that the Government want to give themselves wide powers for the Secretary of State to add countries to the list en bloc. I think it was in Committee that the Minister said that the Government had no intention of specifying countries likely to abuse the system to political ends. I utterly believe what she said, but I again quote the noble and learned Lord, Lord Judge, who raised at Second Reading the fear that

"in the real world we are surely not going to be so naive as to believe that all sorts of motives—a possible trade deal, a plea just to be good friends with us, political beliefs, sympathy with a tyrannical regime—may not lead"—[*Official Report*, 4/2/20; col. 1731.]

to an addition to the list in the Schedule, although he certainly excused our present Minister from falling prey to such motivation.

The non-governmental organisation Fair Trials International, for which I have been pleased to work for 20 years and of which I am a patron, has done excellent work on the abuse of Interpol red notices where countries use them against political opponents, human rights defenders and journalists living in exile. The journalist Bill Browder was famously the victim of one from Russia and wrote a book called *Red Notice*. There are numerous examples of such countries and one would not expect them to be added to the list—Azerbaijan, Venezuela, Egypt and many others where Interpol red notices have been used in a very questionable way. I do not think that the argument the Minister used in Committee—essentially that "one at a time is not how we do things"—is quite good enough. She said

"it is common practice to allow for multiple territories to be specified together for similar legislation."—[*Official Report*, 5/3/20; col. 382GC.]

But I am not convinced that it needs to be invariable practice. It may have been common practice up to now, but we are not obliged to follow that. It is perfectly simple to do it one country at a time. This will not cause Whitehall to collapse in shock.

Our amendment could actually help the Government, as it would avoid Parliament rejecting the inclusion of a list that had good states as well as a bad state. We would not have to reject them all because of the inclusion of a single bad state, if I can use that shorthand. It would allow for the sensible, responsible outcome of bringing the respectable states into the provisional arrest arrangement while excluding a state that did not respect the rule of law and human rights.

Accepting this amendment would not lead to any delay as two or more sets of regulations, each relating to a single territory, could be tabled at the same time. We would not lose time. Ministers have been keen to stress that the Director of Public Prosecutions, Max Hill QC, supports the Bill, but I as I read his letter, he was supporting the general proposition, which is fair enough, but he was not commenting on this sort of detail, so will the Minister have a another look at this? We on these Benches would be happy to have a meeting to discuss it. We are keen to understand whether there is any substantive reason for rejecting the amendment, which, to be honest, we do not see at present.

In normal circumstances, we would be keen to test the opinion of the House on this, but since these are not normal times, will the Minister let us return to this matter at Third Reading, in the way that she has so helpfully promised that we could do on Amendment 1? We are firm on the substance of Amendment 2, in the same way as on Amendment 1, but we are flexible on the timing, so I hope that the Minister can respond in that vein. I beg to move.

Lord Wood of Anfield: I will speak to Amendment 2, and Amendment 3 in the name of my noble friend Lord Kennedy, who is unable to be here today. As we have just heard, Amendment 2 would require regulations that add, vary or remove a reference to a territory to contain no more than one territory. Allowing Parliament to reject a single territory would a create a valuable scrutiny mechanism for when either House has concerns to raise over a specific individual country that the Government intend to add, because there will be occasions when the merits of adding individual territories are disputed. The amendment would create an important safeguard to exercise scrutiny in such circumstances and we support it.

In recognition of the powers in this Bill to add, remove or vary territories, Amendment 3 would create conditions for when the Government choose to exercise these powers. To this end, the amendment seeks to create a new process that means that the Government must take three further steps before adding and removing territories. The first condition for the Government to meet is to consult with the devolved Administrations and non-governmental organisations—the devolved Administrations because there will be certain powers relating to justice, policing and prisons that are devolved, and the non-governmental organisations to understand better any issues that arise from individual territories relating, for example, to the human rights records of the countries concerned.

The second condition is that the Government must produce an assessment of the risks of each change, which would put on record the Government's rationale for signing the agreement, and allow for parliamentary scrutiny. The final condition is that if a new country is added, the Government must confirm that the country does not abuse the Interpol red notice system. That would make it clear that the Secretary of State responsible must not sign agreements with countries that have questionable records on human rights.

Although we fully accept the need to add further territories as treaties are negotiated, the Government must add only those that comply with our values. I am sure that all noble Lords would agree with that. While we fully accept that it may be necessary to remove or vary territories, it is important that the Government are transparent about their rationale and offer themselves to the scrutiny of Parliament. Will the Minister allay our concerns about the rationale and availability of scrutiny and about consulting with the devolved Administrations and NGOs by confirming that the

[Lord Wood of Anfield]
Government already intend to consult and open themselves to scrutiny when they add or remove further territories?

Baroness Ludford: My Lords, we on these Benches support Amendment 3 in the name of the noble Lord, Lord Kennedy. We hope that the Government will confirm the involvement of the devolved Administrations and believe that there is a strong case to be made for consulting NGOs that have experience of the country concerned, however knowledgeable the Foreign and Commonwealth Office may be.

On the "risks" mentioned in paragraph (b) of the amendment, I imagine that the noble Lord means that he expects the Government to make an assessment of balance and proportionality in whatever conclusion they reach on the suitability of a country to be included.

Of course, we totally support his reference in paragraph (c) to the need to avoid the abuse of Interpol red notices, to which I referred in moving Amendment 1. I have said that I am a patron of Fair Trials International and I want to give it a plug: it has done sterling work on this issue in the past few years and can, I believe, take considerable credit for the reforms that have been made to Interpol red notices so far. They do not go far enough but reference has been made in previous stages of the Bill to the fact that some reform is going on at Interpol; that needs to improve because there is still the problem of abuse. Perhaps one day there will not be and we can look again, but, for the moment, Amendment 3 is very appropriate.

Baroness Williams of Trafford: My Lords, I thank both noble Lords who have spoken. I was looking at the noble Baroness, Lady Ludford, slightly strangely because it is unusual to speak twice on the same group of amendments. It really does not matter because these are very unusual times, so it is not a precedent.

I do not know whether noble Lords want me to go through the full arguments today or whether they want to return to them at Third Reading; I sense that that is the mood of the House. Noble Lords have made their arguments. For the reason that the noble and learned Lord, Lord Judge, is not here and would like a further crack at this whip, I suggest that we let this lie for the moment and return to it at Third Reading, if that is okay with noble Lords.

Lord Stevenson of Balmacara (Lab): I am sorry to interrupt. The sensibility behind the noble Baroness's comment is that this a matter that we can come back to at Third Reading. Without wishing to be overly bureaucratic about it, following her helpful line in allowing issues on Report to be taken in a more relaxed way, a rule in the *Companion* is quite clear that it is with the leave of the Minister that matters can be raised again. Is she saying that, if these amendments are withdrawn, she will accept that they may be brought back for further debate and discussion? That would be sufficient for the clerks to be able to allow us to do that.

Baroness Williams of Trafford: I most certainly am saying that. For me to lay out arguments today, with the noble Baroness saying what she said about coming back to this at Third Reading, would seem a little futile. That is absolutely what I am saying.

Baroness Ludford: My Lords, I beg leave to withdraw the amendment.

Amendment 2 withdrawn.

Amendment 3 not moved.

4.14 pm

Sitting suspended.

Buckinghamshire (Structural Changes) (Supplementary Provision and Amendment) Order 2020

Motion to Approve

4.19 pm

Moved by ***Lord True***

That the draft Order laid before the House on 24 February be approved.

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, this order has been laid before this House and the other place, which approved it on 18 March 2020. It will update the membership arrangements of the Conservation Board of the Chilterns Area of Outstanding Natural Beauty to take account of the restructuring of local government in Buckinghamshire. We expect that this will be the final statutory instrument connected to local government restructuring in Buckinghamshire.

The order bringing about local government reorganisation in Buckinghamshire came into force on 23 May 2019. It provided for a reorganisation date of 1 April 2020, when the new Buckinghamshire council will assume the full range of local authority responsibilities and the five existing councils—the county council and the four district councils—will be wound up and abolished. That order established a shadow authority and shadow executive, which has been managing the transition to the new council. I am very pleased that all the councils have been working closely together to deliver the new unitary council and I thank them for their hard work and dedication.

The Conservation Board of the Chilterns Area of Outstanding Natural Beauty, which is the subject of this order, is made up of members appointed by the relevant local councils, parish council representatives and members nominated by the Secretary of State for Environment, Food and Rural Affairs. The board's composition is set out in the Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004. The conservation board is responsible for conserving and enhancing the natural beauty of the Chilterns and increasing the understanding and enjoyment of its special qualities, which are so loved and well known by so many.

As I have said, local government restructuring in Buckinghamshire will abolish all five of the Buckinghamshire councils that currently nominate a member of the board. Some changes are needed to the board membership arrangements to take account of

these changes. The Chilterns board currently has a total membership of 27: one representative for each of the 13 councils specified in the 2004 order, two parish council members for each of Buckinghamshire, Hertfordshire and Oxfordshire, and eight members nominated by the Secretary of State. Without this order, the new Buckinghamshire council will only be able to appoint one member, instead of five, to the conservation board. However, 50% of the Chilterns Area of Outstanding Natural Beauty falls within Buckinghamshire. The shadow executive of Buckinghamshire Council has, therefore, requested that the status quo be maintained so that the new council will nominate five members to the board to provide adequate representation for the area. It considers that the current membership arrangements, with five board members for Buckinghamshire as a whole, better reflect the extent of the Area of Outstanding Natural Beauty that falls within the new council area, and the Government agree. Furthermore, the Countryside and Rights of Way Act 2000 specifies that at least 40% of the AONB board membership must be from local authorities and at least 20% from parish councils. These changes ensure that that statutory requirement continues to be met. There are no other changes to the membership of the board.

In conclusion, this order will amend the membership arrangements of the board of the Chilterns AONB to retain a total of 13 members nominated by local councils, five of whom will continue to be nominated from the Buckinghamshire area, for the reasons explained. There are no changes to membership of the board otherwise. I commend the order to the House.

Lord Livermore (Lab): My Lords, it is a pleasure to speak in this debate on behalf of my noble friend Lord Kennedy. The issue of restructuring local government in Buckinghamshire has been discussed by this House previously and is settled, so I do not intend to dwell on it today. This minor order is, however, the final statutory change necessary for the restructuring process and the House will recall that the initial public consultation on the creation of a Buckinghamshire unitary authority found that a majority of respondents opposed the change. I would therefore be grateful if the Minister confirmed whether the Government believe that the people of Buckinghamshire are now fully behind the merger.

Moving on to the order before the House, there are two small issues on which I would appreciate clarification. First, as the House will be aware, a shadow authority for the new unitary council has been in place since mid-2019, as part of the effort to aid the transition. Can the Minister confirm whether, during this period, a representative of the shadow authority has been sitting on the board of the AONB? Secondly, as this change will result in the five representatives who are currently distributed equally between the five authorities being replaced with five representatives of the new Buckinghamshire council, can he confirm that the new council intends to appoint five individuals from across the county, rather than multiple representatives from any single area?

Lord True: My Lords, I thank the noble Lord for his response and for speaking on behalf of the noble Lord, Lord Kennedy. On the question of transformation, which is slightly wider than this order, the process has obviously been the subject of repeated discussion. My understanding is that the shadow arrangements have been working well. I am sure that, over time, consent will continue to grow so far as the changes undertaken are concerned. The appointments will be a matter for the Buckinghamshire authority, but I am sure that it will take note of the noble Lord's remarks. As a responsible local authority, it will obviously be able to decide that matter for itself.

I have a feeling that the noble Lord asked another question that I did not initially know the answer to, but I will look it up and respond to him; I am grateful for the response. This is a technical change but, as I explained, it is required for statutory reasons to keep the numbers up. The size of the area of outstanding natural beauty in Buckinghamshire also justifies that change.

I may be getting an answer to the noble Lord's other question. The board membership will have been drawn from the membership of the shadow authority, as it comprises all elected members in Buckinghamshire. I ought to have been able to think of that answer myself, but I come late to the Buckinghamshire issue, given the coronavirus crisis, which I want to conclude on.

All of us are dealing with this matter. This is one of a number of small orders that are dwarfed by what is going on, but I am sure everybody in this House wishes that the day will come, after this period of enforced confinement, when the people of this country can go out and again enjoy the beautiful area of the Chilterns, for which the board is responsible. I commend the order to the House.

Motion agreed.

House adjourned at 4.28 pm.

Grand Committee

Monday 23 March 2020

Arrangement of Business

Announcement

3.29 pm

Lord Russell of Liverpool (CB): My Lords, if there is a Division in the House, the Committee will adjourn for 10 minutes.

Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations 2020

Considered in Grand Committee

3.30 pm

Moved by ***Lord Callanan***

That the Grand Committee do consider the Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations 2020.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, I beg to move that the draft Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations 2020, which were laid before the House on 10 March 2020, be approved.

This statutory instrument supports the implementation of a new entitlement to paid leave for employees who lose a child under the age of 18 or whose baby is stillborn. The main regulations, which contain the main provisions of the policy, were approved by resolution of both Houses on 5 March, and are set to apply to child deaths and stillbirths on or after 6 April. Together, the package of Parental Bereavement Leave and Pay Regulations will ensure that there is a statutory minimum provision in place which all working parents can rely on in the event of a child death or stillbirth. They will also establish a clear baseline of support for employers when managing bereavement in the workplace.

Specifically, the Parental Bereavement Leave Regulations 2020 give all employees a right to a minimum of two weeks off work in the event of their child's death or stillbirth, regardless of how long they have worked for that employer. The Statutory Parental Bereavement Pay (General) Regulations 2020 implement a new statutory payment for parents taking time away from work following their bereavement, subject to the same eligibility criteria as all other statutory family leave payments. The SI under consideration today plays an important role in supporting the implementation of this policy, and ensuring that it achieves its objectives.

The draft Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations 2020 amend other pieces of secondary legislation to take account of the introduction of the new entitlement to parental bereavement leave and pay. This SI makes it clear how certain other rights or benefits should be calculated when an employee takes parental bereavement leave or statutory parental bereavement pay. The Government's intention is that parental bereavement leave and pay are treated consistently with other family-related statutory leave and pay entitlements when calculating entitlement to certain other rights or benefits. This is beneficial to employers who are expecting this new entitlement to align with the existing framework of family-related leave and pay entitlements.

The SI also sends a clear message that parental bereavement is to be afforded the same status and importance as other types of leave typically associated with the birth or adoption of a child. This supports the policy objective to encourage employers to acknowledge the importance and value of recognising bereavement in the workplace and providing adequate support for parents in those sad circumstances. Without this SI, we would be calling into question the status of this new entitlement when compared with other existing entitlements to statutory leave and pay, and we would create confusion for employers and their employees.

As I have said before, while the purpose of the parental bereavement leave and pay policy is to set a statutory minimum, this should in no way stop employers from going further where they can. The Government encourage all employers to support their employees in whatever way they are able to. It is my hope that this new statutory provision will act as a catalyst for improving workplace bereavement support across the board.

Before I finish, I again pay tribute to all noble Lords who have lent their support to this legislation throughout its course, in particular the noble Lord, Lord Knight of Weymouth, for his integral role in getting this on the statute book.

In conclusion, this SI supports an important package of legislation to give bereaved parents a right to take time away from work to grieve in the tragic event that their child dies or their baby is stillborn. It plays an important role in ensuring that the policy as a whole can achieve its objectives by ensuring consistency between parental bereavement leave and pay, and other entitlements to family-related leave and pay, in the calculation of other rights and benefits. This is a fair and helpful outcome for employees and their employers, and I commend these regulations to the Committee.

Lord Clement-Jones (LD): I thank the Minister for that introduction. I am not sure whether I am the understudy or the understudy's understudy, but it has been instructive reading a number of SIs over the weekend and doing my homework. I admit I was shocked to learn that, from government estimates, only two-thirds of businesses provide parental bereavement leave currently, particularly when the last figures I saw, from 2017, were that 7,600 babies and children under 18 died. This is not insignificant. The Minister rightly paid tribute to the noble Lord, Lord Knight, but this also derived from a Private Member's Bill by Kevin Hollinrake MP and noble Lords should credit him for that.

I very much welcome what the Minister has said and recognise that this is the third of the three statutory instruments needed to put this in place, but I ask the Minister why it has taken two years from passing the original Bill to get this much-needed help. The Minister hoped that this would lead to certain consequences;

[Lord Clement-Jones]
I hope there will be a communications exercise with business, particularly small businesses, about this duty. I also hope that there will be a full review, not overengineered, of how this is being put in place, after a period—I do not know how long that should be, but maybe a year or shorter—to see whether businesses are really complying. Otherwise, this hard-fought new right, which we very much welcome, will not be worth as much as has been hoped.

Lord McNicol of West Kilbride (Lab): My Lords, I echo and share the comments of the noble Lord, Lord Clement-Jones, especially in thanking both the MP and the noble Lord, Lord Knight, for their work to get this on the statute book. The noble Lord, Lord Clement-Jones, touched on the numbers affected. Before I continue, I declare a non-financial interest as a patron of the children's charity, Jigsaw4u, which supports the flip of this—children whose parents have died. It is within the same area, so I note that.

This side also supports the intention and wording of this SI. It is good to see legislation or rights being brought in from day one, something we were able to do starting with the Employment Rights Act in the 1990s. Most issues have been touched on, so there is no need to repeat them. This is just to say that we welcome and support both the intention and language of this SI.

Lord Callanan (Con): I thank both the noble Lord, Lord Clement-Jones, and the noble Lord, Lord McNicol, for their contributions to this brief debate. This is not a matter of controversy, but I thank them for supporting its introduction, nevertheless. When we debated the main regulations to implement parental bereavement leave and pay a few weeks ago, the noble Lord, Lord Knight of Weymouth, who played such a crucial role in this—together with Members from the other place, as mentioned by the noble Lord, Lord Clement-Jones—remarked that this legislation is an example of where the democratic and parliamentary process has worked well to effect a change in the law.

For noble Lords who do not know, this legislation is a result of a tireless campaign by Lucy Herd, whose son, Jack, died 10 years ago. This explains why it has been given the title "Jack's law", which has been used interchangeably with the much more complex formal title "parental bereavement leave and pay" in the media.

This Government are committed to supporting working parents and making this country the best place both to work and to grow a business. Jack's law is an important step towards achieving this. Together with the other regulations that have already been debated, this SI will provide bereaved parents with the space to grieve following the death or stillbirth of their child, and will send the right signal to employers and colleagues about the value of compassion and support at such a tragic time.

I reiterate that these regulations represent a statutory baseline, which should be considered the bare minimum that an employee who has suffered this tragic loss should expect from their employer. As always, the Government encourage all employers to go further than statutory minima, where they are able to, and to act compassionately and considerately towards their staff. Most employers already provide exemplary bereavement support to their staff. However, some still do not, so I hope this new legislation not only ensures minimum protection for all employees, but also leads to better workplace support for bereavement across the board.

Turning to the contributions, the noble Lord, Lord Clement-Jones, asked me why this has taken two years. It has been complex to get the policy right. There have been a number of challenges to departmental resources, not to mention the incredible amount of work preparing for something that did not happen, which was a no-deal Brexit. It was always the intention to get the regulations in place to apply from April 2020.

Motion agreed.

Judicial Pensions and Fee-Paid Judges' Pension Schemes (Contributions) (Amendment) Regulations 2020

Considered in Grand Committee

3.44 pm

Moved by ***Lord Parkinson of Whitley Bay***

That the Grand Committee do consider the Judicial Pensions and Fee-Paid Judges' Pension Schemes (Contributions) (Amendment) Regulations 2020.

Lord Parkinson of Whitley Bay (Con): My Lords, I am speaking on behalf of my noble and learned friend Lord Keen of Elie.

The draft regulations before us today relate to judicial pension schemes' member contribution rates. The purpose of these draft regulations is to amend the current member contribution rates and earning thresholds in two different judicial pensions schemes for subsequent financial years. These schemes are: the Judicial Pension Scheme 2015, which was established by the Judicial Pensions Regulations 2015, following wider public service pension reforms; and the Fee-Paid Judicial Pension Scheme 2017, which was established by the Judicial Pensions (Fee-Paid Judges) Regulations 2017, following the Supreme Court decision in 2013 in the case of O'Brien, in order to provide fee-paid judges with a pension.

Both the 2015 and 2017 regulations made provision for contributions payable by members, and they set a different rate of contribution dependent on the salaries or fees earned by a judge in a year. The regulations being debated today maintain the existing member contribution rates in both schemes for the financial year 2020-21 and each year thereafter, until such time as alternative provisions are made.

The regulations also uprate the earning thresholds, under £150,001 per annum, of the member contribution rate structure for both schemes on 1 April 2020 in line with the consumer prices index. Additionally, the regulations provide that the related earning thresholds will be uprated each year automatically in April in line with the consumer prices index rate of the previous September.

These regulations amend judicial pension schemes that are UK-wide. The Ministry of Justice has ensured that all devolved Administrations have been informed of progress, and they support our proposed approach. The Northern Ireland Department of Justice has its own Northern Ireland Judicial Pension Scheme 2015. It therefore proceeded with its own regulations in January 2020, which followed the ministry's policy approach.

The reason for making these amendment regulations is that the current provisions for member contribution rates will expire on 31 March 2020. The draft regulations are needed to specify the member contribution rates that will apply from 1 April 2020 onwards. These regulations will enable the Ministry of Justice to ensure the continuing operation of the schemes by deducting the appropriate member contributions from judicial salaries and fees.

Given the ongoing uncertainty about the value of public service pensions after April 2015—due to recent litigation, the McCloud litigation, and the consequential decision to pause one element of the actuarial valuation of the schemes—the Government propose to maintain existing contribution rates from 1 April 2020 onwards.

Having referred to the impact of the actuarial valuation and the McCloud litigation on these regulations, it might be helpful if I recapitulate some brief background details. Following the 2015 reform of public service pension schemes and under the current legislative framework, government departments are required to undertake valuations of public service pension schemes, including the judicial pension scheme, every four years. The valuation does two things. First, it informs the employer contribution rates. Secondly, it tests whether the value of the schemes to current members has moved from target levels and needs to be adjusted to bring them back to that point, which is known as the cost control mechanism.

Work was undertaken from March 2016 on the first such valuation of public service pension schemes to analyse the provisional results of the valuation for each affected scheme. This work was affected by the age discrimination cases brought by members of the judicial and firefighters' pension schemes—the McCloud litigation. As your Lordships will no doubt recall, this litigation concerned the transitional protection policy that was applied by the Government in implementing the 2015 public service pension scheme reforms. The courts found that the transitional protection policy amounted to unlawful age discrimination, and in June 2019 the Government's application for permission to appeal was refused by the Supreme Court.

In January 2019, the Government took the decision to pause the cost control element of the valuation. It was prudent to do so, because the effect of the McCloud litigation on public service pension schemes was unclear. While the outcome of that litigation is now known, addressing the discrimination, including settling the details of tax treatment, is a complicated process, involving decisions across a number of government departments, and will take some time to deliver. The pause of the cost control mechanism will therefore continue until there is more clarity about the shape of the McCloud remedy.

To avoid the need to make further interim regulations, the regulations propose that the existing rates will continue to apply with no specific expiry date. This is a pragmatic measure reflecting the fact that the timeline for resolving the issues arising from the McCloud case is uncertain. Once this work is complete, and the outcome of the cost control element of the valuation is known, the Government will reconsider whether further changes to member contribution rates for these schemes are required.

No changes were made to the earning thresholds for member contribution rates as part of the measures put in place for 2019-20. However, the Government are mindful that it would not be desirable for the earning thresholds to fall significantly out of step with salary or fee rates. That is why the regulations provide that all earning thresholds below the top £150,001 threshold are uprated each year in line with CPI. This approach is consistent with various other aspects of public service pensions. In recent years, increases to public service pensions in payment have been in line with the September-to-September increase in CPI. CPI is already used to annually uprate the earning thresholds in other public service pension schemes, such as the Local Government Pension Scheme and the Teachers' Pension Scheme.

The £150,001 band will not be increased. In the 2015 scheme, the rates have been designed to align with the top rate of income tax such that the net-of-tax contribution rates are broadly the same above and below the £150,001 threshold. In the case of the fee-paid 2017 scheme, the total contribution rates are broadly the same, when the member and dependant contribution rates are taken together. Additionally, the Government consider it desirable to maintain broad parity between the Judicial Pensions and Retirement Act 1993 and the two sets of judicial pension regulations being amended, as the £150,001 threshold is common across all judicial schemes.

As the regulations provide that the lower earning thresholds will be uprated each year automatically, similar provisions will not be needed next year. However, the Government will revisit the question of appropriate levels of contribution rates and thresholds once wider pension issues have been resolved.

The relevant legislation—Section 22 of the Public Service Pensions Act 2013—requires the Government to fulfil a number of procedural requirements before making changes to features of the scheme under the 2015 regulations which are classed as protected elements. Member contribution rates are one such protected element, and as such cannot be altered without the Government first consulting the persons or representatives of those persons affected with a view to reaching agreement. I can confirm that the Ministry of Justice issued a four-week consultation, which ran from 25 October to 22 November 2019. The Ministry of Justice consulted representative judicial organisations with a view to reaching agreement. An additional statutory requirement for changes to protected elements is that an accompanying report must be laid before Parliament setting out the rationale for the amendment. I can confirm that such a report has been laid. Separately, the Government also satisfied the requirement to consult

[Lord Parkinson of Whitley Bay]
the Secretary of State for Scotland in relation to judicial offices with Scottish jurisdiction, and he was content with the proposal.

Under this further interim measure, the cost of accruing pension scheme benefits will remain the same for most members but will be reduced for some members, as they will pay contributions at a lower rate than they would have done if no changes were made to the earning thresholds.

I conclude by reinforcing the point that the existing arrangements for member contribution rates will expire on 31 March 2020, in relation to both the 2015 and the 2017 judicial pension schemes. Therefore, these draft regulations are a necessary further interim measure to continue the effective operation of these pension schemes, until a long-term solution is put in place. I hope that noble Lords will agree that these regulations are a necessary interim measure to continue the arrangements for member contribution rates and for the effective operation of the judicial pension scheme. I beg to move.

Lord Clement-Jones (LD): My Lords, I thank the noble Lord for his comprehensive introduction. We are all understudies now—I had a crash course on judicial pensions over the weekend. Learning up on O'Brien, McCloud and Miller has not been a happy experience for me or, I suspect, for the Ministry of Justice over a period of years. Being very familiar with higher education pensions, I understand that there are a lot of bear traps in the whole area of pensions and that people feel very strongly about them because they secure their future.

I do not need to pick over the individual details of the instrument—these regulations are very clear and they do the right thing—but this is an opportunity to kick the tyres slightly on the matter of policy. Following the Miller case, the Ministry of Justice is clearly going to have to set aside a certain sum to make sure that the pensions are funded and are non-discriminatory. There have been a lot of estimates, ranging from £300 million to £1 billion, and it would be useful to know whether the noble Lord is possessed of any idea of how much this is going to cost as a consequence of that case.

My second question is about the policy on judicial diversity. The Miller case was all about discrimination, but we are trying to create greater judicial diversity and that goes to the key issue of how pensions operate so that they do not discriminate against people who are part-time or those who enter the scheme late and so on. The July 2019 figures show that just 7% of court judges are BAME and 32% are women. Is it not time that we set clear targets for better gender balance and BAME balance and gave those targets real teeth?

Lord McNicol of West Kilbride (Lab): I echo the thanks to the Minister for his detailed explanation, and I support and share the comments of the noble Lord, Lord Clement-Jones. We understand the need for these regulations to be passed and we will not oppose them.

The noble Lord, Lord Clement-Jones, touched on the Miller case; I am going to consider the McCloud judgment. Can the Minister confirm when the McCloud judgment will be implemented? We understand that it is a complicated matter, but the court passed the judgment years ago and the Ministry needs to work to resolve this long-standing issue.

In the judgment, the judiciary were able to hold that the particular legislation was unlawful because the tribunal found that the provisions were discriminatory on the grounds that younger judges are more often women and members of the BAME community. Although those groups are still underrepresented, it did reflect more heavily on them.

The Government need to address this issue because we have a significant shortage of judges, and especially High Court judges. A number of senior lawyers and members of the judiciary are not applying for those High Court judge jobs, and part of that is because of the changes to the pensions regulations. We are seeing more of an effect there than on other judicial positions. One of the reasons holding people back from applying is that, until there is full clarity, they do not know what the full implications on their pensions will be. I am looking for a little clarity on that.

The Minister also mentioned the consultation. From the Explanatory Memorandum, I was not clear how many individuals or organisations had responded to that consultation. Again, a bit of detail on that would be appreciated.

Lord Parkinson of Whitley Bay I thank both noble Lords for their contributions to this debate and their support for the regulations. There are a number of complex and interwoven cases to look through. It might be more helpful if I write to the noble Lord about the Miller case, rather than pontificate on it.

The noble Lord, Lord Clement-Jones, asked important questions about judicial diversity, which the Government are very keen to encourage. The Ministry of Justice is working very closely with the Lord Chief Justice, the chairman of the Judicial Appointments Commission and other members of the Judicial Diversity Forum to consider all the practical actions that we can take to have a positive impact on judicial diversity. In the five years from 2014 to 2019, there have been some small but important improvements. The number of women increased from 24% to 32% in the courts and from 43% to 46% in tribunals, as well as from 18% to 27% in the High Court and to 23% in the Court of Appeal. There has also been a small increase in the number of black and minority ethnic judges from 6% to 7% in the courts and from 9% to 11% in tribunals, although the proportion of BAME judges has fallen in the High Court. So that is some progress, but there is clearly still more to do.

The noble Lord, Lord Clement-Jones, also asked why we do not therefore introduce targets to accelerate the process. That is not something that the Government are considering. It is important for the quality, independence and impartiality of our judges that the Ministry of Justice always appoints, and is always seen to appoint, the most talented candidates on merit. While the Ministry of Justice can certainly do more to improve judicial diversity, we do not think that targets are the right approach. It is also important that we improve the diversity of those working across our

justice system, including the diversity of entrants into the legal profession in the first place and making sure that they have the support they need to progress through their careers.

The noble Lord, Lord McNicol, asked when the McCloud judgment might be remedied. The case is now with the employment tribunal to determine an appropriate remedy. The next hearings in the employment tribunal are on injury to feelings, scheduled for June this year, and then on financial losses, in October this year. Those hearings should settle the detail of how past discrimination will be rectified. MoJ officials are working hard on engaging with the employment tribunal on this process, but meanwhile, and more generally, the Treasury is developing a central remedy to address the discrimination for both claimants and non-claimants for the wider public service schemes, on which it aims to consult in the late spring of this year. The Ministry of Justice is aiming to mirror the Treasury timetable, with a consultation also planned for this spring.

The noble Lord, Lord McNicol, also asked who took part in the consultation. The Ministry of Justice received 10 responses to the consultation from representative judicial organisations and individual salaried and fee-paid court and tribunal judges.

Other than the point about the Miller case, I think I have addressed all the issues that were raised by noble Lords, but if not I am very happy to write on those points as well. I hope that noble Lords will agree that these regulations are a necessary interim measure to prevent a lapse in arrangements for member contribution rates and to ensure the continuing effective operation of the judicial pension scheme. I therefore commend this draft to the Committee.

Motion agreed.

Justices of the Peace and Authorised Court and Tribunal Staff (Costs) Regulations 2020

Considered in Grand Committee

4.04 pm

Moved by ***Lord Parkinson of Whitley Bay***

That the Grand Committee do consider the Justices of the Peace and Authorised Court and Tribunal Staff (Costs) Regulations 2020.

Lord Parkinson of Whitley Bay (Con): My Lords, these regulations form part of the Government's implementation of the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018. In accordance with the requirements of that Act, the Lord Chief Justice and Senior President of Tribunals have been consulted, and both have indicated approval of the regulations. The regulations have also been discussed and debated in the other place and passed.

The regulations are rather technical, but they have the important purpose of underpinning the protection which the Act gives to authorised court and tribunal officers, so that they can work effectively. That protection takes the form of indemnity against liability for actions carried out in good faith in the performance of judicial functions. These regulations ensure that, where legal proceedings are brought against an authorised officer in respect of any such action, there is a functioning and regulated procedure for costs to be paid to the litigant, without the individual authorised officer being liable to pay them.

I will briefly draw out the main points of the instrument. The Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 provides for staff in the courts and tribunals to be authorised by the Lord Chief Justice or the Senior President of Tribunals, or somebody nominated by them, to exercise judicial functions. The specific functions that these staff may exercise, and any qualifications they must have in order to be authorised to exercise them, will be set out in procedure rules. The Act also grants these officers protections akin to those that are currently in place for justices of the peace, justices' clerks and legal advisers, to ensure that they have the necessary independence to carry out these functions.

The Act protects the independence of authorised officers by indemnifying them against liability for anything that they do, or omit to do, when carrying out judicial functions in good faith. It also protects such officers from costs arising from any proceedings brought against them in respect of acts or omissions made in the course of exercising judicial functions in good faith. These protections mirror those which are currently afforded to justices of the peace—whose role and protections are unaffected by the Act except in a rather technical way which I will explain in due course—and to justices' clerks, whose office is abolished by the Act and replaced by the role of authorised officers.

If legal proceedings are brought against an authorised officer in respect of action taken by that officer in the exercise of judicial functions, and those proceedings are successful, costs may still need to be paid to the successful litigant. The 2018 Act provides that the Lord Chancellor, and not an individual authorised officer, would be ordered to make that payment. These regulations outline the procedure to be followed when an order for costs is sought, and the scope of such an order. They specify the circumstances in which a court may order the Lord Chancellor to pay costs in proceedings, when such an order can or cannot be made, and how the amount to be paid will be determined. The regulations maintain the protection that the Act gives to authorised officers from having to pay costs, while at the same time ensuring there is a mechanism by which the legal costs of a successful litigant may be paid.

There are long-established provisions in relation to costs in any court proceedings brought against justices' clerks and legal advisers, or against justices of the peace, which have been working effectively over the past 18 years.

The 2018 Act abolishes the offices of justices' clerk and justices' clerk's assistant and replaces them with provision for appropriately qualified court or tribunal staff to be authorised to perform certain judicial functions. Because the provisions now cover staff in tribunals, they also extend to staff authorised to exercise judicial functions in reserved tribunals in Northern Ireland and Scotland. The existing regulations, which apply to

[Lord Parkinson of Whitley Bay]
justices' clerks, therefore need to be replaced with regulations that instead cover all staff who may be authorised to exercise judicial functions.

The regulations therefore have three parts, with different extent. The first part extends to the whole United Kingdom, but is merely introductory. The second part, which extends to England and Wales only, makes provision covering costs in proceedings in relation to actions of justices of the peace and authorised court staff. The third part, which extends to the whole United Kingdom, makes provision covering costs in proceedings in relation to actions of authorised tribunal staff. The second part of the regulations is to all intents and purposes identical to the provision for justices of the peace and justices' clerks which it replaces. The third part of the regulations differs slightly, because it has to make different provision for the way that any costs paid by the Lord Chancellor are assessed for Northern Ireland and for Scotland, corresponding to the way costs—or, in Scotland, expenses—are assessed.

I said that I would briefly explain how the regulations apply to justices of the peace. Although the Act does not affect the role of justices of the peace, the way the powers to make regulations are structured means that the existing regulations cease to have effect. It is therefore necessary to re-enact the provisions of the existing regulations as they apply to justices of the peace, as well as making the new provision, mirroring the existing provision, for authorised court and tribunal staff. I reiterate that the new regulations largely maintain the status quo and simply extend to all authorised officers the same provisions that currently apply to just justices' clerks and assistant clerks and reproduce those provisions for justices of the peace.

These regulations will ensure consistency on how courts approach costs in these rare cases and guard against excessive, or indeed insufficient, orders being made in courts across England, Wales, Scotland and Northern Ireland. The regulations have no impact in terms of cost to the public sector because they substantially replicate what is provided for currently.

The purpose of these regulations is simply to provide certainty, to ensure there is a functioning and regulated procedure for the payment of costs to litigants in proceedings against authorised officers, and to provide clarity for the courts and tribunals on how costs should be managed in such cases. I commend this instrument to the House and beg to move.

Lord Clement-Jones (LD): My Lords, I thank the noble Lord for again introducing the SI so comprehensively. It just shows how remote lawyers in other fields sometimes are that I did not notice that the justices' clerk had been abolished; I confess that it was only when I read this SI that I realised that this very long-standing, almost Dickensian pedigree was no longer with us.

Obviously it is extremely desirable that authorised courts or tribunal staff are supported in this way. My only question is about the use of the word "mirroring", a word that occurs all the way through the Explanatory Notes. Does that mean effectively that the right to costs is identical between the previous justices' clerks and the current appropriately qualified court or tribunal staff who are authorised to perform certain judicial functions, or has some difference crept in that is either more or less generous?

Lord McNicol of West Kilbride (Lab): I echo the thanks of the noble Lord, Lord Clement-Jones, to the Minister for his detailed introduction. As he said, these are technical rules. I congratulate the noble Lord, Lord Clement Jones, because in reading through the SI over the weekend I was struggling to find a question within it. I welcome the intent to indemnify the authorised officers against any actions that they carry out in good faith.

I have a question about numbers. I noticed that the impact assessment said there was no change from the previous impact assessment carried out in 2018. Does the Minister know how many individuals had to be indemnified and had cases brought against them? Again, if he does not have that information to hand, I am more than happy for him to drop me a note.

Lord Parkinson of Whitley Bay: In the interests of speed and accuracy, it might be more helpful if I write to the noble Lords to provide that information. The noble Lord, Lord Clement Jones, is right that this is a moment for us to pay tribute to the soon-to-disappear office of justices' clerk, though their work will continue in this new form and broadly contribute to the efficiency of our courts and tribunals.

The noble Lord, Lord Clement-Jones, asked about "mirroring". I confirm that the content of the new regulation is identical; it is mirrored exactly.

I said in my opening comments that the regulations will do what we consider they must to implement the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018. They supplement the protections that authorised officers need and ensure that there is a functioning and regulated procedure for any payment of costs to litigants in proceedings against such officers. I hope I have been clear that the Government have done what we can in these regulations to retain clarity by replicating the protections currently afforded to justices' clerks to ensure that we cause minimum disruption to courts' business in maintaining the status quo by mirroring what are already well-established procedures.

The Government's aim is to set out how costs should be treated in any proceedings that may be brought against authorised staff in future. I believe these regulations provide clarity, certainty and consistency for courts managing payments of these costs in future, so I commend this instrument to the House.

Motion agreed.

Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2020

Considered in Grand Committee

4.15 pm

Moved by ***The Earl of Courtown***

That the Grand Committee do consider the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2020.

The Earl of Courtown (Con): My Lords, I am pleased to introduce this instrument, which was laid before the House on 2 March 2020. Subject to approval, the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2020 reflects the conclusions of this year's annual review of the automatic enrolment earnings thresholds required by the Pensions Act 2008. The review considered the earnings trigger and the qualifying earnings band for the tax year 2020-2021.

The earnings trigger determines the point at which a qualifying worker becomes eligible to be automatically enrolled into a qualifying workplace pension. The qualifying earnings band determines the earnings upon which workers and employers pay contributions into a workplace pension. This order sets a new lower limit for the qualifying earnings band and is effective from 6 April 2020.

The earnings trigger is not changed within this order and remains at the level set in the automatic enrolment threshold review order of 2014-15, so no further provision is required. Similarly, the upper earnings limit is not changed within the order and remains at the level set in the automatic enrolment threshold review order of 2019-20, so no further provision is required. I am satisfied that the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2020 is compatible with the European Convention on Human Rights.

Today's debate relates to a technical element of the automatic enrolment framework, which as a legal necessity we need to have in place for 6 April 2020. However, we are all too aware of the wider environment at this time impacting on automatic enrolment. There may be questions and concerns about the current and future position of automatic enrolment and pensions saving more generally, but noble Lords will understand that there is little I can tell them at this point on some of these matters.

As noble Lords will know, my right honourable friends the Prime Minister and the Chancellor have made it clear that the Government will do whatever it takes to support people affected by Covid-19. We have been clear in our intention that no one should be penalised for doing the right thing. These are rapidly developing circumstances; we continue to keep the situation under review and will keep Parliament updated accordingly.

In terms of the substance of this order, as signalled by the Minister's Written Statement of 13 February 2020, this order will, as previously, align the lower and upper limits of the qualifying earnings band with the national insurance lower and upper earnings limits for the 2020-2021 tax year. The lower and upper limits are £6,240 and £50,000 respectively.

By continuing to align the qualifying earnings band limits with the national insurance thresholds, the changes relating to payroll systems are kept to a minimum. The purpose of this framework is to balance the need to encourage individuals to take personal responsibility for pensions saving with a sustainable compulsory minimum contribution level for all employers, mindful of the economic environment within which these changes are taking place. Setting the thresholds at these levels will also ensure that contribution levels continue to be meaningful for savers.

The order does not change the earnings trigger, which remains at £10,000 this year, in order to strike a balance between bringing in those for whom it makes economic sense to be saving into a pension with affordability for employers on the one hand and workers on the other. Individuals earning below the £10,000 earnings trigger but above the lower earnings threshold will still have the option to opt into a workplace pension and benefit from employer contributions, should they wish. Those earning below the lower earnings limit also have the option of being enrolled by their employers in a pension scheme.

The decisions to maintain the earnings trigger at £10,000 and maintain the alignment of the qualifying earnings band with those for national insurance contributions maintain simplicity and consistency. I commend this instrument to the Committee and beg to move.

Lord Clement-Jones (LD): My Lords, I have always admired the versatility of the Deputy Chief Whip, and today is no exception. I thank him for his introduction. This is a rather important statutory instrument and there are a number of policy issues surrounding it. My heart sank when the Minister said that there is little he will be able tell us, I assume partly because he has no support from officials. I would be very happy for him to write in due course. The other thing he said that made my heart sink was that this is all about technical elements, which, as an understudy, I am not in a position to contest with him in any event.

The real essence of this is what the ABI has raised, because all of us support the scheme but want to see it go further. Both the ABI and the Women's Budget Group said that we should look at the Wealth in Great Britain 2019 figures produced by the ONS, which show that among 65 to 70 year-olds, median private pension wealth is £164,700 for men and £17,300 for women. That is just over 10% of the private pension wealth of men. There is a considerable imbalance, to which I will return.

The success of auto-enrolment is clear, as the ABI points out, and the number of participating employees continues to increase. However, according to the ABI, if the lower age limit were reduced to 18 and the lower earnings limit removed, people could save another £2.6 billion annually. The change would demonstrate the importance of starting a savings habit early, given the powerful impact that early career contributions can have on the size of retirement savings. It points out that the Government committed to implementing these recommendations by the mid-2020s in the 2017 automatic enrolment review.

Furthermore, extending the coverage of auto-enrolment by reducing the earnings threshold to the NI primary would bring 480,000 people, mostly women, into pension saving, helping improve the gender pensions gap. As I have explained, the ONS figures on that gap are pretty dramatic. All else being equal, this deficit is set to continue, closing by only 3% by 2060. The suggestion of bringing forward that undertaking in the automatic

[Lord Clement-Jones]
enrolment review seems entirely apposite. I very much hope that the Minister will be able to give that commitment in the letter I know he will have to write after this debate.

Lord McNicol of West Kilbride (Lab): My Lords, I thank the Minister for his introduction and echo the comments of the noble Lord, Lord Clement-Jones. Again, I will raise a number of issues so if the Minister would like to write a letter following this debate I would be more than happy to receive one.

The success of auto-enrolment is testament to the previous Labour Government, with tens of millions of workers saving for a pension under the scheme. In a recent report, the Pensions Regulator found that the overall proportion of eligible staff saving into a workplace pension was 87% in 2018. This has massively increased over recent years and decades. It also found that the largest increase in participation was from the youngest age groups. In the private sector, the largest increase was seen among 22 to 29 year-olds, increasing from 24% in 2012 to 84% in 2018.

We welcome the Government's continued commitment to auto-enrolment but acknowledge that it is not perfect. Average contributions remain too low and, as the noble Lord, Lord Clement-Jones, said, the threshold too high. Department for Work and Pensions statistics show that, as a result of pensions inequality, 37% of female workers and 28% of black and minority ethnic workers are still not eligible for the scheme.

The exclusion of the self-employed from auto-enrolment also needs to be addressed. Some 15% of the workforce is now self-employed, but the numbers of such workers saving into a personal pension fell by a third between 2014 and 2018. With the current coronavirus crisis, the pressure on the self-employed will only increase, as we are seeing. I know that discussions are taking place around a number of possible changes to the Bill in the other place to try to protect the self-employed.

Today's statutory instrument keeps the current earnings trigger of £10,000, and that is to remain into 2020-21. However, The People's Pension found that, by reducing the trigger to £6,240, an additional 1.2 million people would be helped to save for their retirement. Why have the Government decided to keep the trigger at £10,000, given that it excludes some of the most vulnerable from saving into a pension scheme? The Explanatory Memorandum states:

"The Secretary of State decided not to consult on the amounts of the qualifying earnings band and earnings trigger for 2020/21".

I understand that the Minister will need to write to me, but I ask: why not? Did the Secretary of State not want to take on board the concerns that the unions and others involved in this area were raising?

The Government have said that they will address issues with auto-enrolment, as the noble Lord, Lord Clement-Jones, said, by the mid-2020s, once it has bedded down. We would prefer that to be brought forward, especially given the many issues that will arise out of the current crisis. We see no reason for delay.

It is impossible to ignore the current national crisis of coronavirus. Are the Government looking into support for people who will be affected by a drop in their income over the coming months and years? That drop in income will have an effect on their pension. Are the Government also looking to develop long-term support for the defined benefit schemes, which will be massively affected by the market turmoil?

The Earl of Courtown: My Lords, I thank both noble Lords for their contributions. I will cover as many of the points raised as possible and will of course provide both with more detail in writing.

The noble Lords, Lord Clement-Jones and Lord McNicol, talked about the impact of automatic enrolment on young people. Automatic enrolment has been a quiet revolution, getting employees into the habit of pensions saving. It has reversed the previous decline in workplace pension participation that we saw in the decade before the reforms. As the noble Lord, Lord McNicol, said, since 2012, the workplace pension participation rates for eligible employees in the private sector aged 22 to 29 has increased from 24% to 84% in 2018.

Both noble Lords concentrated their remarks on the effect on women. Automatic enrolment has helped millions more women save into a pension, many for the first time. Workplace pension participation among eligible women working in the private sector rose from 40% in 2012 to 85% in 2018. Women are more likely to face financial instability later in life as a result of their experiences in the labour market. That is why this Government are committed to tackling the structural inequalities in the labour market that lead to the private pensions gap.

4.30 pm

The noble Lord, Lord McNicol, asked why we have set the earnings trigger at £10,000. Our aim is that automatic enrolment should be of benefit to those who are put into pensions saving. The trigger is currently set at £10,000 to ensure consistency and stability for employers and individuals. For anything more on that issue, I will write to the noble Lord.

Both noble Lords rightly drew attention to the situation relating to automatic enrolment and Covid-19, asking about the impact on employers, individuals and the economy. As my right honourable friends the Prime Minister and the Chancellor have made clear, the Government will do whatever it takes to support people affected by Covid-19. We have been clear in our intention that no one should be penalised for doing the right thing. These are rapidly developing circumstances and we continue to keep the situation under review. We will keep Parliament updated accordingly. We welcome the statement released by the Pensions Regulator on Friday, explaining its approach to employers' compliance with their pensions duty in the light of Covid-19. The regulator said that it would take a proportionate, risk-based approach towards enforcement decisions in the light of these challenging times and with the aim of helping to get employers back on track, supporting both employers and savers.

With the leave of the Committee, I will make a few more points that have been made available to me. On imbalance, a full analysis of the review was published on 27 February, covering the detail of impacts. I will

write to noble Lords with further details on that. Our ambition remains the same in relation to the 2017 review, but there is a need to reflect economic circumstances. Auto-enrolment has been a huge success and it is important that we build on it. It is also important that we have consensus to do so, so we welcome the support of both noble Lords today. The noble Lord, Lord Clement-Jones, mentioned the thresholds. We keep the thresholds under review annually, including the impacts on women and minority groups. The details are in the published analysis, with which we can provide the noble Lord.

To confirm, this order increases the automatic enrolment lower qualifying earnings limit to £6,240 and freezes the upper qualifying earnings limit at £50,000, thereby ensuring that the automatic enrolment qualifying earnings band remains aligned with the earnings limits for national insurance contributions. As I said, the earnings trigger will also remain at the existing level of £10,000. That all results in an estimated overall increase in total pensions savings year on year. I commend the order to the Committee.

Motion agreed.

Local Elections (Northern Ireland) (Amendment) Order 2020

Considered in Grand Committee

4.34 pm

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

That the Grand Committee do consider the Local Elections (Northern Ireland) (Amendment) Order 2020.

Viscount Younger of Leckie (Con): My Lords, this statutory instrument would amend the existing legislative framework for local elections in Northern Ireland so that it will no longer be a requirement that a candidate's home address must be disclosed and published during the election process.

It used to be an accepted part of local elections that candidates standing for election would disclose their home address and that that address would be printed on the ballot paper. The provision was designed to demonstrate the local connection of the candidate. This local connection is undeniably an important aspect of our local government system. However, times change. It is sadly the case that intimidation and threats are now a part of many elected representatives' lives. The death of Jo Cox MP stands as a particularly stark reminder of that fact. We fully accept that it is no longer proportionate to require candidates to make public their home addresses in order to stand for public office.

There is no requirement to disclose home addresses publicly at parliamentary or Assembly elections in Northern Ireland. This draft order will provide consistency across all electoral events in Northern Ireland and most other elections across the UK, by removing this requirement for Northern Ireland local elections. The order brings local elections into line with other elections in Northern Ireland by removing the requirement for all candidates' home addresses to be included on nomination papers and consent to nomination forms and then printed on the ballot paper. Candidates will instead be able to choose whether they wish their home address to be included on these public documents.

Nevertheless, when voting for candidates in local elections, electors have a right to know that each candidate has a tie to the local area. To balance that right with the aim to provide protection for candidates, this draft order will ensure that candidates will be required to provide their home address on a separate form. This home address form, which will not be made public, will be used by the Chief Electoral Officer to confirm that a candidate has a local tie.

It is worth noting that these provisions do not alter the requirements for a local connection. As has always been the case, anyone wanting to stand as a councillor in Northern Ireland must be on the electoral register for that council area, or, broadly speaking, have owned or rented land, or have lived in or worked in the area, for the preceding year. If a candidate indicates on the home address form that they do not wish the address to become public, it will not appear on any public documents, which include the statement of persons nominated and the ballot paper. In such cases, the area that the candidate's address is in—instead of the candidate's home address—will appear. I am pleased to be bringing this order forward. It is important that as many barriers as possible are removed from stopping individuals engaging in the public and democratic life of our country.

In addition to removing home addresses from ballot papers, the order makes provision to remove the current legislative requirement that candidates' surnames are printed all in capital letters on ballot papers. This will ensure that a candidate's name can appear on the ballot paper as the candidate would normally spell it. For example, where a capital letter is not usually at the beginning of the name, as is sometimes the case with Irish names, that can be accurately reflected on the ballot paper.

Finally, the order will remove the requirement that local councils are described as "district councils" on the ballot paper. The order will provide instead that a council can print its official name and describe itself as, for example, a "borough" or "city" council as appropriate.

This draft order is not controversial but nevertheless it is important. It is about helping to ensure that as many people as possible feel able to be part of the democratic process without feeling intimidated. It is about letting people standing as candidates have their name spelled as they would usually spell it, and about allowing councils to describe themselves on ballot papers by the name that they are commonly known by. I hope your Lordships will agree that, while technical, these are important provisions, and noble Lords will support this order. I commend it to the House, and I beg to move.

Lord Rennard (LD): My Lords, this is the sort of order that I am sure will not attract any controversy. The provisions on how surnames appear on ballot papers are a simple matter of equal recognition for different traditions, and of fairness.

[Lord Rennard]

On the issue of the non-appearance of a home address on ballot papers, I do not think we can let the measure pass without at least expressing some regret, engaged as we are in the political process, that it has become necessary to remove candidates' home addresses from ballot papers. For the reasons that the Minister gave, it is now sadly necessary to do that.

For those of us who have been involved in elections over many decades, as some of us clearly have, elections have sometimes revolved largely around the issue of the locality of one candidate versus the lack of locality of another. In my early years in Liverpool elections, the by-election was based largely on the fact that our candidate happened to live in the ward in Liverpool where the election was taking place, while the Labour Party candidate happened to live in Southport. No other issue seemed to be important. It is important that there is still some recognition of how local or otherwise a candidate is. Therefore, I have only one question for the Minister. Could he explain what is meant by "area" in the order? Clearly, something less specific than the road on which the candidate lives, but more specific than "Northern Ireland", is appropriate. What sort of criteria will be applied in describing the area in which a candidate is based?

Lord Collins of Highbury (Lab): My Lords, I thank the Minister for introducing the order. I agree with him that this is not a controversial issue; I think we can all agree on that. Some of the comments about Liverpool might have prompted me to jump in and be perhaps a little more partisan than I should be, but I will resist the opportunity.

I do not normally cover these issues; I am standing in for my noble friend Lord Kennedy. He and I have worked together on elections over many years. Certainly, when I was general secretary, he was a senior officer supporting me on compliance and some of the legal issues.

One thing that struck me when reading the Explanatory Memorandum was that, as the Minister said, bearing in mind the circumstances in Northern Ireland, removing the requirement to disclose a candidate's address is not a controversial step. In fact, there is a growing threat to elected representatives, not just in Northern Ireland but everywhere in the UK. Paragraph 7.4 of the Explanatory Memorandum refers to the 2017 report from the Committee on Standards in Public Life which recommended the change. From 2017 to 2020 seems an extremely long time for us to get our act together to address this, particularly as Northern Ireland has been a sensitive area in which security has been a fundamental issue. I can understand that, in the context of Brexit, there may have been other things to deal with, but surely that does not explain the amount of time this has taken. I hope the Minister can reassure us on that.

I totally agree with the measures regarding the use of capital letters and ensuring that everyone can meet the requirements of their own name and language; it a sensible move. However, it would be helpful to understand exactly how many people the Government think will be affected by this change, bearing in mind that the purpose of the original legislation was to ensure that everyone's name appears in exactly the same format, so that there was no discriminatory impact in the way a name was presented.

The other thing that was mentioned is the question of district, borough and city councils. Again, the Explanatory Memorandum did not quite address this. How many councils are affected by this? It is non-controversial but, again, bearing in mind that the changes to the names of local authorities have been around for some time, it seems that it has taken a long time to address this issue.

I echo some of the comments that have already been made, but that is all I have to say at this moment.

4.45 pm

Viscount Younger of Leckie: My Lords, I thank both noble Lords for their comments. I note the points the noble Lord, Lord Rennard, made about home addresses on ballot papers. He made an important point about the argument that tends to run—this is a cross-party issue—as to whether a candidate is local, how that should be defined and how, when people are elected, they suddenly either have always lived in a particular area or make sure they are doing so right now by suddenly buying or renting. It is an issue that covers all parties. It is a good thing that there is a continuing desire in Northern Ireland for people to know that candidates are local.

On that note, the noble Lord, Lord Rennard, asked about the definition of "area". Usually—I say "usually" because it is obviously not definitive—a district electoral area is a grouping of four to five wards. I am happy to write to the noble Lord with further detail if I can tie it down a bit more, but that is the answer I have so far.

The noble Lord, Lord Collins, asked a number of questions. I am delighted to see—I am not surprised, because I have seen it in the past—that the Opposition multitask as much as we do in the departments that we cover. It is very good to see him in his place covering very ably for the noble Lord, Lord Kennedy. The first point he made—a fair point—was on the amount of time this has taken. As he will know, electoral law in Northern Ireland is separate in a number of aspects from that in the rest of the United Kingdom, so it is unfortunate that this was not able to be put before the House earlier. I take note of the point he made.

He also spoke about capital letters. That is an interesting discussion that I have had with officials. We did not really talk about particular names. I was interested to know how many capital letters were involved. The first thing to say is that, being a Scot, I know how different names are spelled in different ways. The Macpherson clan are Macphersons with a small "p", but there are some MacPhersons with a big "P"—as the noble Earl, Lord Kinnoull, will know; I see him in his place. Translating that to Ireland, I am not quite so au fait with Irish names but, if you look at McIlroy and all these similar names, there is no question that there is quite rightly a desire that the names of candidates are spelled in the correct way, both for accuracy and for pride. The noble Lord, Lord Collins, asked how many people were affected by the change in the way the names were written. It is difficult to assess.

It depends on who chooses to stand—that is a fair point. As for council names, the 2019 election was the first time that new names were used, so it affects relatively few councils. I will write one letter to both noble Lords to tie up the ends on this matter.

With that, I hope I have endeavoured to answer the questions but also to have a slightly more rounded debate. I thank the Committee for its attention to this matter and beg to move.

Motion agreed.

Representation of the People (Electronic Communications and Amendment) (Northern Ireland) Regulations 2020

Considered in Grand Committee

4.49 pm

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

That the Grand Committee do consider the Representation of the People (Electronic Communications and Amendment) (Northern Ireland) Regulations 2020.

Viscount Younger of Leckie (Con): My Lords, I beg to move that the draft order laid before the House on 3 March now be considered. I am not a lawyer but reassure noble Lords that the terms "canvass" and "the canvass", used interchangeably in my remarks, have the same meaning.

This statutory instrument would amend the existing legislative framework for canvass in Northern Ireland to allow electors to respond to the canvass digitally. In practice, this will be achieved using the same digital system and application already in place for voter registration. Registration applications and canvass returns require substantially the same information. However, because online registration is a relatively new development in Northern Ireland, our existing canvass regulations do not allow the use of electronic returns.

It is worth noting that online registration has proved hugely successful and popular in Northern Ireland. The option to register online was extended to Northern Ireland in 2018 and since then, approximately, more than 80% of people registering have chosen to register using the digital service. This compares very favourably with the United Kingdom, where the most recent figures were that around 75% of applicants were using the online service. However, I stress that nothing in this legislation will remove the paper-based canvass regime that we have always used. That system will remain for those who wish to use it. Nevertheless, the growing majority of people now expect to be able to interact with public services online. These regulations will facilitate this, using the highly successful online registration service as an alternative to posting a paper form.

Canvass in Northern Ireland is different from that in Great Britain, where the canvass is an annual event and with a much lighter touch. In Northern Ireland, canvass does not happen annually, so when a full canvass is conducted, it is not sufficient to note that your registration details have not changed. Responding to canvass requires each individual to complete a full registration application or canvass form.

The register for Northern Ireland currently stands at 1.3 million people and without these regulations, which allow people to use the online service to register, 1.3 million paper forms would need to be posted, with return-post envelopes. The Committee will respect that this is a huge undertaking. Reducing the number of forms issued will save money, streamline the administrative process and save a good deal of wasted paper. Most importantly, these changes will make it easier for people to register as part of the canvass process, enabling them to fully engage with the democratic life of our country. I hope we can all agree that these changes, which will make it easier for people to register, allied to increased efficiency, will be very welcome.

In response to the developing Covid-19 situation, there are provisions in the coronavirus Bill now before the House that provide for the canvass that had been planned for this year to be postponed until 2021. This delay makes sense. In the current circumstances, it is far from clear whether canvass forms could be printed and delivered. In addition, it would be unreasonable—if not impossible—for the Chief Electoral Officer to recruit, train and employ the large number of processing staff required. This is not work that can be done remotely, so it would run directly counter to all the public health advice we have issued concerning social distancing.

The changes in these regulations will, if the clauses in the coronavirus Bill pass, apply to the 2021 canvass. That does not mean that the Northern Ireland register will fall into disrepair. In Northern Ireland, we hold a canvass periodically—at least every 10 years—and the last canvass was in 2013. Very importantly, in between canvasses the register is maintained by a process of continuous registration and active data-matching. Despite not having a canvass, in 2019 alone, the Electoral Office of Northern Ireland made 250,000 modifications to the Northern Ireland register, as a result of their usual continuous verification of it. This process will ensure the register is fit for purpose until the 2021 canvass.

These draft regulations make provision for a slight amendment to the stages to be undertaken by the Chief Electoral Officer as part of the next canvass. Under current provision, the Chief Electoral Officer issues paper copies of the prescribed canvass form to all individuals on the register, to make people aware of the canvass process and the need to register. Under these new provisions, a new first step will apply to the canvass process. No earlier than 1 July in a canvass year, the CEO will send a leaflet to all homes explaining canvass and asking people to register online. It will explain that forms will be posted shortly for those who want to apply on paper. In this way, we hope to encourage a good deal of the public to register online.

Following that first leaflet, the usual chasing cycle of canvass will proceed in the usual way. Addressed forms will be sent to every individual who has not already responded. Chasing letters will be issued and finally canvassers will be sent door-to-door to non-responders. I should also say that current legislation

[Viscount Younger of Leckie]
allows the CEO to retain on the register for up to three years individuals who fail to respond to canvass, where she is content that data-matching shows that their details have not changed. This provision was originally for a two-year retention after the 2013 canvass, but was extended to three years to cover the Assembly election in 2016. These regulations move the retention period back to the original period of two years.

In addition, these regulations also make a number of more minor technical amendments in relation to canvass. In Northern Ireland, every individual successfully registering online is issued with a digital registration number. That number acts in place of a signature for digital registrants to ensure that postal vote applications can continue to be scrutinised appropriately. These regulations ensure that this important number is issued, or reissued as appropriate, to people registering for the purpose of canvass. The regulations also make provision in relation to the retention of data, providing that the CEO can continue to retain that information until it is no longer required for, or in connection with, the exercise of electoral functions.

Finally, the regulations make a small technical amendment in relation to recall provisions. During the recall petition held in Northern Ireland in 2018, it became clear that there was an inconsistency in provisions concerning the marked register and how it could be accessed. These draft provisions enable the chief electoral officer to allow access to the marked register, a provision that mirrors the position for parliamentary elections.

Registration and canvass are a critical part of our democratic system, and I am happy to tell the Committee that the implementation of digital registration for canvass is fully supported and welcomed by the Electoral Commission and Chief Electoral Officer for Northern Ireland. Importantly, these changes will make canvass more efficient and will allow the chief electoral officer and her staff more time to focus on encouraging under-registered groups to engage with canvass. I should also say that the regulations have been approved by the Information Commissioner's Office.

Allowing people to register online for canvass will make it easier for people to engage with the process as well as saving time and money and, as I said earlier, reducing paper waste. I hope that your Lordships will agree that the introduction of digital electoral registration for canvass is another step towards modernising the delivery of elections in Northern Ireland. I hope the Committee will support these regulations today. I commend them to the Committee and beg to move.

Lord Rennard (LD): My Lords, I thank the Minister and all those involved for a very thorough and helpful briefing about these regulations, which I think should not attract any great controversy. It has often been said in the Chamber by the noble Lord, Lord Young of Cookham, that we run our elections in an analogue fashion in a digital era, so these regulations are catching up. The changes being made are environmentally friendly, a sensible modernisation and a more efficient and cheaper way of conducting the democratic processes, but I have a number of questions for the Minister.

First, if we are running something that is cheaper and more efficient and that saves resources, will at least some of those resources in Northern Ireland be engaged in a process of encouraging registration, particularly among the groups which tend to be under-registered? It seems to me that where you make a saving in the registration process, you should invest at least some of it—I suggest a high proportion of it—in trying to make sure that everybody who should legally be on the register is included on the register.

Secondly, digital registration numbers are new to our electoral registration system but I assume that, as they are in the regulations, the Government have no fundamental objection to the principle of digital registration numbers. I would be grateful for confirmation of that, because extending the principle of having digital registration numbers could benefit the system very greatly in a number of ways.

First, when people are not sure whether they are on the electoral registration system, they often apply again, wasting the time of electoral registration officers. They are unsure whether to spend time filling in the form online again. If they had a digital registration number, it would be much easier for them to check online whether they are already registered. It would save them and office staff time in completing the registration process.

Secondly, a digital registration number would be helpful in checking whether there is a problem or an offence in double voting inappropriately in the same election. Many people in this country, quite legitimately, are on the electoral register in two different places. They can vote in different council elections, but should vote once only in a parliamentary election. It is potentially too easy for someone to vote in two places in a general election. Allegations fly around about whether perhaps student or second-home owners are doing this. If there were a national digital registration number, it would be possible for bodies such as the Electoral Commission to check whether double voting were taking place. At the moment, there are just manual systems in which 400 local authorities all maintain their own marked registers. It is not practical to do that, so there would be advantages to rolling out this system.

Thirdly, I ask whether it will be made clear to people, within the digital information sent out, that there is a legal requirement to comply with the registration process. This is probably more important in Great Britain than in Northern Ireland but, since Parliament has continued to approve the principle that it should be a legal requirement to comply with the registration process, subject to fine, if we want high rates of registration, we must make this plain in all documentation, paper or electronic.

Finally, I have another technical question on the recall legislation. In many ways, the recall legislation, passed wholly in 2015, seems flawed. What happened in Northern Ireland in 2018 highlighted some of those flaws. If the chief electoral officer will have access to the marked register in future, will that be in real time during the six-week process? One of the issues of controversy is that people will not know how many signatures have been collected during those six weeks. There have been three recall petitions since that legislation was approved. In two cases, well over 10% of the

electorate signed, triggering a recall. But in one case, that in Northern Ireland, the number was just under 10%. I have the strong belief that, if people had known that there were just a few hundred signatures below the 10% level, more people would have signed that recall petition. Will the chief electoral officer have the power to, at some point—perhaps weekly intervals—disclose how many people have signed the recall petition? I would be grateful for the Minister's help with those issues.

Lord Collins of Highbury (Lab): I too thank the Minister for introducing these regulations so ably. I completely agree with the many comments made by the noble Lord, Lord Rennard. On the point the Minister made about how these changes will enable us to focus on under-registered groups, I re-emphasise the point of the noble Lord: will that mean that the resources saved can be put into this vital task? The Minister suggests that this will enable greater time and focus, but will that be backed up by a transfer of resources, as the noble Lord suggested?

I have a couple of minor points. I do not want to be seen as pedantic—certainly not by the people behind the Minister—but the online statutory instrument tracker says that an instrument of the same name was tabled on 20 January, only to be withdrawn on 27 February. It appears to have been re-laid on 3 March. There is no mention of this in the Explanatory Memorandum.

I wonder what caused this. Was it an administrative change or a political one? I hope that the Minister can explain. I am a firm believer in the cock-up theory of history, and it may simply have been down to that. I noticed that, in the Explanatory Memorandum, the footer said it was drafted by the Department for Exiting the European Union. I assume that that is not the case and was just another little error.

Focusing on the point raised by the noble Lord, Lord Rennard, we are all in favour of making it easier and simpler for people to register. I hear what he said about the electoral officer retaining people on the register for three years and using data matching; that is really important. The noble Lord raised the ability of people simply to check whether they are registered online—that would certainly make life a lot easier. I hope that the Minister will be able to pick up that point.

Viscount Younger of Leckie: My Lords, I thank both noble Lords for their general support for this order. I will try to answer as many questions as I can, although I feel a letter coming their way. I acknowledge the experience of the noble Lord, Lord Rennard, in this area. All four of his questions are pretty technical; I have some answers, but the main ones will come in a letter.

The noble Lord also made an extremely good and interesting point about the fact that the process will be cheaper and more efficient, and that the efficiency costs could therefore be used to improve the process, including looking at underrepresentation. The noble Lord, Lord Collins, also picked up on that. I reassure both noble Lords that the CEO has new initiatives for underrepresented groups anyway and intends to focus on working with—to give a few examples—the Department for Education, care homes and the rental sector. I will take the points raised back to the department as interesting ideas.

As I mentioned, the tail end of the process is what I call the knock-up process. It is very important that people do register. If they have not registered online and the paper process also fails, the knock-up process is vital. It is important, legislatively, that people register. I will write to noble Lords to explain what the sanctions are. People should not get away with not registering.

The question of district registration numbers cropped up from both noble Lords. More work could—and, I am sure, will—be done to improve efficiency and to use the system more broadly and to better effect. I will find out whether the DRN can be used for individuals to go online and find out whether they are already registered, because time goes by and they may not remember.

Dealing with offences of double voting is an issue around the United Kingdom. I am sure this will be looked at but I will feed the comments to officials and see whether I can write with some more definitive views.

As I have said, it is a legal requirement to register and to comply, so the question of fines does crop up and I shall come back to that.

On recall, raised by the noble Lord, Lord Rennard, the legislation is clear that it is an offence to reveal the details of signature numbers and I am not aware of any proposal to change that. The noble Lord also raised a number of further points on recall relating in particular to the 2018 issue. Again, I will write with more detail on those.

Lord Rennard: I should like to come back to digital registration numbers. Would the noble Viscount be kind enough to formally approach the Electoral Commission to ask for its view, when it is able to look at the system of digital registration numbers in Northern Ireland. and to ask specifically what merit it might see in rolling out the system across the UK?

Viscount Younger of Leckie: I will certainly take that back. Again, some interesting ideas have come from the noble Lord and I think that that one should be fed in as well.

On the withdrawal of the instrument and the change to the Representation of the People Act 1983, this had been made by devolved Governments in Scotland and Wales, which made the original SI inoperable. I should apologise that the SI footer is an error. I believe that it was drafted by No. 10.

I would also like to correct an earlier slip. When I said in my opening remarks that 75% of applicants in the UK use the digital service, I meant GB, so the NI figure that I mentioned earlier was over 80%.

I believe that I have covered the questions raised, although I am aware that I have not necessarily answered them. I am pleased that these technical questions have arisen because that is the whole point of having these debates. It is therefore important that I give noble Lords full answers to their questions, which I will endeavour to do. In the meantime, I beg to move.

Motion agreed.

Committee adjourned at 5.12 pm

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