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PARLIAMENTARY DEBATES
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OFFICIAL REPORT

ORDER OF BUSINESS

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

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

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

House of Lords

Tuesday 19 May 2020

11 am

Prayers—read by the Lord Bishop of Portsmouth in a Virtual Proceeding via video call.

Arrangement of Business

Announcement

11.04 am

The announcement was made in a Virtual Proceeding via video call.

The Lord Speaker (Lord Fowler): My Lords, good morning. Virtual Proceedings of the House of Lords will now begin. I remind Members that these proceedings are subject to parliamentary privilege and are available to the public both in *Hansard* and to those listening and watching. Members' microphones will initially be set to mute, and the broadcasting team will unmute their microphones shortly before we reach their place in the speakers' list. When Members have finished speaking, their microphones will again be set to mute.

Proceedings on Oral Questions will now start. I ask everyone to keep questions and answers as brief as possible so that we can get as many Members on the list as possible to ask their questions.

Covid-19: Security Risks

Question

11.05 am

Asked by ***Lord Touhig***

To ask Her Majesty's Government what steps they are taking to coordinate the response to the COVID-19 pandemic with NATO to prevent any security risks.

The Question was considered in a Virtual Proceeding via video call.

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, we are working with NATO to help ensure that our adversaries cannot exploit the pandemic and threaten our security, including by tackling disinformation and ensuring NATO's continuing ability to deter and defend. Demonstrating that NATO can support its members in times of crisis is essential, and the UK has so far responded to nine requests from allies and partners through NATO's Euro-Atlantic Disaster Response Coordination Centre.

Lord Touhig (Lab): My Lords, while NATO has been a key resource, combating Covid-19 with over 100 missions delivering essential medical supplies, our Government seem to have been slow in putting the alliance at the heart of Britain's response. How many requests have we made for NATO help, and can the Minister tell us a little more about the work we are doing with NATO to ensure that our adversaries do not put our security at risk by spreading fake news about Covid-19?

Baroness Goldie: I reassure the noble Lord that the United Kingdom Government have been a core component of NATO, working closely with the organisation. We support efforts against disinformation, and we deploy our defence experts into NATO to support this central effort and put our expertise at its disposal.

Lord Balfe (Con): My Lords, the United States has not exactly distinguished itself by its international attitudes during this crisis, yet it is the leading player in NATO. I wonder if the Minister can tell us what part it has played in this response, and to what extent the Russians are using their tenuous position within the NATO structure to take part in NATO operations.

Baroness Goldie: I am unable to comment specifically on the role of the United States; I am here to answer questions on behalf of the United Kingdom Government. I reassure your Lordships that the United Kingdom Government have been engaged closely with NATO. I refer to some of the tasks that we have undertaken, and we are currently reviewing additional requests for support from the EADRCC for Albania, North Macedonia, and Bosnia and Herzegovina.

Lord Craig of Radley (CB): My Lords, NATO's Rapid Air Mobility initiative, RAM, was activated by the North Atlantic Council on 31 March to help the movement of supplies critical to combating Covid-19. Have many flights by RAF transport aircraft been made in support of RAM? Were last month's RAF A400M Atlas transportations of personal protective equipment from Turkey to the UK some of these RAM flights?

Baroness Goldie: We have not used the Rapid Air Mobility initiative at all, so the Turkish flight was not one of these flights. However, we have deployed our assets to respond to NATO requests.

Lord Robertson of Port Ellen (Lab): My Lords, over these last few weeks during this emergency, NATO has especially proved its worth. I put on record what I think is our collective gratitude to the UK delegation to NATO for its work, especially on social media, to make people aware of what NATO is doing at this point. However, is the Minister as shocked as I am by the recent public opinion survey by King's College London, which showed that among the over-60s in this country, only 41% said they had any knowledge about NATO, and that this drops to 25% in the under-35s? Surely the Government have a responsibility, indeed a duty, to let the British public know how valuable NATO is to their safety and security. Should they not do more in the information field?

Baroness Goldie: The noble Lord raises an interesting point. With the universal distraction of Covid-19, minds may very well be less focused on NATO and more focused on issues of health, well-being and personal safety. I shall certainly look at the survey, which sounds interesting, and we shall reflect on whether more activity could be engaged in highlighting and heightening NATO's profile.

Baroness Smith of Newnham (LD): My Lords, the global pandemic highlights the biological threats and the sense that the United Kingdom, NATO and our allies could be vulnerable to terrorism in the form of biosecurity threats. What work has the United Kingdom done with our NATO allies to look at biosecurity threats?

Baroness Goldie: I do not have specific information on that topic for the noble Baroness. As she is aware, general work is done with NATO across a range of sectors and activities, but I shall make further inquiries and undertake to write to her.

The Lord Bishop of Portsmouth: My Lords, one of the most significant threats to our security would be if our Armed Forces were unable to guarantee that security and to play their part in NATO. With the recent positive tests for Covid among some of the crew on HMS "Queen Elizabeth", is the Minister confident that any member of the Armed Forces who needs a test has ready access to one? How many have been tested, and how many of those tests have been positive?

Baroness Goldie: I reassure the right reverend Prelate that all defence personnel and their household members who are symptomatic are eligible for testing as part of the national testing programme. The safety of our personnel is paramount.

Lord Pickles (Con): My Lords, can we return to the question of fake news? Some of it is quite sophisticated and obviously malicious in intent. It gives false and misleading information about the medicine, and seeks to create scapegoats in our Muslim, Jewish and Chinese population. This is designed to undermine society from within. These various attempts have been well established since March of this year. What concrete things have the Government done to combat this?

Baroness Goldie: In relation to NATO in particular, we are a principal contributor of funding to support efforts against misinformation by using cyber intelligence to counter it. On the specific question of what the Government are doing, it crosses a range of activity beyond the MoD. My noble friend will be aware that there has been leadership from the Prime Minister downwards, seeking to call out disinformation and misinformation for what it is, and we all have a role to play in doing that.

Lord Alton of Liverpool (CB): My Lords, what consideration are the noble Baroness and NATO giving to a new report which reveals that members of the Five Eyes are strategically dependent on China for 831 separate categories of imports, of which 260 involve elements of critical national infrastructure?

Baroness Goldie: NATO and the member partners always have an interest in reliance on export and import sources. Obviously, it is for individual nation states to determine how and with whom they trade. We have to recognise that that is a necessary freedom in the free flow of trade internationally.

Lord Reid of Cardowan (Lab): My Lords, does the Minister not recognise that, despite their efforts, the Government's response to the pandemic has been marked by inadequacy in certain areas—in pre-planning, logistics, supplies, collective action and speed of reaction? Those are all central characteristics of NATO's strengths and expertise. Why, then, would the Government not make more use of NATO's expertise and assistance?

Baroness Goldie: I reassure the noble Lord that the response of the MoD to the Covid-19 challenge has been highly effective and very impressive, and there is widespread evidence of that not just across the United Kingdom but in relation to our international contribution. He will have seen from news footage in the UK exactly how much, how effectively and how positively the MoD contribution has been received.

Lord Campbell of Pittenweem (LD): Can the Minister confirm, contrary to recent reports, that the Government have no intention to reduce defence expenditure in real terms?

Baroness Goldie: The noble Lord will be aware of this Government's very creditable record in relation to defence expenditure. We saw an upping of £2.2 billion for 2019-20. We have committed to a 0.5% increase above inflation for the lifetime of the Parliament. The Government's commitment to and resolute support for defence are self-evident.

The Lord Speaker (Lord Fowler): The time allotted for this Question has now elapsed. My apologies to the noble Lord, Lord West of Spithead.

Air Quality and Emissions

Question

11.16 am

Asked by ***Lord Dubs***

To ask Her Majesty's Government what has been the improvement in air quality, emissions and other environmental indicators since the COVID-19 restrictions were introduced.

The Question was considered in a Virtual Proceeding via video call.

The Minister of State, Department for the Environment, Food and Rural Affairs, Foreign and Commonwealth Office and Department for International Development (Lord Goldsmith of Richmond Park) (Con): My Lords, nitrogen dioxide pollution at the roadside has almost halved during the lockdown period as a result of reduced emissions from traffic, with much smaller reductions observed for particulate matters in urban areas. Emissions of greenhouse gases and air pollutants from energy use and transport are likely to be much lower than in normal times, on account of reduced energy demand and much lower road traffic estimates.

Lord Dubs (Lab): My Lords, I am grateful to the Minister for that, and of course these are positive benefits to the environment. Does the Minister agree that as we move into economic recovery from the pandemic

we cannot go back to business as usual? Does he agree that we must seek to benefit from the gains to the environment, in particular with regards to air pollution and climate change, and that we should not support industries unless they make a commitment to meet the higher standards in respect of the environment? What is the Government's policy as we move forward?

Lord Goldsmith of Richmond Park: While the world is rightly focused on tackling the immediate threat of coronavirus, the global challenges of climate change and biodiversity loss, which in many respects overshadow and dwarf the threat of coronavirus, have not gone away. As we rebuild our economy in response to the pandemic and make decisions about reconstruction, it is vital that we make decisions which provide long-term resilience and sustainability, and that we avoid decisions that will end up imposing big costs on future generations.

The Government are absolutely committed to being world leaders in tackling the environmental crisis we face. We are going to continue our ambitious legislative agenda through our landmark Environment Bill, Fisheries Bill and Agriculture Bill, all of which combined will help us deliver on our 25-year environmental plan. The noble Lord will have heard remarks and commitments by the Secretary of State for Transport just a couple of days ago, in which he announced a record level of funding for active travel—alternatives to car use and even public transport use.

The Lord Speaker (Lord Fowler): As short as possible, please.

Baroness Falkner of Margravine (Non-Afl): My Lords, given the Minister's interest in Heathrow, does he agree that the aviation sector has contributed more than 26% to greenhouse gas emissions in the last five years? Yet Heathrow is going ahead with an appeal to the Supreme Court for its third runway. Does he accept that this highly polluting business model is now defunct, and can he tell us what the Government's position is on that Supreme Court appeal?

Lord Goldsmith of Richmond Park: The aviation sector has taken a pounding, not surprisingly, as a consequence of the coronavirus and travel bans around the world. It is not clear to anyone yet what the sector will look like as it emerges.

In relation to Heathrow expansion specifically, the test has always been that it would need to be reconciled with air quality targets that this country must abide by. Given that this Government are introducing an Environment Bill which includes a duty on the Secretary of State to set very high standards in relation to our air quality, that hurdle—in my view and in the Government's view—is extremely high.

Lord Randall of Uxbridge (Con): What measures does my noble friend envisage can be introduced now so that we do not return to the bad old days of high levels of pollution of the air we breathe?

Lord Goldsmith of Richmond Park: This is a huge question and one not just for the Department for the Environment but across the whole of government. We have to ensure that in many respects we are able bank some of the improvements that we have seen in air pollution. To support the expansion of alternatives to public transport, particularly for the 40% or so of commuters whose journey is less than three miles, we have announced a wide package of measures, including £2 billion for cycling and walking, accelerated work on the introduction of e-scooters—which is very good news—and the deployment of tech expertise to help people avoid congested travel routes. We will provide £2 billion of funding for active travel, which I believe is the largest-ever commitment by any Government to help transform the manner in which we travel.

Baroness Hayman (CB): My Lords, these improvements in air quality have come at a terrible cost. Does the Minister agree that, post-Covid, it is possible both to embed environmental gains and to provide the essential economic stimulus the country will need through the sorts of measures that he has just been talking about—such as investment in sustainable infrastructure, in transport and in training for the green economy—so that we really do build back better?

Lord Goldsmith of Richmond Park: It is essential that decisions we make today have at their heart a commitment to long-term sustainability and resilience, both in our domestic actions and in our global outreach—through, for example, the Department for International Development. That thread should run through all government decisions in all departments. That is why we are so pleased to hear the commitments by the Department for Transport, the Secretary of State for BEIS—who is also the president of COP—and other departments of government. There is no doubt in my mind that this Government recognise that out of the ashes of this appalling disaster we have an opportunity to make decisions which will pass the test of the time. The Prime Minister himself—[*inaudible*.]

Lord Whitty (Lab): My Lords, better air quality is the only benefit of this lockdown. Figures for the spread of the disease and deaths from it here and in other countries indicate that the areas most hit are those which are highly polluted or have heavy congestion. Will the Government consider producing guidance, requests and eventually powers to get local authorities to introduce congestion charging, parking restrictions and pure banning of bad vehicles from such areas in future? Most of the powers for local authorities exist in the 1999 Act, but they require reinforcing. Will such reinforcement be in the forthcoming Environment Bill? I declare an interest as the honorary president of Environmental Protection UK.

Lord Goldsmith of Richmond Park: The actions the Government are already taking are entirely consistent with the need to tackle air pollution, which is the most serious environmental health threat to humans. The clean air strategy which we published in January last year was praised by the World Health Organization as an example for the rest of the world to follow. One of its key commitments was that the Government would produce primary legislation on air quality. That request has been answered in the Environment Bill, which includes measures to improve air quality at its heart. It is the first Environment Bill for 20 years. It commits us to setting very ambitious targets for fine particulate matter,

[Lord Goldsmith of Richmond Park]
which is the pollutant of most concern to human health; it will give local authorities a clear framework and simple-to-use powers to address air quality in their areas; and it provides government with new powers to enforce environmental standards for vehicles. Of course, the Environment Bill goes far beyond issues such as air pollution. At its heart is a commitment that we should leave the environment in a significantly better shape than when we inherited it.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, as other speakers have said, we have seen that people who suffer from asthma and other respiratory conditions are having a holiday from their symptoms as a result of there being fewer cars and less traffic on the road and fewer planes in the air. The Minister said that he wants to the UK to be a world leader. It should be. It must be on climate change, and tackling climate change has to take precedence over economic recovery. Can the Minister assure us that he will press the Government to follow this route?

Lord Goldsmith of Richmond Park: That is a commitment that not only am I happy to make but that the Government as a whole can make. We do not believe that there is a choice between economic recovery and tackling climate change. Indeed, if we are to resolve the issue of climate change and broader environmental damage, it will be because we have reconciled economic growth with the reality that we live in a finite world where our impacts on the planet have direct implications for future generations. In my view, the choice between economic recovery and environmental action is a false one.

Baroness McIntosh of Pickering (Con): My Lords, while it is welcome to see more electric buses replacing diesel buses in London and other big cities, can my noble friend explain what sustainable source of energy will drive these buses and all the electric cars that are envisaged for the future?

Lord Goldsmith of Richmond Park: The Statement made by the Department for Transport a few days ago included increased investment in charging networks throughout our cities, which has direct implications for private car use. Equally, we are ramping up investment in transforming our buses from being in many cases very highly polluting to being as close to zero-emission as possible. On the whole, the dominant thrust in technologies is in the direction of electric travel, but it will be for the market to determine ultimately what is the best value for money in delivering clean transport for the future.

The Lord Speaker: My Lords, as we have made comparatively little progress on this Question, I will allow a couple more minutes.

The Earl of Clancarty (CB): My Lords, an area that tends to get overlooked is air quality in the domestic environment, and of course home is where we have been spending most of our time in recent weeks. In January, NICE published guidelines including recommendations for research. What steps are the Government taking to encourage research in this area and increase public awareness of air quality in our own homes?

Lord Goldsmith of Richmond Park: We have done a great deal of real-time monitoring in recent months, particularly during this coronavirus period. We have determined that road traffic has reduced by more than half since lockdown started, public transport use is at less than 20% of usual levels, electricity demand is down 18% since lockdown began, and so on. Unfortunately, data on domestic emissions—air quality within the home—is much harder to come by. We continue to process the data we are gathering, but I cannot give a clearer answer at this stage.

Baroness Jones of Whitchurch (Lab): Given the preliminary evidence of a link between polluting air and higher death rates from Covid-19, can the Minister explain the decision of the Joint Air Quality Unit to delay the rollout of clean air zones across the country at the very time, as colleagues have said, when action on dirty air is most needed?

Lord Goldsmith of Richmond Park: The request to delay the clean air zones came directly from Leeds and Birmingham. It follows the reality that has I think affected every local authority and department of government: numerous personnel have been sidetracked by their need to address this immediate crisis. The Government responded to that request positively, but it does not in any way diminish our recognition that clean air zones are an essential, necessary part of our efforts to bring us in line with the air quality targets we have set ourselves.

The Lord Speaker: My Lords, the time allowed for that Question has more than elapsed. We come to the next Question from the noble Baroness, Lady Lawrence of Clarendon.

Covid-19: BAME NHS Staff

Question

11.28 am

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

To ask Her Majesty's Government what assessment they have made of the impact of COVID-19 on black, Asian and minority ethnic frontline staff working in NHS hospitals.

The Question was considered in a Virtual Proceeding via video call.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, the Government are deeply concerned about these groups. That is why we have asked Public Health England to review the evidence. In advance of PHE's recommendations, NHS England has written to NHS services so that, on a precautionary basis, employers can risk-assess staff at potentially greater risk and make appropriate arrangements accordingly.

Baroness Lawrence of Clarendon (Lab): I thank the Minister for that Answer. I have been asked by the Labour leader to conduct a review into the effects of Covid-19 on the BAME community. Are the NHS and Government making sure that BAME nurses are properly shielded

with adequate PPE? Have they considered taking BAME nurses and staff off the front line, as they are overrepresented in the death toll of the virus?

Lord Bethell: As I mentioned in my previous Answer, arrangements have been put in place for local trusts to risk-assess all employees, including BAME nurses, and to assess whether they are at a higher risk and, if necessary, to change their rotas and staffing arrangements accordingly. I understand that some trusts have already taken these measures.

Baroness Wheeler (Lab): My Lords, I pay tribute to my noble friend Lady Lawrence for the leading role she is playing in finding out why BAME communities and health workers are disproportionately bearing the brunt of Covid-19.I understand that the Public Health England review of ethnic minority health records and data is due to report at the end of May. It is looking into how factors such as ethnicity, deprivation, age, gender and obesity can affect the impact of Covid-19. People from ethnic minorities may also be at a higher risk due to the prevalence of co-morbidities such as diabetes, cardiovascular conditions and sickle cell disease. Overall, black people are dying with Covid-19 at almost double the rate of white people. Can the Minister say what the next steps will be after the PHE review and what are the Government's plans, remits and timescale for the more in-depth analysis and inquiry that is needed to better understand entrenched health inequalities and to respond to the needs of BAME communities and health staff?

Lord Bethell: The noble Baroness put this very well. We are deeply concerned about genetic differences between groups. This virus is like malaria and other viruses in that it affects different ethnic groups differently. We are concerned about behavioural issues such as diet and environmental issues such as urban versus rural living arrangements. We have already invited health trusts to put in place arrangements to protect our BAME NHS workers. We are also inviting other academic studies, of which there is a large number, to look at the various concerns about how the virus has hit different groups. We will be commissioning a very large amount of medical research into this important area.

Baroness Uddin (Non-Afl): I salute my noble friend for her relentless uphill struggle to combat institutional discrimination in our country. No one can ignore the sobering statistics on front-line deaths among members of minority communities. These have raised the deepest fears about the tragic number of deaths. Leaders in the NHS who are responsible for diversity have also said that the Government have been too slow to act to protect NHS front-line staff. What measures are in place to monitor this situation and to assure BAME staff that they can be confident about continuing to provide their services to the NHS in safety?

Lord Bethell: I completely and utterly reject the suggestion by the noble Baroness that there is institutional racism in the NHS. That is a completely inappropriate slur and I invite the noble Baroness to retract it at a future date.

Lord Bourne of Aberystwyth (Con): My Lords, I recognise that this one nation Minister and one nation Government are committed to action, but clearly there is an urgency about this. I realise that we have the Public Health England review, but after that, how soon will the Minister be expecting to take action to ensure that its recommendations are implemented forthwith?

Lord Bethell: I can reassure my noble friend that action is already being taken. Individual trusts are putting in place trials and arrangements to try out different forms of amelioration, including changing staff rotas and taking vulnerable staff out of the front line wherever possible. We will build on these pilots and trials in order to move as quickly as we can. The causes of the massive difference in the effects of the disease on different ethnic groups are not clear yet, so it is not possible to say for sure which pilots will work. However, we are moving as quickly as we can and we will build on the evidence base in order to put in effective measures.

Baroness Hussein-Ece (LD): My Lords, this pandemic must be a wake-up call for us all. The Government's review is not sufficient. BAME people make up 72% of NHS and social care staff and are 4.2 times more likely to die. Given all these separate initiatives referred to by the Minister, will he meet key leaders from BAME communities to look at establishing a Covid-19 race equality strategy, to find solutions to the current crisis based on the collective experiences of service and sacrifice from these communities?

Lord Bethell: My Lords, I share the noble Baroness's tribute to BAME staff in the NHS, who, as she rightly points out, are on the front line and putting themselves at risk. We should all, as a nation, be enormously grateful for their contribution. I also salute those in the NHS moving quickly to address the concerns and evidence that the disease itself is discriminatory. I would be glad to meet representatives, but I want to be clear that the processes in place in the NHS are reasonable, proportionate and will, I believe, deliver the needed results.

Lord Blencathra (Con): Will my noble friend the Minister please ensure that the inquiry carefully and thoroughly investigates all anomalies? While black Afro-Caribbeans have a much higher than death rate than white people, I understand that the rate is even higher for Filipinos and far lower for the Chinese. Will the inquiry also look at why 70% of those dying are men, which is nothing to do with race, and why obesity, diabetes, vitamin D and blood thinners all seem to be factors in this epidemic?

Lord Bethell: The noble Lord is entirely right. This disease is racist, fatist and sexist. We need to understand why it is discriminatory in all these areas. I reassure the noble Lord that the National Institute for Health Research and UK Research and Innovation have jointly called for research proposals to investigate emerging evidence of an association between ethnicity, behavioural and social factors, and the adverse health outcomes it is generating.

Baroness Finlay of Llandaff (CB): Given the association that there seems to be between a wide range of factors, are these being centrally collated? Are the Government producing guidance on, for example, vitamin D supplementation in the event of deficiency being detected, so that the national results are rapidly rolled out, and those cases where risk is discovered can be managed and supported?

Lord Bethell: I reassure the noble Baroness that the data is being centrally aggregated. ONS has published figures on ethnicity and the CMO and PHE are both scrutinising them. On their list of issues to consider is the role of vitamin D, where the evidence is interesting but unproven.

Baroness Healy of Primrose Hill (Lab): To follow further on the data, many medical bodies, and the Science and Technology Committee today, are calling for greater collection of real-time data on infection and deaths by protected characteristics, and for it to be recorded, analysed and shared so that urgent action can be taken to prevent deaths of front-line staff. What assurances can the Minister give that this work is actively under way now?

Lord Bethell: I reassure the noble Baroness that we have a large amount of data—although we could do with more and better. The collection of death certification data, for instance, has already improved dramatically and we are working hard to ensure that the evidence is there to inform our policy-making.

Baroness Benjamin (LD): My Lords, the coronavirus crisis has exposed the fact that the majority of NHS BAME healthcare staff—including Filipino workers, who are often forgotten—hold junior positions and are therefore more likely to find themselves on the front line in the fight against Covid-19; many have lost their lives doing so. After this crisis, what will the Government do to encourage the NHS to develop better career paths and promotion initiatives for its BAME staff?

Lord Bethell: The noble Baroness is entirely right. We owe a huge debt of gratitude to those BAME staff, whether black Afro-Caribbean or Filipino, who have put their lives at risk on the front line. It is a wake-up call; we should always be thinking about how we can accelerate opportunities for all members of staff. Those who start at the lower ranks should be given whatever opportunities are available to progress to a higher rank. The noble Baroness is entirely right that this puts a spotlight on our commitment to those groups. I completely endorse her point.

The Lord Speaker (Lord Fowler): My Lords, unfortunately the time allowed for this Question has elapsed.

Premier League: Project Restart

Question

11.40 am

Asked by ***Lord Faulkner of Worcester***

To ask Her Majesty's Government what advice they have given to the Premier League about Project Restart.

The Question was considered in a Virtual Proceeding via video call.

Lord Faulkner of Worcester (Lab): My Lords, I beg leave to ask the Question standing in my name on the Order Paper and refer the House to my football interests as declared on the register.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con): My Lords, on 13 May the Government published guidance on GOV.UK allowing the phased return of sport and recreation, in line with the latest medical guidance. The guidance defines a set of recommended minimum practice for step 1 of return-to-training guidance for elite athletes. Public Health England has not produced specific advice on Project Restart but has engaged collaboratively in the working group and has cleared the step 1 guidance document. Ultimately, the decision to restart the Premier League is one not for government but for the Premier League and its member clubs.

Lord Faulkner of Worcester: My Lords, I am sure football fans would welcome the resumption of live games on TV, particularly if some are shown free-to-air on the BBC. But what will happen if a player or a member of a club's coaching staff tests positive for Covid-19? Will the entire team be quarantined and thus unable to play any scheduled matches?

Given the desperate financial plight of many clubs in the English Football League and the levels below that, how will the Government ensure that the Secretary of State's stated aim to

"ensure finances from the game's resumption support the wider football family"

is achieved?

Baroness Barran: All the details on the impacts if either an athlete or a member of staff at a club were to fall ill with Covid are being worked out. A clear framework is being set up, with each club having a member of staff who is the responsible Covid-19 officer and a Covid-19 medical officer who will lead on any suspected or confirmed cases and make sure there is medical oversight for returning to work.

On funding for the wider leagues and clubs, the Government have been very clear that we expect any finances secured through the resumption of the professional game to benefit the wider football family.

Lord Bassam of Brighton (Lab): My Lords, like the Minister, we all want to see the Premier League season complete, but not to the detriment of players, support staff and those involved at all levels of the game. Can the Minister comment further on that? Can she explain precisely what measures the Government intend to take to secure the financial security of not just the Premier League and Championship but the other leagues and, importantly, the women's game through the WSL?

Baroness Barran: I will start with the last point first. I know that in all the work my ministerial colleagues, including the Secretary of State, have done, there has been a real focus on making sure that we do not lose momentum in the women's game. That is very much front of mind.

On the development of the guidance, there are three levels. The step 1 guidance sets out the risk assessment mitigation plan; step 2 and step 3 guidance will be produced regarding close-contact training and games potentially being played behind closed doors. Through medical advice from government and Public Health England, we are supporting the football authorities as they take these decisions.

On funding, I have already mentioned that we see this as part of a wider football family and welcome the moves the Premier League has already made to advance money to the English Football League.

Lord Addington (LD): Will the Minister give us a little more guidance about the take-up of responsibility of existing projects that are run by Premier League clubs and indeed other elite-level clubs: that is, youth engagement, development of junior teams, and so on? Can the Minister give us an assurance that the Government will not take kindly to these being dumped as non-profit-making?

Baroness Barran: There is no intention of the Government seeing these dumped. However, certainly as regards football, it is the responsibility of the FA to oversee the grass-roots game. The Government have made major moves in support for businesses, and we have also seen important investment from Sport England at a community level. We are keeping a very close eye on this.

Lord Mann (Non-Afl): We are the biggest industry in the world in terms of football, and the Premier League is the world-leading league. Many clubs, particularly down the football pyramid, are on the cusp of economic disaster. Would the Minister agree that it would be economically prudent to allow the league to complete its season and keep the integrity of the football system that we have, and then we can deal with the problems of next season?

Baroness Barran: It is the Football Authority's responsibility to agree and finalise the details and to decide with its member clubs whether they go forward. The Government are doing everything we can to support and provide advice, but it is ultimately the FA's responsibility.

Lord Rosser (Lab): I declare my football interests as in the register. The Minister will know that, below the English Football League, hundreds of football clubs rely on unpaid officials and volunteers and are beginning to struggle financially in the light of the current crisis and the effect it is having on their income and future sponsorship. Did I hear the Minister say that she felt that the Premier League had already done enough regarding what it had given to the English Football League? I am talking about clubs below that. I would like to know how the Government intend to ensure that a meaningful percentage of the finances from the resumption of Premier League matches this season goes on support for the wider football family. I do not want to know that that is the Government's intention; I want to know how they intend to ensure that that happens.

Baroness Barran: I echo what the noble Lord said in thanking local clubs very much for the work that they are currently doing in their local communities. The noble Lord is right that grass-roots football is an absolutely integral part of community life. I did not say that the Government felt that the moves the Premier League had made were enough but rather that we were encouraged by them and that we definitely see that financial relief for the upper levels of the game should be felt by the whole football family. We are working closely with all levels of the game to try to work this through in some detail.

The Lord Speaker (Lord Fowler): Lord Blunkett? He is not here, so we will go on to the noble Lord, Lord Willis of Knaresborough.

Lord Willis of Knaresborough (LD): My Lords, I was quite astounded to hear the Minister say at the beginning of her Answer that it would not be a decision by the Government—those were her actual words—on restarting the Premier League. Player interests appear to be almost incidental in whether the league starts or not. Is she aware that professional athletes, in particular soccer players, have a significantly different physiology from the general public and that their exposure to a lot of viruses can lead to conditions such as myocarditis, an inflammation of the heart with some life-threatening damage? What advice have the Government actually given through their professional advisers to professional footballers and in this decision-making so that we can have a safe return to soccer sometime in June, or perhaps July? Will she put that advice in the Library so that we can read what the scientists have said to the Government?

Baroness Barran: I will have to check for the noble Lord exactly what is publicly available. However, we have been working closely with the Chief Medical Officers for a range of sports, including elite football, and those medical officers have a deep understanding of the issues that individual athletes have. We are absolutely clear that competitive football can return behind closed doors only when it is safe to do so. If I gave any other impression, I apologise.

The Lord Speaker: We will go on just for a minute. I call the noble Lord, Lord Foulkes of Cumnock.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, I know that sport is devolved but international relations are reserved to the UK Government, so will they make representations to UEFA to investigate why the Scottish Premier League is not carrying out its clear instructions to complete the top-tier domestic competition? It is flouting what UEFA has recommended.

Baroness Barran: My understanding is that it is up to the Scottish Premier League to agree with its member clubs the way forward, taking into account the particular opportunities and challenges that they face.

The Lord Speaker: My Lords, I am sorry about that last answer but the time allowed for this Question has elapsed. Thank you very much. That concludes the Virtual Proceedings on Oral Questions. The Virtual

[The Lord Speaker]
Proceedings will resume at noon for a Private Notice Question on mental health services during Covid, and proceedings are therefore now adjourned.

11.52 am

Virtual Proceeding suspended.

Arrangement of Business
Announcement

Noon

The announcement was made in a Virtual Proceeding via video call.

The Senior Deputy Speaker (Lord McFall of Alcluith): My Lords, Virtual Proceedings of the House of Lords will now resume. I remind Members that these proceedings are subject to parliamentary privilege, and that what we say is available to the public, both in *Hansard* and to those listening and watching. Members' microphones will initially be set to mute; the broadcasting team will unmute them shortly before we reach their place in the speakers' list. When Members have finished speaking, their microphones will again be set to mute. Please ensure that questions and answers are short; in doing so, we will be able to get through the 10 supplementary questions.

Mental Health Services
Private Notice Question

12.01 pm

Asked by ***Baroness Tyler of Enfield***

To ask Her Majesty's Government what steps they are taking (1) to protect, and (2) to support, mental health services (a) during, and (b) after, the COVID-19 pandemic.

The Question was considered in a Virtual Proceeding via video call.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, the NHS has issued guidance to services to support them in managing demand and capacity across in-patient and community mental health services. Services have remained open for business as usual as a result. We remain committed to the additional investment in mental health services set out in the NHS long-term plan. We have provided an additional £5 million to mental health charities to support their work during the pandemic.

Baroness Tyler of Enfield (LD): My Lords, the Royal College of Psychiatrists warned last week that the nation faces a mental illness "tsunami". Those on the front lines of our health and social care services have gone above and beyond to tackle this dreadful virus, but now may themselves face significant mental health problems. Thousands have lost colleagues, endured serious illness or experienced major trauma. Will the Government commit to investing in a world-class mental health response to Covid-19, including by setting up specialist support services for those on the front line of our NHS and care services, mirroring the services available to our armed services personnel?

Lord Bethell: I join the noble Baroness in paying tribute to those working in mental health in the NHS. They have kept services running in extremely difficult circumstances and their impact has been extremely powerful. Although we are aware of the deep threat of a mental health tsunami, as was warned, the evidence to date is that these people have done an amazing job of addressing the concerns of those who are suffering under coronavirus and the lockdown.

Lord Howarth of Newport (Lab): My Lords, does the Minister accept that the implications of the Covid-19 pandemic include loneliness, a sense of entrapment, income and employment insecurity, substance abuse, relationship problems, bereavement and other factors that are liable to be severe? Resources will be needed for many interventions. Is he aware of the growing evidence base on the important benefits of the arts and creativity for mental health? What plans do Ministers and NHS England have to accelerate the spread of social prescribing, supporting people with mental health conditions to engage creatively with the arts, culture and nature?

Lord Bethell: My Lords, I completely recognise the noble Lord's warnings. He rightly warns about the huge pressure of lockdown on people, and rightly mentions the benefits of the arts—particularly social prescribing, of which I am particularly supportive. I pay tribute to the Permanent Secretary of the Department of Health and Social Care, who has allowed me to bring Tilly, my working cocker spaniel, into the office to provide me and my fellow workers with some kind of support from an animal. I know that canine support is valuable. We are working hard to support the kind of social prescribing of which the noble Lord speaks.

Baroness Newlove (Con): My Lords, this is an interesting area which I was concerned with both in my former role as Victims' Commissioner for England and Wales, and personally. As well as viewing mental health services through Covid, we must recognise the risks to pre-existing services, which were an underfunded postcode lottery with not enough qualified professionals. Our front-line workers are now dealing with a pandemic that none of us could envisage. Will the Minister speak to the Secretary of State for Health to ensure sustainable funding for access to mental health services, and that support is given to mental health workers, who will be the front-line workers again? We must ensure that people's ability to access the services does not just become a tick-box system governed by an algorithm within an app. There has to be sustainable funding for a least five years to invest in the care and support needs of the most vulnerable in society.

Lord Bethell: I recognise the insight of my noble friend Lady Newlove, who speaks from experience of these matters. I reassure her that the funding in place from the long-term plan for mental health has been substantial and will support a dramatic change in mental health services. We will be supporting mental health workers who, as my noble friend says, have delivered

under difficult circumstances. Their creativity is demonstrated by the introduction of video and other technical facilities to keep mental health services going during the lockdown. I pay tribute to their inventiveness and creativity at this time.

Baroness Barker (LD): My Lords, is data on mental health support, A&E presentations, referrals to community mental health services, crisis resolution callouts and detentions under the Mental Health Act being collected during this period—yes or no?

Lord Bethell: My Lords, I understand that it is a firm "yes", but I will check that answer and revert to the noble Baroness if there is any different information.

Baroness Hollins (CB): My Lords, yesterday the *Guardian* reported a study by Public Health England which showed that agency staff working between multiple care homes in London were unwittingly spreading Covid-19 during the surge of the pandemic. Given the evidence of the vulnerability of those receiving care, which includes working-age adults with mental health needs, is there really a commitment to parity of esteem between physical and mental healthcare? Why has the testing strategy not been amended properly to cover these groups?

Lord Bethell: The noble Baroness rightly points to one of the most difficult aspects of the Covid epidemic—the itinerant staff who pass from one vulnerable person to the next. We recognised this issue at the beginning and put money in to try to ameliorate it. When testing was expanded weeks ago to key workers, it was deliberately targeted at these staff and this continues to be prioritised.

Baroness McIntosh of Hudnall (Lab): My Lords, children's lives have been disrupted, not only educationally but socially and emotionally, as friendship patterns have changed. The Minister will know that these relationships can be fragile but are essential to good mental health and well-being. What are the Government planning to do to provide additional support to schools to help with the problems they will inevitably encounter when children return?

Lord Bethell: The noble Baroness is entirely right. I am living with four children who are greatly distressed at losing their friends and not being able to stay in touch in the way they would like. We will undoubtedly need to provide support to schools to cover a list of mental health issues. The Secretary of State for Education is working on plans for that.

Baroness Thornton (Lab): My Lords, as a nation, a vast number of us have seen our mental health deteriorate during the coronavirus crisis, so the challenges facing our mental health services are even greater than they were before. Surely we need a strategy to take us through the Covid-19 pandemic that takes account of the most welcome promises in the NHS long-term plan and addresses and scrutinises the impact of the pandemic on mental health and learning disability settings, including the impact of the temporary measures in the emergency legislation. Such a strategy must address how and when the DoLS legislation will be rolled out, and when and how the Government will bring forward reforms arising out of the review of the Mental Health Act. Does the Minister agree that these are the key ingredients of such a strategy? When will we see progress in this area?

Lord Bethell: The noble Baroness is right: the Covid epidemic will throw a spotlight on our mental health provision. That provision is already benefiting from an extra £2.3 billion a year by 2023-24. We have already brought forward the 24/7 crisis lines that were due to be delivered in 2023-24, and I think there is a good case for bringing forward other parts of our mental health strategy to address mental health issues during the Covid epidemic. Undoubtedly, we will focus very shortly on ways of doing that.

Baroness Jones of Moulsecoomb (GP): The Stevenson-Farmer review of 2017, which was set up by the then Prime Minister, recommended strengthening the 1981 health and safety regulations on mental health first aid. Will the Government commit to picking up those recommendations and implementing them?

Lord Bethell: The noble Baroness raises an important point. I will confess that I am not, and will not pretend to be, completely across the matter she raises, but I will write to her with a clear answer.

Lord Polak (Con): My Lords, I declare an interest: my daughter Natasha is an art therapist and co-founded the charity Arts Therapies for Children, which works in 19 schools. The impact on the mental health of children brought up where domestic abuse is the norm is sadly clear; it is all they know, and often they think that the problems encountered are their own fault. It is during these years that they develop and learn how to value themselves and others. Therefore, the impact of domestic abuse can lead to a skewed view of who they are, which can be taken into adulthood. Will my noble friend the Minister ensure that resources are targeted at supporting charities and mental health services that work with these vulnerable children?

Lord Bethell: I pay tribute to exactly the sort of charity that my noble friend's daughter works in. They provide invaluable and often unseen benefits to society. We have already made available considerable financial support for similar such charities. If my noble friend would like to write to me with the details of the one he described, I would be glad to consider it. Undoubtedly, these charities will play an important role in dealing with mental health issues of the kind he describes during the mop-up after Covid.

Lord Ramsbotham (CB): My Lords—

The Senior Deputy Speaker (Lord McFall of Alcluith): I am sorry, but I think we have lost the connection. I will call the noble Baroness, Baroness Verma, and then come back to the noble Lord.

Baroness Verma (Con): Will my noble friend assure me that all communities will be able to access appropriate mental health services? What work is being done to speak to local women's and girls' groups in the ethnic-minority communities, where language and access to online services may often be a barrier?

Lord Bethell: One thing that Covid has thrown a light on is that digital communications have been greatly improved; the use of video conferencing in mental health services is one of the things that have helped. Groups that do not have access to video conferencing need to be reached in other ways. We are working on using telephones and community outreach to do that. My noble friend is entirely right that this needs to be a focus of our work.

The Senior Deputy Speaker: I return to the noble Lord, Lord Ramsbotham.

Lord Ramsbotham: My Lords, does what the Minister has said apply to prisons and probation?

Lord Bethell: I pay tribute to the Prison Service, which in extremely difficult circumstances has managed to provide pastoral care and clinical segregation in our prisons in a way that has completely outperformed expectations. The effect in prisons has been profound and the mental health of prisoners is concerning. The degree of lockdown in prison cells is an awful aspect of this disease, and undoubtedly we will have to work very hard to manage and deal with the mental pressures on prisoners, which are extremely unfortunate.

The Senior Deputy Speaker: My Lords, the time allowed for this Question has elapsed. The Virtual Proceedings will now adjourn until a convenient point after 12.45 pm for the Motion in the name of the noble Baroness, Baroness Stedman-Scott. Proceedings in the Chamber will be taken at a convenient point after 12.30 pm.

12.15 pm

Virtual Proceeding suspended.

Business of the House

Timing of Debates

12.31 pm

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

That the topical Question for Short Debate in the name of Lord Cormack set down to be asked on Thursday 21 May be limited to one and a half hours not one hour.

Baroness Hayter of Kentish Town (Lab): My Lords, we are obviously very happy to support the Motion, but perhaps I could raise a related question on the allocation of time. Today in the Commons—I think more or less at this moment—there is an Urgent Question on last week's negotiations on the UK's future relationship with the EU. Personally, I think it is bad enough that an Urgent Question had to be requested by the Opposition in the other place, rather than the Government making a full Statement to the Commons after such an important set of talks. That is perhaps a poor comparison with the way the EU works: its negotiator reports to the European Parliament and to the press. However, at least it is happening in the Commons.

I think it has been agreed that we will have a repeat of the Answer to that Urgent Question tomorrow in our House, but that provides for only 10 minutes in total—well below the 35 minutes that the Commons will have today. That is insufficient for this House to be able to fulfil its role of scrutinising what the Government are negotiating in these vital talks. That contrasts with what will happen later today, with 20 minutes for Front-Bench questions and 30 minutes for Back-Bench questions quite rightly allocated to a Statement on Covid.

Will the noble Baroness undertake to look at whether that particular Urgent Question repeat tomorrow—not all Urgent Questions—could be given more time because of its significance, or whether, as Leader of the House, she could find another procedure to enable us to look how the talks are progressing? I think I am right in saying, from the Written Statement from Mr Gove, that the Government are to publish some time this week their draft legal texts that they submitted to the European Union. If they were to be accompanied by a Statement so that we could have a debate on them, that might be a way round—or there could be a debate on one of the other EU reports. Could she give some consideration to whether there is a way of dealing with this vital issue?

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): I thank the noble Baroness. The Government, through the usual channels, have been extremely generous with time. We now have extra time for Private Notice Questions. As she rightly said, this Motion is about extending further time. I am afraid that we will not be able to look to give extra time tomorrow because we have a full schedule, but, as she well knows, there are discussions through the usual channels about business coming up. I am sure that that issue will be raised. All the parties have party debates. They can choose the topic, so there will be opportunities for parties to raise this topic if they wish. I am sure that there will be discussions in the usual channels. As the noble Baroness said, we have talked about this issue a lot in this House and I am sure that we will continue to do so. We will continue to give it the time that it deserves.

Motion agreed.

Human Tissue (Permitted Material: Exceptions) (England) Regulations 2020

Motion to Approve

12.35 pm

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

That the draft Regulations laid before the House on 25 February be approved.

Special attention drawn to the instrument by the Secondary Legislation Scrutiny Committee, 8th Report. Considered in Virtual Proceedings on 18 May.

Motion agreed.

House adjourned at 12.35 pm.

Arrangement of Business

Announcement

12.45 pm

The announcement was made in a Virtual Proceeding via video call.

The Deputy Speaker (Lord Haskel) (Lab): My Lords, Virtual Proceedings of the House of Lords will now resume. I remind Members that these are subject to parliamentary privilege and that what we say is available to the public both in *Hansard* and to those listening and watching. Members' microphones will initially be set to mute, and the broadcasting team will unmute their microphones shortly before we reach their place in the speakers' list. When Members have finished speaking, their microphone will again be set to mute.

We now come to the Virtual Proceedings on the Motions in the name of the noble Baroness, Lady Stedman-Scott. The time limit is one and a half hours.

Automatic Enrolment (Offshore Employment) (Amendment) Order 2020

Motion to Consider

12.47 pm

Moved by ***Baroness Stedman-Scott***

That the Virtual Proceedings do consider the draft Automatic Enrolment (Offshore Employment) (Amendment) Order 2020.

The Motion was considered in a Virtual Proceeding via video call.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Stedman-Scott) (Con): My Lords, I shall speak also to the draft Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2020. I am pleased to introduce these instruments, which were laid before the House on 16 March, alongside my Written Statement of the same date setting out their purpose and effect. These instruments implement the conclusions of a 2018 statutory post-implementation review. The review concluded that automatic enrolment into workplace pensions should continue for eligible employees in the maritime industries, ensuring them access to a pension in the same way as workers in the rest of the UK economy. Subject to the approval of the House, the instruments will remove the sunset clauses contained in the original 2012 legislation so that it continues in force beyond the current expiry date of 1 July 2020. I am satisfied that the Automatic Enrolment (Offshore Employment) (Amendment) Order 2020 and the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2020 are compatible with the European Convention on Human Rights.

Today's debate relates to the operation of the automatic enrolment policy framework and will allow the Government to deliver on the conclusions of the 2018 post-implementation review, which recommended that seafarers and offshore workers remain within the scope of workplace pensions. As we are all too well aware, this is a difficult time for our citizens, our country and our economy. Many employers and workers face unprecedented challenges and trying their best to keep going and meet their legal obligations, including those relating to workplace pensions. The Prime Minister and the Chancellor have made clear that the Government will do whatever it takes to support workers and businesses as they deal with the impact of the coronavirus pandemic, and that no-one should be penalised for doing the right thing.

As part of the Coronavirus Job Retention Scheme, the Government have made available dedicated grant payments for the compulsory minimum employer automatic enrolment contributions for furloughed workers. We have prioritised this help so that businesses can better manage their fixed costs and to support the principle of saving for the future, which it is important not to lose sight of during the current crisis.

The Chancellor announced on 12 May that the scheme would be extended to the end of October. It will continue in its current form to the end of July, with changes to allow more flexibility introduced from the start of August. The Government have committed to provide more specific details on the next stage of the scheme by the end of May.

The Pensions Act 2008 and secondary legislation in 2011 brought most employers within the scope of automatic enrolment and placed duties on them with respect to qualifying workers in their employ. At that time, the Government decided to delay the extension of these duties to the maritime industries to allow time for resolution of complex issues relating to the operation of international maritime law and custom, as these impacted how the workplace pension reforms would apply to seafarers and offshore workers.

In 2012, following additional public consultation on the specific impacts of the policy on these industries, the Government introduced regulations and an Order in Council to extend automatic enrolment to all qualifying maritime workers. This legislation included a statutory requirement for a post-implementation review, as well as the inclusion of sunset clauses in the instrument, taking effect on 1 July 2020.

The post-implementation review was carried out in 2018. Based on the available evidence, the Minister for Pensions and Financial Inclusion concluded that automatic enrolment should continue to apply to all qualifying workers in this industry sector. This followed on from our automatic enrolment review in 2017, *Maintaining the Momentum*, which had confirmed that workplace pensions should be available to all eligible workers, regardless of who their employer is or the sector in which they work.

Looking specifically at the maritime industries, I should make clear that "seafarers" refers to people working on board ships or hovercraft. This does not include share fishermen as they are self-employed and, like all self-employed people, out of the scope of automatic enrolment because they do not have an employer. Offshore workers are, broadly speaking, those working on oil or gas rigs in the North Sea.

I have considered the need to include a review clause in the instruments before the House today. The success of automatic enrolment is based on pension saving being the default option for working people across all

[Baroness Stedman-Scott]
sectors of the UK economy. A new review requirement applying to only the maritime industries would be counter to the policy objectives of these reforms and would create uncertainty for employers in those sectors and their workers. I have therefore not included one. The Department for Work and Pensions will of course continue to work closely with employers, workers' representatives and the pensions industry to keep the policy under regular review, as we do with all our policy initiatives.

I conclude by reiterating the crucial importance of these workplace pension reforms, which are helping millions of employees in the UK to save for their retirement. This includes an estimated additional 26,000 seafarers and offshore workers saving into a workplace pension in 2019 as a result of automatic enrolment. I commend these instruments to the House and I beg to move.

12.54 pm

Baroness Drake (Lab): My Lords, I welcome the order and regulations, which will ensure that eligible seafarers and offshore workers continue to benefit from employer duties to auto-enrol workers into a workplace pension.

Importantly, they confirm a set of three underpinning government decisions. First, the consideration of complexities in a sector or net burden on business, which led to the original sunset clauses, has not been allowed to exclude these workers from auto-enrolment. Secondly, the Government have resisted amending the eligibility test for auto-enrolling these workers, therefore ensuring that the coverage is not diminished. Thirdly, the DWP has held to its 2017 *Maintaining the Momentum* report, in which it concluded that employer auto-enrolment duties should continue regardless of industry sector and size of employer.

The necessity of emergency and extraordinary financial measures in response to this pandemic can sometimes mask the risk that fundamentals around long-term sustainability get lost, which is why I welcome that the Government have maintained employer auto-enrolment duties and that the job retention scheme allows grants to cover employer statutory minimum pension contributions for millions of furloughed workers. These grants particularly benefit women and young workers, who are much more likely to be working in sectors with the highest incidence of furloughed workers.

It took 16 years to build consensus and fully implement auto-enrolment. Auto-enrolment was born in the last financial crisis with the 2008 Act. If siren voices had prevailed then and the policy had been kicked into the long grass, we would not have secured 10 million more saving and 1.6 million employers participating. It is important that auto-enrolment is maintained during this pandemic crisis, avoiding irrecoverable long-term negative consequences, particularly for younger generations who are already likely to be hit particularly hard by this pandemic.

In conclusion, I ask the Minister for reassurance that the Government are committed to maintaining auto-enrolment duties in the rebuilding of the economy, regardless of the industry sector and size of the employer.

12.57 pm

Baroness Burt of Solihull (LD): My Lords, both these instruments refer to offshore and maritime workers who, because of their special work circumstances, have never fallen conveniently into any standard worker treatment regarding almost any working conditions you can think of. Indeed, the uncertainties and unusual working hours for these individuals have caused employers as well as government a problem in trying to squeeze them into legislation that would be appropriate for most other categories of worker.

As the Minister said, included in this group are offshore workers, such as those working on oil rigs, and seafarers, from people managing ocean liners to those on container ships. This variety of work types and circumstances has made the very issue of automatic enrolment for pensions a case in point, and the legislation embodied in the Pensions Act 2008 was no exception. As the Minister said, these workers were finally covered from 2012 following consideration of a series of complex issues relating to how the changes would fit in with international maritime law. However, the concept of "ordinarily working" in terms of periods of employment has been reasonably successful in ensuring that offshore and maritime workers are covered.

Today we discuss the renewal of this legislation, which is due to expire in the sunset clause on 1 July 2020. I would be intrigued to learn why the sunset clause was originally built in, since presumably automatic enrolment must be a good thing for all workers, even hitherto relatively prosperous oil-rig workers who have enjoyed better working conditions than many. I anticipate that it would be particularly appropriate in the case of the challenging circumstances of most seafarers, who may well endure a patchy working life, with long periods away from home potentially interspersed with periods of unemployment. I am sure that it would be particularly difficult in these uncertain Covid times for individuals to save regularly and build up their pension pot.

In the first two weeks of lockdown, 40% of North Sea oil workers lost their jobs. Supply ship workers have been hailed as heroes, keeping our supply lines going, while cruise ships are largely stuck off coastlines, unable to sail and their crew stuck on board. I ask the Minister if the challenges of having 150,000 workers in need of a crew change—who are waiting to leave or join ships—have been resolved as far as the UK is concerned. I gather that unions and employers have given the Government one month to facilitate these crew changes, but clearly the delays are taking their toll. Tragically, suicides have been reported as individuals suffer mentally, trapped on board and trying to get home, but unable to because of the lack of organised transport.

On the subject of Covid, on 14 May the Chamber of Shipping asked the Government whether the shipping and offshore industry would be exempted from the reported 14-day quarantine period for travellers entering the UK. Could the Minister please give us an update on that?

I for one am very glad that calls from employers, in the 2018 post-implementation review, potentially to relax some of the regulatory burden have not been heeded by the Government. The Explanatory Notes

refer to potential "industry-specific carve-outs", which could result from a relaxation of the compliance regime. Surely the overriding consideration is that individuals in those somewhat precarious industries are properly protected.

I wish to ask the Minister a couple of questions on paragraph 12 of the Explanatory Memorandum for both statutory instruments, which deals with the impact of the legislation. The total equivalent annual net direct cost to business is reported as only £22 million, and the total annual net benefit to all individuals is—

Baroness Scott of Bybrook (Con): I remind the noble Baroness that we have a three-minute time limit.

Baroness Burt of Solihull: I was not aware of that, and I do apologise.

Baroness Scott of Bybrook: I am sorry, but we are very tight on time. Thank you.

Baroness Burt of Solihull: Understood. I shall draw my comments to a close.

I welcome the legislation: it seems a pragmatic way to protect the interests of workers who have very varied working lives and experience but all need security in their eventual retirement.

1.03 pm

Baroness Anelay of St Johns (Con): My Lords, when auto-enrolment was introduced by legislation in 2008, and subsequently amended in 2012 to include seafarers and offshore workers—albeit subject to a sunset provision—I was Chief Whip and very much aware of the long route that we travelled towards achieving cross-party support for all the provisions to improve pension saving in the UK by encouraging people to contribute towards a pension. As ever, however, there was of course careful scrutiny of the Bill and the subsequent regulations throughout, particularly by the noble Baroness, Lady Drake, and the noble Lord, Lord McKenzie, both of whom are speaking in today's debate.

I welcome the orders before the virtual House today. I notice that my screen has gone blank, but I am hoping that others can view what is going on.

I have a couple of questions for clarification of the proposals. At paragraphs 10.2 and 10.4, the Explanatory Memorandum refers to concerns raised by stakeholders about the drafting of the "ordinarily working" test, and states that they wanted it to be made more specific for seafarers and offshore workers. What definition was proposed by those stakeholders, and why did the Government decide that it would weaken the compliance regime and undermine the policy intention?

The total net equivalent annual direct cost to business is estimated at £22 million. Paragraph 12.1 of the memorandum makes it clear that part of that financial impact falls upon employers in the charity and voluntary sector. I appreciate what the Minister has already said about the assistance given to employers during the pandemic, but clearly at some stage that assistance will come to an end and there will be a financial impact on charities and the voluntary sector. I therefore ask: which employers of eligible seafarers and offshore workers fall within the category of being charities and voluntary bodies? For example, are we talking about organisations such as the RNLI, Mercy Ships or perhaps Greenpeace?

I recognise, as others have, that the impact of Covid-19 on the economy may cause employees to question the value of long-term savings and perhaps to be more prepared to opt out of pension schemes, having been auto-enrolled. I hope, however, that all employees will recognise the long-term benefits of pension savings.

1.05 pm

Lord McKenzie of Luton (Lab): My Lords, I too speak in favour of seafarers and offshore workers continuing to be subject to automatic enrolment if they are ordinarily working within the UK, and I support the removal of the sunset provisions that would negate this outcome. The point was raised about why the sunset provisions were there in the first place. If memory serves, it was because some of the complexities of the arrangement were still to be tackled and it was a way of enabling legislation to go forward without losing that issue.

Our position is consistent with our calling for the expansion of automatic enrolment to workers who are not ordinarily or currently covered, and aligns with the Government's position, as we have heard from the Minister, that all sectors should be covered.

The July 2017 consultation concerning seafarers and offshore workers estimated that the number of workers on the UK continental shelf working in the UK was a little shy of 29,000, with a dropout rate of 10%. I am afraid I missed some of the Minister's introduction but I think she suggested that the figure was now 26,000; in any event, perhaps she could confirm that. What is the split between seafarers and offshore workers? How does the eligibility for auto-enrolment align with income tax criteria? Are they the same?

We know that since the start of auto-enrolment in 2012 more than 10 million workers have been enrolled in a pension scheme but the work has not been completed, as we know. The Motion today is a missed opportunity to extend auto-enrolment to younger workers, those on lower earnings, the self-employed and those with multiple jobs; to help the gender balance; and to extend economic justice to many of those who have proved to be our front-line saviours these past weeks.

The Government's commitment to tackling such issues by the mid-2020s will doubtless need some sort of review, given the coronavirus and changes in working patterns and practices, though it is perhaps too soon to make a call on that. What is the position of those who have been furloughed? There was the 3% top-up but can we know whether, and how many, workers would have opted out from those arrangements? The pandemic has highlighted just how—

Baroness Scott of Bybrook: My Lords, I am sorry but we have a three-minute time limit on this.

Lord McKenzie of Luton: Understood—my apologies. I will leave it there.

1.10 pm

Baroness Northover (LD): My Lords, I thank the noble Baroness for introducing the statutory instrument, and her officials, who have laid out the Explanatory Notes and impact assessment so clearly. These address those who are working beyond our shores, whether as seafarers or as offshore workers, but who are normally considered as UK workers. I understand that an assessment of how the provision fitted with international sea law and with foreign-registered ships had to be carried out originally, but I am glad that these issues were resolved. Examining this reminded me of coalition days, when some of our coalition partners believed that there should be a bonfire of regulations, and that only one should be approved if two were thrown out. It was of course right to assess them, but the proposed bonfire almost resulted in the removal of flame retardant from children's nightwear. My memory is that sunset clauses were put in to reassure those who wanted that bonfire, so that these issues could be considered again.

We usually argue for sunset clauses where there is a major intrusion of the state into people's lives. This type of regulation is the opposite. I am glad that we seem to be in a different age now, one where the Chancellor speaks of putting the state's arms around individuals in our current crisis. These statutory instruments are about helping to protect people. Young people think they will never get old. That is why it was very welcome when the Pensions Commission recommended that there should be automatic enrolment into workplace pensions, as people were not planning adequately for retirement. Those in zero-hours contracts still do not have these sorts of protection, and we see now how vulnerable they can be.

Clearly, those in maritime employment and offshore workers need this protection as much as others. Are other groups still outside the automatic enrolment arrangements and, if so, why? The noble Baroness mentioned North Sea workers. Would offshore workers such as those working for BP offshore in Angola and other places around the world also qualify? I think so. She is absolutely right to say that automatic enrolment should be the default position, but I also note with some concern that automatic enrolment itself will be kept under review. That should send a chill through people. As the economic crisis develops, we cannot allow a policy that has brought much benefit to be quietly set aside. I hope the noble Baroness, whose heart is absolutely in the right place, can reassure us on that. I welcome these regulations.

1.13 pm

Baroness Altmann (Con): I thank my noble friend for laying these statutory instruments, and for her excellent introduction. I also congratulate the Government on protecting the principle of auto-enrolment, which has been so successful in bringing millions more people into the policy of pension saving and provision for retirement. This principle has been preserved for all sectors by extending the application of auto-enrolment to this group of maritime and seafaring workers.

I also congratulate the Government on protecting the principle of automatic enrolment during the furlough scheme. This principle is so important and, by deciding that automatic enrolment—at least at the minimum statutory level—will be protected through the current crisis in the furlough scheme, the Government have shown an excellent example of considering the longer term amid a short-term emergency.

We have the lowest state pension in the developed world. That makes supplementary saving essential, and the principle of extra private provision, supported by employers and taxpayers, is an important one throughout our society. I congratulate the noble Baroness, Lady Drake, and other noble Lords on all the work that they have done over the years to introduce and protect this policy.

Perhaps I may raise one issue that my noble friend is aware I have particular concerns about. It is the position of low-paid workers who are being automatically enrolled into net pay pension schemes through their workplace. They do not get the tax relief that they would in an alternative scheme, and therefore they are paying an extra 25% for their pension. As the Institute for Fiscal Studies has pointed out, these workers clearly are those who are most in need of every extra penny that they can earn. I know that this net pay policy is one that I know my noble friend the Minister and the department have been looking at, and I urge the Government to take seriously the proposals to address this issue.

I fully support these statutory instruments and I congratulate the Government and my noble friend. I look forward to continuing the successful policy of auto-enrolment into the future.

1.16 pm

Lord Blunkett (Lab): My Lords, as my Braille watch does not have the facility of timing my speech down to the half minute, I shall be as brief as possible. I welcome these instruments, not least for the signal they send in terms of the continuing commitment to auto-enrolment. My noble friend Lady Drake may not remember that, along with John Hills and the chair of the commission, Adair Turner, back in 2005 she presented the initial findings, and my job was to persuade Tony Blair and Gordon Brown that auto-enrolment was the kind of long-term policy that gives Government a good name rather than a bad one. I was particularly pleased that, after the passage of the 2008 Act, although it took an extremely long time, the coalition Government were then able to pick this up and continue with it. That is why it is important to pick up on the points made by the noble Baroness, Lady Anelay, who ingeniously managed to bring in the important issue of people working in the voluntary, not-for-profit and charitable sectors that will apply more broadly in terms of the impact of Covid-19 on a much wider group of sectors than the ones we are dealing with today. I want also to reinforce the point made by the noble Baroness, Lady Altmann—I seem to be supporting Conservative as well as Labour Peers today—about the anomalies that exist.

However, my main point is in the years ahead, while we protect the state pensions of people who are unemployed and moving in and out of work, it is clear that auto-enrolment will be a crucial part of maintaining income for the future, and therefore we need to find ingenious ways of ensuring that that entitlement will continue, as very large numbers of people move from furlough into unemployment, perhaps on a long-term basis.

1.18 pm

Lord Purvis of Tweed (LD): At the moment, there is unprecedented pressure on North Sea workers off the coast of Scotland, north of the border, where I am speaking from at the moment. The workers there are involved mainly in supply chains, both offshore in maritime transport and both onshore and offshore in maritime engineering. The profile of employment there is far from the stereotype of the wealthy oil baron.

In a little more than two months, global oil demand has fallen by 30% and the Brent price has collapsed by almost 70% since the start of the year. Alongside this, UK gas prices have fallen to their lowest level for 14 years and are now among their record lows. For many who thought that they would never see petrol selling for less than £1 a litre again, this is a respite, but, as a result of the economic crash, new activity in the North Sea basin has stalled, investment plans have been postponed and major planned shutdowns delayed. Even after the lockdown eases, low commodity prices are likely to endure, slowing any recovery into 2021 and beyond. As the recent Oil & Gas UK market report shows, there is particular concern about the ability of the supply chain being able to absorb more pain. Contracts are already being deferred or cancelled, while the longer-term pipeline of work is becoming increasingly uncertain.

The collapse in investment will inevitably impact on employment and therefore have long-term consequences for the workers. There will be a knock-on effect on the long-term future of those who were not part of the automatic pension arrangements but now are. Ending that would be very consequential, so I welcome the measures introduced by the Minister.

Job cuts in the sector have already been announced and the industry will see many more in the coming months. Oil & Gas UK's current estimate is that up to 30,000 jobs could be lost over the next 12 to 18 months if action to help the sector weather this storm is not successful. For example, 60% of supply chain businesses have used the temporary furlough scheme. Only by concerted action across industry and Governments, both UK and Scottish, can we begin to mitigate such damage.

To ensure supply to the UK and a return to activity for many, a proactive testing regime for offshore workers in the sector is important. I know that the priority is the NHS, care homes and young people in schools, but north and south of the border, it is important that we get the offshore industry back to a degree of normality. Giving the lower-paid workers there security and support in the long term is important. I welcome the move introduced by the Government and hope that it will be part of a long-term consideration for a strategy to support offshore and onshore workers, in the north-east of Scotland in particular, to get the economy there back up and running.

1.21 pm

Lord Bourne of Aberystwyth (Con): My Lords, I thank the Minister very much for introducing these instruments, which I, like others, strongly support. I also welcome the government help that has been provided in relation to furloughed employees, as announced by the Chancellor, Rishi Sunak. It is a great help at this time.

The instruments refer to "seafarers". There is more than a whiff of Joseph Conrad about that. Although it is a rather old-fashioned term, this industry is vital for our country, as others have noted. "Offshore workers" perhaps has a more contemporary feel, but, like other noble Lords, I welcome the fact that the term extends to these categories.

The Minister noted how many people are within scope of the instruments: some 26,000, I think. How many workers in toto will be subject to automatic enrolment pensions after the instruments are passed? Other noble Lords, notably the noble Lord, Lord Blunkett, have noted that the instruments are extremely important to our society—indeed, more important than ever, not less so. I hope that any review of these automatically enrolled pensions will be about extending the pensions to other categories or to people who are not subject to them at the moment, rather than about contracting the scheme at a time when, as we all know, there is a surge of public spending—rightly so—which will continue. We know that that will put pressure on the state pension, so supplementary saving for workplace pensions should be very much encouraged.

Can the Minister say something about fiscal relief? I realise that she will not be able to say too much as this is not within the scope of her brief, but my noble friend Lady Altmann's point about tax relief for low-paid workers who are not drawing this relief at the moment was extremely well made. They should receive this, as others do. It makes automatically enrolled pensions that much more attractive.

In short, as other noble Lords have done, I welcome the instruments wholeheartedly. I look forward to hearing what the Minister has to say about extending and embedding this to make sure that it is part of the pensions landscape long into the future.

1.24 pm

Baroness Kennedy of Cradley (Lab): My Lords, I too support this order and these regulations. Automatic enrolment into workplace pensions should continue for maritime workers and seafarers. They should have the same access as other workers in the UK economy. As acknowledged by other noble Lords, including my noble friend Lord Blunkett, auto-enrolment, introduced by the last Labour Government, was a landmark achievement. The welcome continuation of the policy between Governments has meant that 10.2 million people are now saving £90 billion a year via auto-enrolment.

However, there are issues that it would be remiss not to mention in this debate: the £10,000 threshold, the starting age of 22 and the problems for the self-employed. I hope the Government will look at these issues sooner rather than later, especially the age threshold. This change, implemented earlier than the mid-2020s, will help young people to start saving as early as possible and give their pensions more time to grow.

During the Covid-19 crisis, the Pensions Regulator has relaxed the requirement for employers to consult on cutting pensions contributions in some circumstances, and the period in which schemes must report payment failures has been extended from 90 to 150 days. Has an assessment of these changes regarding the pension pots of individuals been made?

[Baroness Kennedy of Cradley]

Recently, a leaked Treasury document suggested that one way to ease the debt burden accumulated due to the lockdown would be to scrap the pensions triple lock. Are the Government considering this policy change?

As we discuss the regulation for the offshore sector, as noted by the noble Lord, Lord Purvis, we need to recognise the pressure this industry is under due to coronavirus. The recent business outlook report from the UK Oil and Gas Industry Association says that up to 30,000 jobs could be lost in the next 18 months. What action are the Government planning to support offshore sector workers?

1.26 pm

Baroness Fookes (Con): My Lords, I have for many years been a supporter of the Mission to Seafarers and know from the work I have seen it undertake how important it is. Very often seafarers are stranded in ports perhaps many thousands of miles from home. They may have personal difficulties of their own or may be worried about family back at home, so anything which gives some stability through this automatic enrolment in a pension scheme is very much to be desired. I imagine that the work of the Mission will now be even greater, given the virus. An earlier speaker mentioned the plight of seamen onboard ocean liners; the passengers have long since gone home, but the seamen are apparently still stranded. I sincerely hope that action will be taken swiftly to bring them home.

Noble Lords will have guessed that I am extremely pleased by this permanent arrangement for this group of workers. I have one or two questions for my noble friend. It may be that I should know the answers already, so I am probably betraying woeful ignorance. Are British seafarers working for foreign companies allowed to be enrolled in this scheme? Conversely, are foreign nationals legitimately living in the United Kingdom automatically enrolled with British employers?

This brings me to another point which does not relate much to these instruments but has always been a grievance for me over the years. It has always worried me when a particular topic which is the subject of law is spread among a number of Acts of Parliament or regulations. I notice with some concern that the two before us this afternoon are not to be consolidated. The official announcement says that this is because they are considered trivial, but that is not the point. What one really wants is an umbrella system so that it is very easy for anyone to look things up. Will my noble friend look at this again—maybe not on this occasion but at the soonest opportunity—and make sure that these matters are sensibly consolidated?

1.29 pm

Lord Foulkes of Cumnock (Lab Co-op): My Lords, as one of the three Scottish Peers participating in this debate along with the noble Lord, Lord Purvis, with whose remarks I agree fully, and the noble Lord, Lord Blencathra—who I think was educated at Fortrose Academy and then the University of Aberdeen, so he has a great interest in the offshore oil industry—I welcome and want to concentrate on the offshore employment order. I also welcome the removal of the sunset clause and the continued cross-party co-operation on automatic enrolment, which was introduced by the Labour Government. However, as I understand it, there is an income threshold of £10,000, which would disadvantage lower-paid and part-time workers. If this is correct, can the Minister take this away and look at it again? She is usually very helpful on such matters.

Like the noble Lord, Lord Purvis, I will take this opportunity to make a few comments on the situation of the North Sea oil industry as it affects Scotland as a whole, but Aberdeen in particular. As he said, the price of a barrel of crude oil, which was once $120 then $70 as recently as January, is now half that. This threatens further job losses in the industry. As a member of the organisation Peers for the Planet, I want to see the use of carbon fuels reduced. But, equally, there needs to be a plan to provide alternative jobs in the green energy sector—in wind, in tidal and in other alternative energies—so that those who are displaced from the oil industry as it runs down can get a new job. Aberdeen, which once prospered through fish and then oil, needs another major industry to keep its prosperity.

Returning to the order, I join in the tributes to the front-line DWP staff who have worked tirelessly during this pandemic crisis. Finally, I thank the Minister for her usual courtesy, which I hope she will continue by agreeing with some of the things I have said.

1.31 pm

Lord Wei (Con): My Lords, I join other speakers in this debate in congratulating the Government and the Minister on the principle of auto-enrolment. There are many speaking today who have been involved over the years in bringing this policy to fruition. I refer to my interests as entered in the register, which have historically related to this area. However, I also want to raise a bit of a dissenting voice, if I may.

There can be a danger of thinking that the job is done with auto-enrolment, and I will be interested to hear my noble friend the Minister's perspective on this. I am very conscious that when you think you have done a great job, you tend to roll out the concept to more and more people. In many cases that is a good idea, but I recall that on many past occasions, the state of the American tax system for employees has often deterred the organisations I have worked with from doing too much with America. In an era when we are going to do more on free trade, has thought been given to whether this policy and others that could follow from it might deter overseas employers from employing British people, whether at sea or offshore, or in other ways? Has this been looked at? I sincerely hope that the Government will not apply these policies and ideas blanket-style to offshore workers who have some relationship with British companies, which may then deter trade.

I want to make a wider point beyond the policy of auto-enrolment. What are the Government doing to address the issue of people who have had multiple employers, especially given Covid? I know that this goes beyond the scope of the statutory instruments, but I would be keen to hear from the Minister what is being done to ensure that data from the different pension providers into which people have been auto-enrolled can be gathered over the course of their careers, so that they can get a decent picture of what they have saved

or that has been saved automatically for them. Sometimes, people can be enrolled in this way without having an active involvement in or understanding of what they have been saving.

I would love to hear what work is being done to open up the data protocols, so that people can manage the money they have saved, get good advice and find a way to understand and go beyond the complexity often associated with saving for pensions. With the new technology, they will even be able to toggle their enrolment on and off in future, so that when we go through periods like this, in which we need people to save more cash up front, they can do so. I broadly welcome the principles but I would like to hear from the Minister what is being done to go further, instead of just resting on our laurels.

1.34 pm

Lord Hain (Lab): My Lords, in 2007-08, as Secretary of State for Work and Pensions I introduced the original auto-enrolment legislation that made employee pensions membership virtually compulsory. At that time, many millions were staring at a pensions black hole, so I am pleased that since then over 10 million people are in auto-enrolment, as part of the three-quarters of workers now part of a workplace pension.

These statutory instruments are a welcome advance, especially for maritime workers and seafarers, but I appeal to the Minister to reconsider the issue of the 5 million self-employed, many of whom, as other noble Lords have said, are in low-paid or insecure work and have no pensions whatever. Can she explain how the Government intend to find a solution to this?

This is all against a background of defined benefit schemes—once the gold standard for occupational pension provision—closing at an alarming rate over the last decade as companies cut costs. The norm is now inadequate defined contribution schemes, which means that on current trends, and if the Government, with business, do nothing, the state will incur multibillion costs to save millions from abject destitution.

Notwithstanding auto-enrolment, the average pension pot of £50,000, which would give an annual income of just £2,500 a year, is nothing like enough to live on, even with a full state retirement pension. Experts estimate that we should each save at least 13% of our income from the age of 25. That is simply not happening, with auto-enrolment at a combined 8%.

The Government have kept kicking the can down the road on proper funding for elderly care, and we have witnessed the desperate predicaments of care homes in the Covid-19 crisis, but the same is true for decent pensions. We cannot and must not continue in this way. The blunt choice our society faces is between a future, which currently beckons, of poverty and misery in old age, or politicians today being honest about the need both to pay more into pensions and to raise extra taxation to finance decent elderly care.

1.37 pm

Lord Flight (Con): My Lords, I hope we all support these proposals to maintain auto-enrolment for the 26,000 seafarers and offshore workers. Automatic enrolment has been the key success in this country in achieving the 10 million increase in pension provisioning.

There are five important recommendations outstanding to complete the auto-enrolment programme: to lower the minimum age of participation to 18; to implement the proposals to remove the lower earnings limit; to increase consumer engagement with their pension savings and developing appropriate levels of guidance and advice; to increase the auto-enrolment contribution to 12% to achieve the desired retirement income for the majority; and to ensure that any review and changes to the state pension scheme take into account the overall retirement income targets. Can the Minister give us some assurance that these measures will not get interminably delayed as a result of Covid?

1.38 pm

Lord Blencathra (Con): My Lords, I am grateful to my noble friend the Minister for setting out the rationale for these instruments, which I support. However, I rather like sunset clauses: they force Governments to come back to Parliament to justify the continuation of the legislation under review.

The impact assessment accompanying the instruments says:

> "UK legislation which came into force on or after April 2011 had to include a sunset clause where that legislation imposed a net burden on business or civil society organisations. The secondary legislation which extends automatic enrolment … into a workplace pension … contains such a clause which expires on 1 July 2020. Without government intervention, the AE … will fall away, contrary to the Government's policy intention, as most recently set out in the 2017 AE Review: Maintaining the Momentum. Unless this legislation is renewed … workers commencing employment on or after 1 July 2020, or those existing workers who opted-out of being automatically enrolled into a qualifying workplace pension before this date, would not benefit from the legal obligations that apply to their employers to automatically enrol them."

I agree entirely with the Government's policy on this, but I understand that the Government considered two options. One was not to legislate, but that was a bizarre option and a non-starter. The second was to scrap the sunset clause for all time, as these regulations do. What was not considered, it seems, was a new time limit. I simply ask my noble friend the Minister: why not renew it for a further five or eight years and then let Parliament have another look at it then, as we are doing today? That is the only point on which I want clarification from my noble friend.

Finally, I went out on to oil rigs in my younger days, when I lived in Aberdeen, which the noble Lord, Lord Foulkes, referred to, and I can tell the noble Baroness, Lady Burt, that it is not a great working environment and that they deserve every penny. They deserved that even in the good days, as they do now in the bad days.

I apologise—I have one final point. I congratulate the noble Baroness who has intervened today to remind speakers of the time limit. I call on Lords authorities and Lords Deputy Speakers to cut off and mute all Peers who exceed their time limit by 30 seconds.

1.41 pm

Baroness Janke (LD): My Lords, I thank the Minister for her introduction and welcome the continuation of seafarers and offshore workers in the automatic enrolment scheme.

[Baroness Janke]

As other noble Lords have said, the success of automatic enrolment to date has been very clear, with more than 10 million people brought into workplace savings since its implementation in 2012. However, for the continued success of automatic enrolment, the Government must further extend and embed the scheme, as the 2018 review report recommends. For example, the reduction of the lower age limit to 18 and the removal of the lower earnings limit would mean that people could save a further £2.6 billion annually, which shows the importance of savings in early career and their impact on the size of retirement savings.

Scrapping the lower earnings limit would also mean that pension contributions are calculated from the first pound earned, and would bring some 10 million lower earners into pension saving. Many of the workers whom we clap every Thursday would benefit from this. Some 240,000 more people would be brought into pension saving, most of them women, if the earnings threshold were aligned with the national insurance primary threshold. This would reduce the gender pensions gap, which currently means that the average pension pot for a woman aged 65 is one-fifth of a 65 year-old man's, and women receive £29,000 less state pension than men over 20 years. That deficit is set to continue, all else being equal, closing by only 3% by 2060. We know that large numbers of our women key workers will suffer from pension poverty unless something is done about this.

Will the Government commit to a timetable for implementation of policy to provide certainty to savers, employers and the pension sector? In addition, are the Government considering introducing auto-enrolment for the self-employed, many of whom have no pension savings and whose savings will have been particularly affected by the Covid-19 crisis? Since 2001, the proportion of self-employed in the workforce has increased. At the same time, the number of self-employed people who actively contribute to a pension has decreased steadily since the late 2000s, from 27% in 2008-09, to 15% in 2017-18. Can the Minister give some assurances about this? I fully support these orders.

1.44 pm

Baroness Sherlock (Lab): My Lords, I thank the Minister for introducing these orders, and thank all noble Lords who have spoken.

I was delighted to hear the noble Baroness, Lady Anelay, mention the Mercy Ships, and the noble Baroness, Lady Fookes, talk about the important work of the Mission to Seafarers. Indeed, it has been a nice joint meeting of two clubs: those with an interest in maritime and offshore matters and those of us who dabble in and around the world of pensions. Let us come together again at some point and have another conversation.

I am also grateful for a history lesson from my noble friends Lord Blunkett, Lord McKenzie and Lord Hain, who gave us their insights into the history of this policy. As always, I am grateful to my noble friend Lady Drake for her clear analysis and for her original work on the Pensions Commission, which was so crucial.

It is clear that this crisis will have significant implications for pensions and future generations of pensioners. Pension funds face huge challenges. Today's statistics on unemployment and benefit claims show the scale of the crisis facing today's workers, many of whom are struggling today, even before saving for tomorrow. A report by the Resolution Foundation, as well as highlighting the lost generation of young workers, painted a challenging picture for a cohort of workers in their early 60s. I am with my noble friend Lady Drake, and other noble Lords. It is vital that Ministers do not weaken their commitment to auto-enrolment during this pandemic and that there is a focus on rebuilding pensions in the Government's economic plan.

As my noble friend Lady Kennedy of Cradley said, auto-enrolment was a landmark achievement of the Labour Government. Although we legislated for it, the continuity of policy that has brought us to this point is welcome. Labour has consistently supported action to ensure that the coverage of the scheme is as wide as possible, so the Minister will not be surprised to hear that we support these orders. As noble Lords have heard, these instruments confirm the decision to include seafarers and offshore workers within the scope of auto-enrolment. Unlike the noble Lord, Lord Blencathra, I am glad to see the end of the sunset provision. Would it not be strange to repeatedly review only the position of seafarers and offshore workers, while maintaining auto-enrolment for all other sectors? I am also pleased that the DWP rejected the arguments to exclude this sector altogether from the auto-enrolment provisions, and its conclusion that "ordinarily working" in the UK remains the right test for eligibility for auto-enrolment for this group, as this captures a greater number of the target population of workers. In doing so, it had to reject the case made by some employers who wanted a looser definition of which workers should be eligible for auto-enrolment. I share the view of my noble friend Lady Drake and others on the vital importance of maintaining the comprehensive reach of auto-enrolment. It is vital that we do not start creating loopholes in the regulatory framework that could be used by those seeking to evade their auto-enrolment duties.

The effectiveness of auto-enrolment in achieving its policy objective of increasing savings is also determined by the opt-out rate. Like my noble friend Lord McKenzie, I would like some clarity from the Minister on how many workers the Government expect to be affected by these orders, and what the opt-out rate for them is likely to be. The impact assessment said that the opt-out rate, which it assumed in assessing costs to be 9%, was in line with the current national average. Does the DWP not know what the opt-out rate is for these sectors? I would be interested to know.

Although these decisions affect only a particular sector, they serve to reinforce the notion that auto-enrolment should achieve a mass pension-saving system through the workplace, with duties extending to all employers with eligible workers. That was how auto-enrolment was conceived and I am glad that the Government are holding to that policy. However, too many workers are still excluded from the eligible population for auto-enrolment. With other noble Lords, I ask the Minister when the Government intend to act on those exclusions. The first of these are the low paid, as raised by my noble friend Lord Foulkes. The auto-enrolment earnings trigger excludes many low-paid

workers from saving for their retirement. When will the Government lower the earnings trigger to ensure as many low-paid workers as possible, including those in the maritime industries, can benefit from auto-enrolment?

I would also be interested to hear the Minister's response to the noble Lord, Lord Wei, who raised the issue of people with multiple jobs. I was not sure whether he was talking about people with multiple sequential jobs—in which case, I guess he was asking about the pensions dashboard—or if, interestingly, he is talking about those with multiple jobs at the same time. Can the Minister confirm that if none of those is above the threshold it means that they do not enter the scheme at all?

The second group, raised by the noble Lord, Lord Hain, and others, is the self-employed. Excluding the self-employed from the benefits of auto-enrolment means that pension saving by self-employed workers is worryingly low. The Minister mentioned that share fishermen are not included in these regulations because they are self-employed. What progress have the Government made on options to remedy this situation, to ensure that share fishermen and other self-employed workers in the maritime industries are saving for their retirement as well?

The third group is the young. The age threshold for auto-enrolment excludes workers aged under 22. When do the Government plan to lower the age threshold to ensure that younger workers are saving into their pensions as soon as they begin working?

We are facing an economic crisis on a scale not seen in my lifetime. The implications will affect the pensioners of today and for generations ahead. Noble Lords have raised a range of important questions. If the Minister cannot answer them all today, will she consider making a Statement to the House about what the Government are doing to protect the pensioners of today and the pensioners and pension funds of tomorrow? That would give all noble Lords a chance to discuss the broader issues in more detail. I look forward to the Minister's reply.

1.50 pm

Baroness Stedman-Scott: My Lords, I thank noble Lords for their thoughtful and constructive comments, including those who issued a challenge to the Government. I remind noble Lords that in my opening speech I said that the Prime Minister and Chancellor have made clear that the Government will do whatever it takes to support workers and businesses as they deal with the impact of the coronavirus pandemic and that nobody should be penalised for doing the right thing. As the noble Baroness, Lady Sherlock, just asked, I will endeavour to answer as many points as I can. Where I cannot, I will write to all noble Lords with answers to their questions.

Let me clear up the issue of the Statement to the House. I think the best I can do for the noble Baroness on that is to go back and talk to the Minister for Pensions and the Secretary of State and come back to her.

The noble Baroness, Lady Drake, is so well respected in this field. She spoke about automatic enrolment and our commitment. We have made wage support available to assist all businesses across the regions and sectors of the economy. We believe that this is the best way to support businesses and their workers during the current crisis. The Government will continue to monitor closely the impact of workplace pensions on businesses during the current period. Our objective is to continue to support employers and to balance the needs of businesses and savers, while being mindful of wider economic factors.

The noble Lord, Lord McKenzie, and my noble friend Lord Bourne asked about numbers, as did the noble Baroness, Lady Sherlock. An estimated 29,000 workers in the maritime industries will be automatically enrolled into a workplace pension by their employer as a result of these instruments, and of them 26,000 will not opt out. This breaks down into 18,000 seafarers and 8,000 offshore workers. Across the whole economy, more than 10 million workers have been automatically enrolled into a workplace pension scheme. I will write to the noble Lord, Lord McKenzie, on the other points he raised and to my noble friend Lord Bourne on fiscal relief.

The noble Baroness, Lady Burt, asked why the sunset clause was in the legislation to start with, but the noble Lord, Lord McKenzie, answered my homework there quite well. It was done because there were still complex issues that needed to be addressed and it enabled the legislation to go forward. The noble Baroness also asked about cruise ships, as did my noble friend Lady Fookes. I will go away and get the up-to-date position and write to noble Lords with the outcome.

My noble friend Lady Anelay raised two important points. On the first, the DWP considered stakeholder proposals on the design of a specific ordinary working test for seafarers during the post-implementation review consultation. However, these proposals would have created additional administrative complexity for employers in the maritime industries. Additionally, treating workers in the maritime sector differently from other workers is contrary to the policy design of AE.

My noble friend also asked about employers that are charities and voluntary bodies. The maritime industries are a small sector compared to the overall economy and there is no direct data on the varying size and types of employers in these industries. Therefore, the DWP impact assessment for these instruments makes assumptions about the impact of workplace pension duties across different employer sizes in these industries, based on the broad level of employer contribution across the whole country.

My noble friend Lady Fookes talked about the nationality of some of the people in the maritime industry and the impact of these regulations. The nationality of the worker, and whether their employer is foreign based or owned, is not relevant; it is not an issue. On the point she made about consolidation, no change is taking place. The instrument removed the sunset clause from existing legislation, so it continues to apply. This could not be a more minimalistic approach to legislating.

At this point, I would like to pay tribute to the Seafarers charity, as other noble Lords have done, and to other charities that work in this field. They do excellent work and I place on record our thanks for this.

[Baroness Stedman-Scott]

The noble Baroness, Lady Northover, said that we should put our arms around those who are struggling. That is absolutely what we are trying to do—and we will continue to do so. I cannot answer her question about BP in Angola, but I will write to her.

It would be career-limiting for me to tell noble Lords that nothing is going to change on automatic enrolment. I do not see it happening at the moment, but the fact is that, in these difficult days, we must tread carefully on all these big issues. But we must not lose the good work that we have done on this wonderful system.

My noble friend Lady Altmann raised the issue of women and pension schemes. The Government have taken action to protect people's jobs and to support and pay wages. We took the decision to help ease the burden of workplace pensions for employers with furloughed staff, and this will help many women impacted by the lockdown to carry on their savings.

My noble friend Lady Altmann also raised pension relief, along with the noble Baroness, Lady Janke. Pension tax relief is a matter for the Treasury—I am not trying to duck responsibility. The Government recognise the different impacts of the two systems in pay and pension tax relief. To date, it has not been possible to identify any straightforward or proportionate means to align more closely the effects of net-pay and relief-at-source mechanisms for this population. However, as announced in our manifesto, the Government will publish a call for evidence on pension tax relief administration to see how we can fix the issue.

Turning to the noble Lord, Lord Blunkett, I think it is no bad thing to sometimes support the opposition if it means that our hearts are beating in concert to carry on with something important. He talked about finding ingenious ways to ensure that the entitlement continues: if noble Lords have ingenious ways, I hope that they will write and let me know what they are.

The noble Lord, Lord Purvis of Tweed, the noble Baroness, Lady Kennedy, and my noble friend Lord Blencathra talked about the oil industry. The noble Lord, Lord Purvis, gave an eloquent and clear overview of the challenges faced in getting the economy on the road as quickly as possible. The best thing that I can do is go back to my colleague the Minister for Employment, who is looking at this sector by sector, and perhaps fix up a meeting for the noble Lord and the Minister. I also challenge the noble Lord: if he has ideas, will he put them on paper and let us have them? We really do need this.

Reducing the trigger to include more women and low-paid workers was raised by the noble Baronesses, Lady Sherlock and Lady Kennedy, and the noble Lord, Lord Foulkes. The automatic enrolment earnings trigger determines the level of earnings at which someone must be automatically enrolled by their employer and is currently set at £10,000. This is reviewed annually, and an equality impact assessment always forms part of the review. We will continue to keep it under review as the country recovers from the impact of the coronavirus pandemic, but I will take the points made back to the department. I also want to put on record that I agree with the points made by the noble Lord, Lord Foulkes.

Regarding the triple lock, the Government are committed to ensuring that older people are able to live with the dignity and respect that they deserve, and the state pension is the foundation of that support.

The noble Lord, Lord Foulkes, again made the point about carbon fuels and alternative jobs. Obviously, this will feature in the work that we do to recover the economy. It is a tribute to those who work in that industry. We must do all we can to get the country working again as quickly as possible.

As my noble friend Lord Wei said, the job is not done. We must not take our foot off the pedal. I will take back to the department his point about people overseas being put off employing British people and will write to him. I believe that the point about multiple pensions will be sorted by the work that we are doing on the dashboard in the pensions Bill.

The noble Lord, Lord Hain, and the noble Baronesses, Lady Janke and Lady Sherlock, talked about the self-employed. We know that the current automatic enrolment framework is not suitable. That is why last summer we commenced trials working with a range of partner organisations to help inform future policy interventions. My noble friend Lord Flight raised many questions; I will answer one now and write to him on the others. The auto-enrolment review set out our ambition to remove the earnings limit and lower the age threshold in the mid-2020s. I am glad that my noble friend Lord Blencathra is pleased that we have brought the sunset clauses back to the House, but on the point about the review in five to eight years, there has never been any discussion on that, but I will find out, as requested. The noble Baroness, Lady Janke, asked about a timetable for pensions work. I will find out about this and write to her. I am sure that I have not answered all the questions, but I have done my best and will write to noble Lords.

Automatic enrolment has been transformational in getting employees into the habit of pensions saving. It has reversed the previous decline, and with over 10 million workers being enrolled into a workplace pension, automatic enrolment has by all measures been a great success. The workplace pension participation rate for eligible employees between the ages of 22 and 29 has increased from 24% in 2012 to 84% in 2018. Automatic enrolment has helped eligible women working in the private sector and raised the level of their participation from 40% in 2012 to 85% in 2018. Our ambition for automatic enrolment remains the same in relation to the 2017 review, but there is a need to reflect carefully on the current economic circumstances. It has been a huge success that we want to build on. As we have seen today, it is also important that we have the consensus to do so, so I welcome the support of noble Lords today.

As announced by the Chancellor on 12 May, the furlough and job retention scheme has been extended until the end of October. It will continue in its current form until the end of July; changes to allow more flexibility will be introduced from the start of August. This scheme is just one part of the Government's response to coronavirus, which includes an unprecedented package for the self-employed, with loans and guarantees that have so far provided billions of pounds in support,

tax deferrals and grants for businesses. The Government will continue to monitor closely the impact of workplace pensions on businesses during the current period. Our objective is to continue supporting employers and balance the needs of businesses and savers, as well as taxpayers, at this difficult time.

These instruments remove the sunset clauses from the existing legislation so that automatic enrolment into workplace pensions continues to cover eligible employees in the maritime industry, ensuring that these workers continue to have access to pension saving in the same way as the rest of the UK economy. I commend these instruments to the House. I beg to move.

Motion agreed.

Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2020

Motion to Consider

2.05 pm

Moved by ***Baroness Stedman-Scott***

That the Virtual Proceedings do consider the draft Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2020.

Motion agreed.

2.05 pm

Virtual Proceeding suspended.

Telecommunications Infrastructure (Leasehold Property) Bill

Virtual Committee (1st Day)

2.35 pm

The proceedings were conducted in a Virtual Committee via video call.

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): My Lords, this Virtual Committee will now begin. I remind Members that these proceedings are subject to parliamentary privilege and that what we say is available to the public both in *Hansard* and to those listening and watching.

I shall begin by setting out how these proceedings will work. This Virtual Committee will operate as far as possible like a Grand Committee. A participants' list for today's proceedings has been published and is in my brief, which Members should have received. The brief also lists Members who have put their names to the amendments or have expressed an interest in speaking on each group. I will call Members to speak in the order listed.

Members' microphones will be muted by the broadcasters, except when I call a Member to speak and whenever a Question is put, so interventions during speeches are not possible and uncalled speakers will not be heard. During the debate on each group, I will invite Members to email the clerk if they wish to speak after the Minister. I will call Members to speak in order of request and will call the Minister to reply each time. Debate will take place only on the lead amendment for each group. The groupings are binding and it will not be possible to degroup an amendment for separate debate. Leave should be given to withdraw amendments.

When I put the Question, all Members' microphones will be open until I give the result. Members should be aware that any sound made at that point might be broadcast. If a Member intends to press an amendment or say "Not content", it will greatly assist the Chair if they make that clear when speaking on the group. As in Grand Committee, it takes unanimity to amend the Bill, so if a single voice says "Not content", an amendment is negatived, and if a single voice says "Content", a clause stands part.

We will now begin, starting with the group beginning with Amendment 1. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate. It will be helpful if anyone intending to say "Not Content" when the Question is put makes that clear in debate. It takes unanimity to amend the Bill in this Committee; this Committee cannot divide.

Clause 1: Code rights in respect of land connected to leased premises

Amendment 1

Moved by ***Lord Clement-Jones***

1: Clause 1, page 1, line 13, after "leased" insert "or tenanted"

Member's explanatory statement

This amendment would clarify that tenanted premises are included under the provisions of this bill.

Lord Clement-Jones (LD): My Lords, I shall speak also to Amendments 3, 4 and 5, but at the same time I will make some general comments on the Bill. I should explain that my noble friend Lord Fox will be present and making his general comments in the second session but, for the Chair's benefit, will not be present at the proceedings until then.

It is rare to have the opportunity to hear both Ministers' speeches at Second Reading before delivering my own take on the Bill, so there may be some advantages in our new Committee procedure.

As to the subject matter of the Bill, the Covid-19 lockdown has shown how dependent we all are on good, fast, resilient broadband. Indeed, it is clear from the inability of many MPs and Peers to contribute to Virtual Proceedings how woeful broadband is in some areas. Moreover, recent international comparisons show that we are 81st when it comes to value for money in broadband service internationally, so we need to move forward quickly. In her Second Reading speech, the Minister said that only 12% of UK properties currently had access to full-fibre connections, but the status of the Government's intentions regarding delivery of a one-gigabit-capable service is unclear. From what the Minister said at Second Reading, this will happen "as soon as possible", but that hardly matches the Prime Minister's pledge during his leadership campaign of 100% fibre to the home by 2025 or the Conservative manifesto commitment.

[Lord Clement-Jones]

What is the target? What is the strategy now? Is it 1 Gbps by any appropriate technology by 2025? We need a firm date and a clear plan. What is the relationship to the rollout of 5G? Indeed, are changes to the current, extraordinarily low universal service obligation of 10 Mbps contemplated? Superfast, namely 30 Mbps, broadband availability reached 95% of UK properties as of February 2018. Surely the USO, albeit new, needs upgrading to 25 or 30 Mbps from the current 10 as quickly as possible. We currently have an impossibly low bar.

When it comes to infrastructure spending, we also need a target of GDP percentage spending. What actual investment are the Government making in 1G rollout? What do they expect the private sector to make? The Commons briefing paper on the Bill highlighted the fact that the May Government's future telecoms infrastructure review estimated that the national rollout of full-fibre broadband would require a total investment in the region of £30 billion. This Government have allocated £5 billion to tackle the hardest-to-reach 20% of UK premises, but there are no details yet of how that funding will be used.

There are several existing funding programmes for full fibre, launched under the May Government, including two voucher schemes to subsidise full-fibre connections to rural premises and small and medium-sized businesses. What is the status of these? How are the Government avoiding unnecessary duplication in the rollout of full fibre to the home? How will Ofcom's determination that there will be market competition in some areas, prospective competition in others and non-competition in yet others work? Is the division into three types of area now agreed as the settled way of doing this?

Private sector plans are extensive. Openreach has committed to deliver full fibre to 4 million premises by March 2021 for its Fibre First programme; Virgin Media plans to reach 4 million premises by the end of 2019-20 as part of its Project Lightning network expansion, which includes a mix of full-fibre and cable broadband; Hyperoptic plans to expand its network to cover 2 million homes by 2021; and CityFibre, in partnership with Vodafone, has plans to roll out full fibre to 1 million UK homes and businesses by 2021.

However, the Government clearly need to will the means by breaking down the barriers to installing these networks. Generally, let us not forget that the PM described Theresa May's Government's target to build a UK-wide full-fibre network by 2033 as "laughably unambitious" and we must hold him to that statement. Indeed, many would give that description to this Bill. The future telecoms infrastructure review made it clear that a wide package of legislative and regulatory reform is needed to support the industry to deliver full fibre at scale across the UK. The industry says that it can meet the Government's 2025 target only if public policy and regulatory decisions are made quickly to support rapid investment and rollout.

The Bill will go some way to address the challenges currently faced by network builders in connecting people living in flats and apartment blocks if they cannot identify, or do not receive a response to requests for access from, the building owner. According to Openreach, 76% of these MDUs—multi-dwelling units—miss out on initial efforts to deploy fibre because of challenges in gaining access. Up to 10 million people live in these properties across the UK. Even in this respect, the Bill should go further to provide greater flexibility for network operators. It should allow operators—not just tenants—to trigger the provisions. The time limit of 18 months within which the new rights would apply should not be on the face of the Bill. There should be a more specific requirement on landlords to engage with operators under the new process which the Bill establishes.

Ultimately, however, even if we made these amendments, should not broadband operators be treated as a utility and the operators given the same rights of entry that others—such as electricity companies—have under the Electricity Act 1989? The deployment of new 5G networks as well as fixed fibre should also be a focus. Surely, the 1 gigabit per second commitment is technology-neutral, but in other respects the Bill is deficient. What about other forms of wayleave, in particular in rural areas and commercial property such as business parks?

Why do we not see legislation for a complete rollout strategy? For instance, legislation on gigabit broadband infrastructure for new-build properties was promised in the December 2019 Queen's Speech. Broadband operators also cite skilled labour shortages. What is the plan to overcome these? Is Ofcom now satisfied that adequate protection is in place for consumers, particularly as to the cost of services during the transition from copper networks to VoIP services?

Despite criticism of the wayleave situation, are the Government simply going to rely on their street works toolkit—which provides practical guidance for managing street and road works—for the deployment of broadband infrastructure, rather than the digital champions in local authorities that the National Infrastructure Commission recommended? Are the Government and Ofcom generally satisfied that their reforms to allow Openreach's ducts and poles have been effective? Why does the business rates exemption apply only to laying new fibre and not to upgrading—in other words, substituting full fibre for copper?

The Minister outlined the Government's intentions regarding the timing and content of a telecoms security Bill. On these Benches, we agree that that will be the appropriate time and occasion to discuss amendments relating to high-risk vendors. This is a very modest Bill, which raises so many questions about the Government's strategy and their ability to deliver it. These cannot be addressed by responses alone to the detailed amendments which have been laid. I hope that the Minister will attempt to respond.

On the substance of the amendments, I hope that they are to some extent self-explanatory, so I will be brief. Surely the current wording of the Bill with regard to lessees creates considerable uncertainty as to whether tenants who do not hold a lease are covered. Conventionally, lawyers describe the areas of law covering contracts for the occupation of land as landlord and tenant law. So it would have been entirely understandable if the reference had been to tenants throughout, but this way around, where "lessees" are intended to encompass tenants, does create uncertainty.

What is the position of a tenancy at will or a renewable tenancy, which are not covered by the documentation of a lease as such? There are considerable distinctions between a tenancy and a lease in general parlance. A lease will normally have some kind of capital value attached to it on assignment. A tenancy, under a rental agreement, will be very unlikely to have that. I hope that the Minister can give a full answer on the legal point, including any legal authority. This will be important for any future interpretation purposes if a Pepper v Hart situation arises, as I suspect it may.

The words I have just spoken apply to Amendments 1, 3 and 4. Amendment 5 is seemingly small, but it is important. Why does a lessee have to be in occupation? What if it is a second home or a sublet? Does that disqualify a lessee from being able to invoke the Electronic Communications Code? This gives rise to many questions. Why should a lessee have to be in occupation? I very much hope the Minister will be able to answer that question. I beg to move.

2.45 pm

The Deputy Chairman of Committees: The next speaker on my list is the noble Lord, Lord Fox, but as the noble Lord, Lord Clement-Jones, pointed out, he is joining the debate after the interval. I therefore call the noble Lord, Lord Adonis.

Lord Adonis (Lab): I spoke at Second Reading, so I do not need to follow the noble Lord, Lord Clement-Jones, in making a Second Reading speech. I agree with all the points he made; his amendments probe the Minister in all the right directions.

However, a new big Second Reading theme has emerged since that Second Reading debate, due to the coronavirus crisis and the pressure it is putting on private operators. There has been a good deal of media speculation in the last two weeks as to what might happen to Openreach, in particular whether BT will seek new partners to fund its rollout plans or possibly even sell off Openreach entirely. That would be a dramatic change in circumstance from the position before the crisis, when BT was keen to maintain its position with Openreach and the argument was much more about how one could get a commitment to rollout while Openreach was still linked to BT.

In her reply, can the Minister give us a sitrep on the position in respect of Openreach, what BT's intentions are and what impact she believes it will have on the rollout schedule and plans in respect of superfast broadband? This has a big bearing on the subsequent amendments and those we might want to take forward on Report. I hope she can give us an update on those issues.

Baroness McIntosh of Pickering (Con): My Lords, I echo many of the sentiments expressed by the noble Lord, Lord Clement-Jones, and thank him for tabling these amendments. Leasehold properties are a very grey and disaffected area of property rights. It is extremely important to state at the outset that my interest is primarily in putting leasehold properties, particularly in rural areas, on the same basis as any other property.

As the noble Lord, Lord Clement-Jones, said, Covid-19 has thrown a spotlight on the importance of connectivity and access to all forms of communication, particularly mobile signals, wi-fi and broadband. Without a shadow of a doubt, in north Yorkshire and other deeply rural parts of the country, many properties, not just leasehold properties—we lived in one for a couple of years in north Yorkshire—are very remote from the exchange and their connectivity remains woefully slow. I ask the Minister directly to ensure that leasehold properties will be put on the same basis as any other property, particularly in rural areas.

I support this group of amendments in a probing way—particularly Amendment 1, which will cover tenants. On Amendment 5, as the noble Lord, Lord Clement-Jones, alluded to, leaseholders may not be in an occupation. What is the position under the Bill as it stands, without Amendment 5, if the occupant was retired?

With these few focused remarks, I take this opportunity to ensure that the Bill fulfils its purpose—to put these property rights on an equal basis with other rights—but also to ensure that in rural areas we have the maximum connectivity in every aspect, whether mobile signal, wi-fi or broadband, which is the Bill's intent.

Lord Holmes of Richmond (Con): My Lords, I will make a number of overarching Second Reading points, if I may, before speaking directly to some of the amendments in this group.

The intention of the Bill is relatively clear: it is a focused, tight piece of legislation. May I ask my noble friend the Minister about the timetable for the other legislation that is required in this framework, not least to address the issue of high-risk vendors, which has understandably had a great deal of coverage?

I believe we have a tremendous opportunity in the United Kingdom with all the elements of the fourth industrial revolution: artificial intelligence, machine learning, blockchain—or, as I prefer to call it, distributed ledger technologies—and the internet of things. But as with previous revolutions, the truth of all of this is tied to the infrastructure which underpins it. The infrastructure for connectivity is far more significant than the infrastructure for moving people, not least now but increasingly as we go through the coming years. Can my noble friend say some more about the 2025 target, what the plan is to achieve it and whether it needs reassessing in the light of recent developments and the speed of technological change in this area?

As other noble Lords have commented, Covid-19 has brought so much into stark focus, and our connectivity takes nothing other than number one spot. WebEx, Microsoft Teams, Zoom—words that many noble Lords and others in the country barely came across before the lockdown, we now say more often than "good morning", "good afternoon" and "good evening". Other connectivity tools are also available.

What has been demonstrated is that we are woefully short of the capacity and the infrastructure to deliver, for example, the connection between families who have not seen each other for months on end. We are also short of the capacity to drive business. If we had greater connectivity, speed and, crucially, not just capacity

[Lord Holmes of Richmond]
but reliability, much of our business could operate very effectively in this new environment once that shift has been made.

Can I ask my noble friend the Minister what lessons have been learnt from the original Openreach contracting process and rollout, and how those lessons have been integrated into the current plans? I am quite happy for her to write to me on that issue—disgracefully, I did not give her prior notice of the question. There are a number of key points coming out of that process which can be beneficial moving forward.

The value of this Bill is demonstrated in the cross-party support it has received; I wish it swift passage. Regarding the amendments in this group, I can do little, as is often the case, other than echo the fine, eloquent words of the noble Lord, Lord Clement-Jones. Could my noble friend the Minister explain the thinking behind the Bill's wording, which seems somewhat at odds with current landlord and tenant legislation? I will limit my remarks to that at this stage, and I look forward to hearing my noble friend the Minister's response.

Lord Haselhurst (Con): My Lords, I was advised that, in view of the fact that the Second Reading debate had been somewhat truncated, some flexibility would be allowed in consideration in Committee and that debate might flow over the boundaries of separate amendments. I have been greatly encouraged by the opening speech from the noble Lord, Lord Clement-Jones, in that there was a virtual tidal wave of movement across the Bill. It is very much in that spirit that I seek to make a contribution.

Like my noble friend Lady McIntosh, I live in a rural area, but not one that is 200 miles or more from London—she knows the area well. In fact, it is 50 miles from London and 10 miles, as people constantly remind me, from London's third international airport, yet you are lucky to get a download speed of 4 Mbps. There are various rural areas in particular across the country where there is a great gap to be filled.

It is hard not to like the Bill. It is a step in the right direction. We are all committed. I remember going to meetings where people protested against the health risks of mobile telephone masts. Now we have had a flutter—irresponsibly, in my view—regarding the damage that might come from 5G masts, but the fact is that the public demand is largely to get on with it. The more they hear talk of 5G and other loftier ambitions, they get angrier and angrier if they get only tiny and intermittent broadband connections. There is no doubt about that. The Bill adds to the momentum of rollout. I come down on the side of pressure being applied to persons or bodies that in any way appear to be obstructing provision.

I am a member of the Delegated Powers and Regulatory Reform Committee. We considered the Bill. There was a very interesting debate, during which opinion changed as to whether the Secretary of State had sufficient powers to drive matters forward. I hope that the Secretary of State will take a liberal, with a small "l", approach to the use of those powers, which the committee left in place. I am not sure whether the point at the heart of this first group of amendments is more arcane than real, having heard the Government's explanation. I hope there will be a generous approach to it. I accept that there are more people who can specifically be encouraged to make requests under this legislation.

I have a similar bias of wanting to extend the beneficiaries of this when it comes to alternative dwellings, a subject of one of the later amendments. I cannot see a lot of difference between a block of flats and a retirement village. I had cases in my former constituency where redundant farm buildings were converted into small, bespoke businesses. There are other places, which I might call mini-malls, in rural areas where a number of buildings with different retail products have got together and provide a very useful amenity for people. They too have a right to expect the best of connections.

It is also important that we get equal treatment in major housing developments. I came across an astonishing situation in such a development in my former constituency where different builders did different sides. There could be a situation where people living on one side of a road had the apparatus for broadband connections while their neighbours on the other side of the road did not. That must be crazy. Is there anything we can do to overcome that kind of difference?

3 pm

Although I am philosophically all in favour of competition, I feel some caution about proposals that would create competition in the field of this provision. I speak from somewhat bitter experience: that of my rural former constituency and the very rural part of it in which I still live. A bespoke company was granted rights to deal with this area, with its considerably sparse population, because the main players such as BT did not want to have to do it. I understand why. So, in December 2016, sales representatives come to the doorsteps in my small village to sign us up for a high level of broadband. Five years later, we are still waiting. Some work was done: our roads had to be closed, of course, and there was a fair amount of disruption while that was going on. The idea that someone else could come along, perhaps with a different means of connecting our properties, and cause more disruption is not merely a waste of money but not one of the Government's aims.

A message has just come up on my screen saying that my internet connection is unstable. Whether it is telling me that I should complete my contribution, I do not know, but I have only a sentence or two more to go.

This is not just about the Secretary of State exercising his discretion. It is not just landowners and businesspeople who must be given some extra means of proceeding. There must be some pressure put behind the operators as well if we are to achieve our targets. The example that I described is not alone in the country. We must get on with this. I appreciate the need to pay our balance off with interest. If we are to give the Secretary of State wider regulatory powers, I hope that they will be used in a way that will get us nearest and fastest to the goal that we all want.

Lord Stevenson of Balmacara (Lab): My Lords, the benefit of making one or two Second Reading-style comments at the start of the debate on these amendments

has been well proven by what has been said. A lot of context has been brought out, as has the theory underpinning some of the lines of argument. That is all to the good.

I want to make a couple of initial points. I take it as read, and I am sure that the Minister will confirm this when she responds, that we are all supportive of the speedy and complete rollout of a gigabit-capable economy. There is no question about our support in terms of previous chances because we have focused on or around this topic for a number of years now. Indeed, we have had a couple of Bills on it. It is on the record that, on our side of the House, we have tried hard to raise the unambitious USO target, as my old friend, my noble friend Lord Adonis, mentioned. We have also brought forward other measures—they were picked up on by other speakers, including the noble Lord, Lord Clement-Jones—which may have helped us to get a bit further down the line to where we are.

In the Digital Economy Act and subsequent legislation, we asked how to get everyone together on the path and moving toward a gigabit economy. The Government chose to go down the voluntary route. Of course that ended in tears, with very few respondents happy with where they are—so here we are again. I will not go into that in any detail. Having said that, times have changed. Other noble Lords have said it but I am sure that the Minister will agree that the internet's role has changed as a result of Covid-19. It would have changed anyway but it has certainly been brought into focus because of the crisis. We certainly do not want a situation where individuals or families could be left behind because they have not been given access to gigabit-capable broadband.

Underneath the general points that have been made, there are probably a couple of major positions that we ought to focus on as we go through these amendments. Surely the default position should be that, like water, gas and electricity, gigabit-capable connections should be available to all premises. The acid test for us on this Bill is whether its measures advance that. The noble Lord, Lord Haselhurst, said that there were points that we could agree did bring us forward, but I think the general feeling so far is that perhaps there is not a deep enough cut being taken from those issues.

My second point is: where are the other pieces of legislation that will back this up? Where are the points that address bringing forward access to all properties on the same terms as other utilities? Where are the measures that will help with works that have to be done on a village-wide or town-wide basis in order to get access to cables? When will we get some sense of the overarching position and the legislation for that?

We support the amendments of the noble Lord, Lord Clement-Jones, and the one raised by my noble friend Lord Adonis. There needs to be broader support for legal occupiers to be able to initiate and unblock the process. I particularly liked a comment made in the middle of the debate about the future ownership of Openreach, and I look forward to the Minister's response.

Throughout all this we are not in any sense saying that the owner of the property is diminished by any proposals to improve the quality of what is available in the premises. However, we clearly need it to be possible for all properties to be supplied with public utilities, and I think the internet has to be regarded as one. If this is not the case, it is up to the Minister to make very clear today why not. Can she address that point? Will she take back, perhaps for further consideration on Report, the wider concern—it was expressed by the noble Lord, Lord Clement-Jones, and the noble Baroness, Lady McIntosh, in particular, but I think was raised by just about everybody—that the Bill actually has not tackled the essential question of who it is talking about when it deals with property rights?

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con): My Lords, I thank the noble Lord, Lord Stevenson of Balmacara, for his support and that of his colleagues for the Government's work in this area; I thank all noble Lords in that regard. I also thank the noble Lords who tabled these amendments, which seek to clarify who is able to make a request for a service, and therefore begin a path for an order process.

The noble Lord, Lord Clement-Jones, and my noble friends Lady McIntosh and Lord Holmes raised questions about our 2025 manifesto target and the impact of Covid-19 on achieving that. As many noble Lords noted, the current pandemic has re-emphasised the importance of digital infrastructure in the UK, and we are fully committed and resolved to deliver on this. Obviously, Covid-19 is likely to have an impact on the pace of the rollout in the short term, but we cannot assume that we cannot recover that, make up ground and still meet our target. We are doing everything we can to assure this, including investing £5 billion in the hardest-to-reach areas such as the rural areas to which my noble friends Lord Haselhurst and Lady McIntosh referred.

Questions were also raised by several noble Lords, particularly the noble Lords, Lord Adonis and Lord Clement-Jones, about investment and competition. I cannot comment on the rumours about the status of Openreach, which is obviously something for the BT Group to announce or comment on, but our understanding from subsequent press reports is that the original *Financial Times* report was inaccurate. Officals will continue to engage with BT and Openreach, but it is ultimately a private company. [*Inaudible.*] They also raised a number of other questions, particularly in relation to the status of broadband connections as a utility—if I may, I will comment on those in a later group. Some specific and quite detailed questions were also raised which I will respond to in writing, including the question from my noble friend Lord Holmes as regards learning from previous Openreach rollout.

Turning to the specific amendments, I note that Amendment 6 is similar to an amendment tabled in the other place during the passage of the Bill there. I believe that the noble Lords who have tabled the amendment are seeking to ensure that tenants are covered by the Bill. If noble Lords are indeed seeking clarification on that point, I am able to confirm that as currently drafted, the provisions in this Bill can be used by people who rent their homes. This includes people with assured shorthold tenancy or assured tenancy agreements which, as many noble Lords will be aware, are the most common forms of tenancy agreement. These will include second homes and sublets as long as they meet the requirements in the Bill. I will confirm this

[Baroness Barran]
in writing, but my understanding is that in relation to renewable tenancies—a point raised by the noble Lord, Lord Clement-Jones—if they have the characteristics of a lease, they would not be affected by this Bill. [*Inaudible.*] They would not be covered by this Bill. I can cover the impact of that in a letter to noble Lords.

Our concern is that the amendments as tabled would have a significant effect on the Bill. They would significantly expand the scope of who is able to make a service request to include anyone who is the legal occupant of a property, tenancy, or a freeholder. For example, the amendment could bring into scope a tenant who rents their property from an individual who is illegally subletting the property or a short-term lodger in a single room in someone else's home. I am sure noble Lords will agree that, while the Government are committed to providing widespread access to fast, reliable and resilient broadband, it is important to ensure that the ability to make fundamental changes regarding the rights over property begins with an individual who has a legitimate interest in the property. Furthermore, Amendment 6 would considerably increase the ambit of the Bill and make it very different from the model which was consulted on. The Bill as drafted already works in respect of tenants, so noble Lords will appreciate the unintended consequences of extending the definition to those who may begin a Part 4A process.

3.15 pm

On Amendment 5 specifically, my initial impression was that the intention behind the amendment was merely to simplify the Bill's terminology. However, having looked at it more closely, I realise that removing the two words "in occupation" could have unintended consequences both for the other provisions in the Bill and for the operation of the policy itself. If we were to accept the amendment, that would mean that a lessee not in occupation—for example, a leaseholder who has let their property under a tenancy agreement—could request a service for their tenant without their knowledge or agreement. As I am sure noble Lords agree, there is a potential for conflict here. It could also have consequences for the ability of the lessee in occupation to choose their internet service rather than having it imposed by whomever they lease the property from. This is an unintended consequence of the amendment that I am sure your Lordships would not wish to see.

The policy underpinning the Bill has been carefully crafted, aiming to balance the interests of landowners, tenants and operators. This goes to the heart of the Bill's proportionate approach, which the amendment could inadvertently disturb as outlined above. The amendment would also impact on the clarity of the drafting of the wider Bill. Removing "in occupation" from this subparagraph could create a disjunct with the preceding one, which clearly states that the premises that are in scope of a Part 4A order are occupied under a lease. This disjunct could in turn potentially generate satellite litigation on the relationship between sub-paragraphs 1(a) and 1(b). The Bill as presently drafted has no such disjunct.

So, while I understand the intention to try to simplify the definitions in the Bill, if we were to accept the amendment then it could have a clear detrimental impact on the Bill and the policy underpinning it. The drafting as it stands was carefully considered by my officials and drafted so as to ensure that the policy delivered the outcome that we sought—namely, helping a lessee in occupation to gain the connectivity that they seek while balancing their interests against those of other interested parties. I am concerned that, if we were to accept the amendment, that careful balance would be disturbed.

I appreciate that I may not have addressed all the points that noble Lords raised but, as I mentioned at the outset of my remarks, I will cover any outstanding points in writing. With that, I hope I can ask the noble Lord to withdraw the amendment.

The Deputy Chairman of Committees (Baroness Finlay of Llandaff) (CB): My Lords, we are aware that there are some connection problems for the Minister, but we will continue as we are at the moment. I have been notified of three noble Lords who wish to speak now: the noble Lord, Lord Liddle, the noble Baroness, Lady McIntosh of Pickering, and the noble Lord, Lord Adonis. I will call each in turn, and after each person the Minister will respond. I call the noble Lord, Lord Liddle.

Lord Liddle (Lab): My Lords, I am grateful for being allowed to intervene. Had I realised the procedure, I would have made some Second Reading remarks myself at an earlier point. I support the Bill. It is a modest measure that takes us nearer what I think should be the public objective of a universal service of high-speed broadband. It therefore has my general support.

There are two points from the Minister's summing-up on which I would like to press her. The first concerns the question that my noble friend Lord Adonis asked about the future of BT Openreach. I am afraid I did not fully catch what the Minister said in reply because of connection problems, but I regard this as a subject of fundamental public interest. I would like to be assured that the Government will also regard it as such and will not just say, "This is a matter for BT to decide what it wants to do in terms of its own private interests and its shareholders' interests". I would like an assurance that this is regarded as a matter of great public interest.

My second point relates to the final section of the Minister's legal bit at the end about who is and is not entitled under these arrangements to press for better connections. I shall look at this question in a very practical way. I am very concerned about young people, including students, living in short-term lets in multi-occupier buildings—for instance, in old council blocks where someone has bought a flat to rent it out and their main occupiers are students on short-term tenancies. I should like an assurance that this provision applies to young people and students whatever the basis of their living in that kind of accommodation. It is fundamental that young people have access to high-speed broadband. This has been brought home to me as chair of Lancaster University, where we are now doing our teaching online. Even when the Covid-19 crisis comes to an end, a much higher proportion of university teaching will be online, and this applies to many other vital spheres of life. There is a practical concern here. I ask the Minister to go back to the department, think about all the circumstances in which young people and

students rent accommodation in blocks of flats and multi-occupier properties, and say whether they have an untrammelled right to ask for better provision and whether the process will be so rapid that a student on a short-term tenancy will want to see it through.

Baroness Barran: I thank the noble Lord for his additional questions and I apologise to your Lordships. There is a certain irony in my signal not being quite strong enough for this Committee stage.

In answer to the noble Lord's question about Openreach, what I tried to say in response to the noble Lord, Lord Adonis, when he put this point, is that any sale is a matter for the BT Group, but the department's understanding, based on further articles in the press, is that the original *Financial Times* article was inaccurate. We continue to engage with BT and Openreach, but ultimately it is a private company, albeit subject to all the competition laws and wider legislation that might be relevant.

In relation to students, the noble Lord makes a very important point. I spent quite a lot of time recently talking to young people, including students, about the impact of Covid on their lives. The points he makes are definitely reiterated by them. As the noble Lord knows, students will live in a range of different types of accommodation with different arrangements. Where they are occupying accommodation such as an assured shorthold tenancy or an assured tenancy, they will be covered by the Bill.

The noble Lord's wider point was about thinking through the practicalities, which is what my officials have spent much time doing. This was explored extensively in the other place. The balance we need to strike is between the three parties—the landlord, the tenant or leaseholder and the operator—and that is what this legislation seeks to do.

Baroness McIntosh of Pickering: I thank my noble friend for her very comprehensive reply to the opening remarks on Amendments 1, 3, 4 and 5. She referred specifically to the hardest-to-reach properties and the sum of money that has been allocated. I repeat here a plea that I have made on many occasions, in the hope that it might be listened to sympathetically. By 2025, the 5% hardest-to-reach properties, which will inevitably be in rural areas, will, in all likelihood, still not have fast, high connectivity or even fibre broadband. Will the Government look sympathetically on a request to reverse the priorities, to ensure that the 5% hardest to reach will be dealt with first? A great number will indeed be leasehold properties, and many will be tenanted; and many will have residents who are hoping to run rural businesses, or people who are having to work from home at this time. I know that this will strike a particular chord with them.

Given that in areas such as North Yorkshire, the Lake District and Devon, or in any hilly area, you have to deal with the terrain and with the geography of being a substantial distance from the exchange, it seems unfair that these properties—I repeat that many will be leasehold properties—are being disadvantaged and discriminated against. They should be fast-tracked, to allow them greater access to all forms of telecommunication.

Baroness Barran: My noble friend makes an important point. It is something we keep constantly under review and I will take her comments back to my colleagues in the department, so that they are aware of her remarks.

Lord Adonis: I am glad that the Minister has a sense of humour. Those of us in this Committee will regard her predicament of having a very weak connection as fully justifying the Bill. I do not know whether she is in a shared property that does not have fibre throughout, but we cannot properly conduct this Committee stage because even among ourselves we do not have a sufficiently strong internet signal, despite having weeks to prepare. This demonstrates why, as a country, we need to get going on this.

I did not pick up the first time round what the Minister said about BT, because of her dropped connection. When she repeated it in response to my noble friend Lord Liddle, she left me somewhat concerned. She said that the stories in the *FT* were "inaccurate", but she would not say in what respect; she simply referred to other press comments. I see exactly what she is seeking to do: she is trying to keep clear of revealing to us private information, which the Government or the regulator will surely have, about what is going on in this context. However, I think she will understand that we do not really regard this situation as satisfactory.

As my noble friends Lord Liddle and Lord Stevenson rightly said, although Openreach is formally a private company, our whole understanding is that rolling out enhanced gigabyte connectivity crucially depends on Openreach. If we do not have confidence in its capacity to do this, the Committee will certainly not be satisfied that the Government have a strategy. To be fair, I do not think that the Government themselves would be satisfied with the situation either.

3.30 pm

The Minister owes it to the Committee to tell us more than that the reports were inaccurate. She has to tell us in what respects they are inaccurate, maybe by pointing out particular press articles that have reported on the inaccuracy. The crucial, underlying issue is that if the future of Openreach is in doubt and it is sold, will the same rollout targets and investment commitments be made? If they will not, the Government certainly will not meet their 2025 targets, even if the Minister is right that the impact of the coronavirus crisis will be, as she put it, short term—though I should say in parenthesis that even if it is, given that there are only four and a half years between now and 2025, that could still be lethal to meeting the targets. If there is a big question mark over the future of Openreach, it is not clear that we or the Government can be confident that it will meet the targets even if there is not a coronavirus problem.

Will the Minister say more about the Openreach situation? In particular, since she said that some of the press comment was inaccurate and had been countered by other press comment, which I assume means other press comment that is accurate, could she please point out to the Committee which press comment is accurate and tell us what was actually said that is accurate about the situation in respect of BT and Openreach?

Baroness Barran: I thank the noble Lord for his further questions. To cover the point about Openreach, the noble Lord will be aware that on 15 May the *Financial Times* suggested that BT was considering the sale of a stake in Openreach to potential buyers, including Macquarie. Officials spoke to BT last week, which confirmed that this was inaccurate. Both Openreach and Macquarie sources have also publicly told the press that this is inaccurate. On his wider point, if the Government became aware that Openreach did not have the capacity to deliver on our target, we would obviously reconsider how best to meet it, but I am not in a position to be able to give any more detail here.

I will also correct something. I hope noble Lords did not understand me to say that potential delays in rollout from the impact of Covid-19 are only short term. At the moment, we understand some of the short-term impacts and we hope we will be able to absorb them, but given that none of us has a crystal ball on how this will all unwind, I wanted to clarify that for the record.

Lord Clement-Jones: My Lords, I thank the Minister for her response. As the noble Lord, Lord Adonis, implied, it was ironic that we were talking about fast, reliable, resilient broadband, in the Minister's words, yet she is the one who has principally suffered from not having it in the course of the debate. I thank her anyway, and I look forward to the letter she will send, which might be a little bit clearer than the reception we had for her response.

I thank noble Lords for their support for the amendments. In particular, the noble Baroness, Lady McIntosh of Pickering, and the noble Lord, Lord Liddle, brought out some of the real issues associated with getting the wording wrong. I say to the noble Lord, Lord Haselhurst, that there is nothing wrong with Liberal with a large "L". We might want to see the ECC interpreted with a large "L", not just a small one.

I felt the Minister really did not start off on the right foot when talking about the actual aim—the Government's objectives. I understand that there may be some delay as a result of Covid-19, but the target was set out in the Conservative manifesto. We have not really had a pledge on that. We have had "as soon as possible"—I think that that was in the Minister's speech last time—but no pledge that that is the objective and that all the Government's sinews are being strained to achieve it. That is what we want to see.

On the amendments, we are back to the question of access. As I said, the noble Lord, Lord Liddle, and the noble Baroness, Lady McIntosh, got this right. It is about absolute access for various types of occupier. We should be treating this as a utility. We cannot be talking about this in 19th-century property terms. It is as if we were at the end of the 19th century and beginning of the 20th century, when people were arguing about whether electricity should be installed in their houses. Broadband should take its place alongside gas, electricity and water as an essential utility and we should give suitable powers of access to do that.

I look forward to the letter from the Minister but to say that my amendments affect the clarity of the drafting of the wider Bill is almost laughable, because the drafting of the Bill is not clear. The use of the term "lessee", which excludes quite a number of different types of occupation and tenancy—as has been pointed out—is not adequate. We do not just have a legal issue; we have a clear access fault line about how we treat broadband and its essential nature. We are going to have have-nots who are not able to benefit from the ECC and that will be greatly regretted, not least by those who are unable to access the kind of service that the Minister herself would like. I do not necessarily take on board the arguments about unintended consequences and occupation. One is being over-cautious in the way that the Bill has been put together, but that is a characteristic of the Bill as a whole. We will, no doubt, come back to this on Report. In the meantime, I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

The Deputy Chairman of Committees (Baroness Finlay of Llandaff) (CB): My Lords, we now come to the group consisting of Amendment 2. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate. It would be helpful if anyone intending to say "Not content" when the Question is put made that clear in debate. It takes unanimity to amend the Bill in this Committee; this Committee cannot divide.

Amendment 2

Moved by ***Lord Adonis***

2: Clause 1, page 1, line 17, at end insert—

"( ) the operator intends to provide an electronic telecommunications service that can deliver an average download speed of at least one gigabit per second."

Lord Adonis: This amendment provides that the powers in the Bill can be used only in respect of an operator which,

"intends to provide an electronic telecommunications service that can deliver an average download speed of at least one gigabit per second",

which leads on from the points made earlier by the noble Lord, Lord Clement-Jones, and other noble Lords, about this being part of the nation's intended rollout of fibre capacity, so that fibre and superfast broadband become a core public utility like the others. Exactly the same amendment was moved in the House of Commons Standing Committee by Chi Onwurah, but I make no apology for bringing it to this Committee, because of the Government's response. I do not need to go through all the arguments as to why we need the one gigabit requirement. That is what we mean by full-fibre connectivity. The Government have accepted that; anything less will not provide the new level of public service utility that we all want.

The odd thing, though, is the Government's reluctance to see this defined in the Bill. I had assumed that they accepted that it was the target but did not think it necessary to define it in the Bill. However, what the Parliamentary Under-Secretary of State, Matt Warman, said in the House of Commons in his response to the Bill committee on 11 February leads me to have much bigger concerns than before. He said:

"We sympathise with the spirit of the amendment. There is currently little evidence that anyone seeks to install services that are not gigabit capable."

However, he went on to say:

"If a group of residents or a telecoms operator sought to install a service that was not gigabit capable, although that is extremely unlikely, I do not think the Government should seek to withhold better broadband from a block of flats, for instance, simply because that is the only option available".—[*Official Report*, Commons, Telecommunications Infrastructure (Leasehold Property) Bill Committee, 11/2/20; col. 7.]

He made other statements in exactly the same spirit later.

This raises a fundamental issue, which I will press the Minister on. Are we or are we not talking about full-fibre connectivity with gigabit capability? That surely must be what we seek to achieve as the public utility standard across the country, not just in urban areas, but, as the noble Baroness, Lady McIntosh, so rightly said, in rural areas too. I do not think that Parliament would now regard this as satisfactory and something that should be left to private companies. They may come forward with other proposals and make other provision, but we in Parliament should be concerned about getting the full-fibre connectivity at the 1 Gbps standard.

Just to remind the Committee, Japan has currently reached 98% coverage with that standard, and South Korea 97% coverage. On the latest figures, the United Kingdom has reached only 11% coverage. In a former life, when I was the chairman of the National Infrastructure Commission, this was one of the highest priorities for infrastructure catch-up that we identified as a country. The other, which is related, was our appalling level of 4G coverage; I imagine that the Minister would have had dropped connections as serious as those from her current internet connection.

Can I press the Minister to say why the Government will not accept this gigabit-per-second capability standard in the Bill? Does she stand by what Matt Warman said in the House of Commons: that it is because the Government do not want to put that requirement on private operators? If so, does she realise that it immediately gives rise to the question whether we can accept that the Government are sufficiently committed to meeting this full-fibre gigabit-per-second standard? If they are not, I suggest to her that the Government's whole strategy will start to fall apart at the seams. I beg to move.

Lord Livermore (Lab): My Lords, I am pleased to follow my noble friend Lord Adonis, to whom I am grateful for tabling Amendment 2. The Government have talked a lot about improving broadband speeds across the nation—something which, in light of the current situation, has become more important than ever. Despite this, as my noble friend Lord Collins of Highbury noted at Second Reading, there has been a gradual but very definite downgrading of the Government's ambitions.

When the Bill was first published back in January, it should have been an important step in realising the stated ambition of widely available gigabit-capable broadband. The Government have their new Commons majority—not that they needed it, because the issue of improving our telecommunications infrastructure is not contentious. Instead, not only was the legislation severely limited in its scope; it played it safe on the services to be provided under it. The Committee can imagine our disappointment, and the bewilderment of many who had expected so much more from the department.

The Labour Front Bench has signed this amendment, as we need greater clarity on the Government's plan for high-speed broadband and other forms of telecommunications infrastructure in the months and years to come.

3.45 pm

We are concerned that the UK continues to lag behind other countries in its rollout of super-high-speed broadband. I know that the Minister disputes the figures cited at Second Reading, but we are united in believing that the UK faces real economic costs if we do not get this right. We are not the only ones with concerns. In recent weeks we have been contacted by a range of stakeholders in the telecommunications industry who feel that this Bill fails to live up to expectations. They are concerned that the Government promised much in their manifesto but are now failing to provide them with the tools they need to deliver.

Of course, this is not only an issue of speed. It is a theme that will feature in debates on a number of groups of amendments before us this afternoon. However, Amendment 2 gives us the opportunity to talk about the speed aspect. Can the Minister provide any updates to the position outlined at Second Reading? Can she confirm whether, as a result of Covid-19 and its role in highlighting the importance of good broadband connection, the Government and Ofcom will take another look at the universal service obligation?

Finally, does she feel that the Bill, as drafted, matches the Government's agenda for high-speed broadband? If so, could she tell us what we, and the operators themselves, have missed? If not, is she open to discussing how we can improve the legislation ahead of Report?

The Deputy Chairman of Committees: The noble Lord, Lord Stevenson of Balmacara, is listed to speak next but I believe does not wish to contribute at this stage. I therefore move on to the noble Lord, Lord Clement-Jones.

Lord Clement-Jones: My Lords, I absolutely support what the noble Lords, Lord Adonis and Lord Livermore, said on this matter. A lot of what we are trying to achieve with our comments on the Bill—clearly there is a great deal of commonality here—is to get the Government to state very clearly what their objectives are and how they will achieve them. This is a very well-worded amendment designed to do just that, so that the operators must commit to a one-gigabit-capable broadband commitment. Amendment 21, when we come to it, has a very similar intention.

The problem is that we seem to be faced with a really slippery objective that we cannot quite get our hands on; the Government have not quite committed to it. We really need to see proper commitment from the Government to full access to the one-gigabit-capable broadband which they absolutely promised in their manifesto. At the moment, there seem to be an awful lot of get-out clauses. That is not satisfactory. We will keep arguing through this Bill for a proper commitment to the one-gigabit-capable broadband promised at the last general election.

Baroness Barran: My Lords, I will now respond to Amendment 2 and the points raised by noble Lords.

[Baroness Barran]

This amendment would limit the use of the powers contained in Part 4A only to operators installing gigabit-capable services. As the noble Lord, Lord Adonis, stressed, the spirit of this amendment is to test the Government's commitment to providing gigabit-capable broadband. I am obviously disappointed that he found insufficient the remarks of my honourable friend the Minister for Digital Infrastructure in the other place.

The Government remain completely committed to bringing faster, gigabit-capable broadband to the whole country as soon as possible. Our ambition remains nationwide coverage by 2025. However, we do not believe that we should force consumers to take out specific services.

Clause 1, as currently drafted, supports our ambition. It provides a bespoke process in the courts that will allow an operator faced with a landowner of a premises within the scope of this Bill who repeatedly fails to respond to notices, and a tenant waiting for a service to be connected, to gain interim code rights for the purpose of connecting that building to their broadband service. To limit provision only to services

"that can deliver an average download speed of at least one gigabit per second"

runs the risk, particularly in the short term, of limiting access to better broadband, which, as all noble Lords have agreed, is extremely important.

This Bill, like the Electronic Communications Code, which it amends, is technology neutral and therefore speed neutral. It makes no distinction between the type of service being deployed but recognises the consumer's right to choose the service they want from the provider they want. Of course, many consumers will want the speed, reliability and resilience offered by full-fibre or gigabit-capable connections, and it should not be the role of government to limit their ability to choose.

In a similar vein, although gigabit-capable services are being rolled out across the UK, they are not yet being deployed everywhere. In practice, the amendment would mean that households in areas yet to be reached by gigabit-capable networks would have to wait—maybe for a long period—even though a superfast or ultrafast service might already be available. Our experience and current practice suggest that an operator would be very unlikely to install outdated technology, and therefore such a delay would be unnecessary and extremely frustrating for consumers.

Finally, were this amendment to form part of the Bill, we consider that it would not have the effect intended by noble Lords. It amends paragraph 27A, which is an introductory provision and explains in very general terms what Part 4A of the code does. The amendment in itself does not amend any of the Bill's substantive provisions, such as paragraph 27B of the code. Its drafting would not therefore operate within the rest of the Bill.

I understand what noble Lords are seeking to achieve in tabling the amendment. The Government absolutely share the aspiration of achieving gigabit-capable broadband across the whole country, but it is important that the Bill, and the Electronic Communications Code more widely, stay technology neutral for the sake of the consumer's right to choose and to ensure that we do not allow the perfect to become the enemy of the good.

A number of noble Lords raised the question of the universal service obligation, which is the safety net that we legislated for and which went live on 20 March. It ensures that everyone across the UK has a clear and enforceable right to request high-speed broadband of at least 10 megabits a second from a designated provider and up to a reasonable cost threshold of £3,400. We keep the speed and quality parameters of the USO under review all the time to make sure that it keeps pace with consumers' evolving needs, and our officials work closely with Ofcom regarding the implementation of the universal service obligation.

With that, I hope that the noble Lord will agree to withdraw his amendment.

Lord Adonis: Before I make my concluding remarks, perhaps I may ask the Minister three further probing questions. I am obviously extremely grateful to her for her full response, but she raised three questions in my mind.

First, she raised some technical concerns about the amendment—in particular, that it amends not the code but only the introductory provisions. That raises an obvious question. If I return with this amendment on Report, properly drafted—indeed, I might invite the noble Baroness herself to provide a draft that the Government think is adequate—would the Government then be prepared to accept it? Indeed, if they proposed it themselves, they would not have to accept it.

That is important because there is an inconsistency in the noble Baroness's argument in respect of the other two points. She said that it is unlikely that operators would want to install what she called "outdated technology". I take that to mean technology that is not gigabit-capable. Not only is that unlikely but, if they were to do so on any large scale, of course the Government would then not meet their target, which is to have gigabit-capable coverage.

If the Government are committed to their target and believe that operators are unlikely anyway to want to take forward what she calls outdated technology, what is their objection to having this specification in the Bill? I do not understand what it is. I will give the Minister a moment further to consider her answer to that.

I was very concerned about a point she made about the Government being speed neutral. When Matt Warman spoke in the House of Commons, he did not use the phrase speed neutral but said the Government were technology neutral. I am sympathetic to technology neutral but totally unsympathetic—as I suspect colleagues in the Committee will be—to the idea that the Government are speed neutral. Speed neutral means that the Government may not actually be committed to having superfast broadband rolled out across the country in the first place. Indeed, if the Minister considers what she means by speed neutral and elucidates it a bit further for the Committee, it may be that we get to a position where we have underlying concerns about whether the Government are committed to their own target.

Can the Minister tell us what she means by speed neutral? Does she mean that the Government would be perfectly happy to have a national rollout of something less than gigabit-capable coverage? If she does not mean that and is committed, on behalf of the Government, to gigabit-capable coverage—which I think is what the Committee wants to see—why will the Government not accept an amendment of this kind, properly drafted, which does no more than hold them to their own public commitments?

Baroness Barran: With regard to the noble Lord's first point about the technical amendment, he is of course right on one level. We—or, I am sure, the noble Lord himself or his team—could make technical amendments to make sure the Bill is coherent and consistent. We could address those points. However, the central issue is one of not delaying the implementation of the rollout and staying true to technology neutrality. I gather that speed neutral is a consequence of tech neutrality, so it would insert into the Electronic Communications Code a tech-specific provision that does not exist anywhere else in the code. The code is about regulating relationships between operators and landowners, not about technology. I will set out these points clearly for the Committee and the noble Lord in a letter.

Lord Adonis: I am extremely grateful to the Minister for her last point about setting this out in a letter. It is very important to the Committee that the Government do so. I do not at all like this idea of speed neutrality, which implies that the Government's target might not be worth the paper it is written on and that Parliament is about to grant the Government powers that in principle we support but whose purpose will not necessarily be met unless we can maintain the commitment to gigabit-capable coverage. I think the Minister understands that, because, while she said that speed neutrality is a consequence of technology neutrality, she has not said that the Government are not committed to gigabit-capable coverage across the country.

If the Government are committed to gigabit-capable coverage nationwide, it follows logically that it is not speed neutral. The Committee is looking forward to hearing, in the Minister's reply, how the Government will square that circle. What she says in that regard will have a big bearing on how we take this matter forward at Report, but on that basis, I beg leave to withdraw this amendment.

Amendment 2 withdrawn.

Amendments 3 to 6 not moved.

4 pm

The Deputy Chairman of Committees: My Lords, we move on to the group beginning with Amendment 7. I remind noble Lords that anyone wishing to speak after the Minister should email the Clerk during the debate. It would be helpful if anyone intending to say "not content" when the question is put made that clear in debate. It takes unanimity to amend the Bill in Committee. This Committee cannot divide. I will open the next group, and then hand over to the noble Lord, Lord McNicol.

Amendment 7

Moved by ***Lord Stevenson of Balmacara***

7: Clause 1, page 2, line 1, after "provide" insert ", or the operator itself believes there is a public interest in providing,"

Member's explanatory statement

This amendment would afford an operator the right to initiate proceedings to gain access to a leasehold property in the event of that operator believing the provision of new infrastructure on that site would be in the public interest.

Lord Stevenson of Balmacara: My Lords, in moving this amendment I will also speak to Amendment 9 in the name of the noble Lord, Lord Clement-Jones, which covers much of the same ground.

In the *Future Telecoms Infrastructure Review*, the Government said:

"We do not think it is acceptable for landlords to be able to deny their tenants a service if an operator is prepared to provide it. We want to bring telecoms operators in line with the gas, energy and water sectors by providing a 'right to entry', where a landlord is given notification of an operator's intention to access a property".

We are entitled to ask the Minister to explain what happened. Why has the Bill failed to live up to the very sensible remarks made in the review and some of the comments that have been made this afternoon?

Other noble Lords have mentioned the impact of Covid-19 and how it has radically changed the position regarding a gigabit-capable infrastructure. We have just been talking about whether that should become the USO position, which I would support. However, access to home schooling, home working and home shopping are now as important as clean water and energy. Why perpetuate the myth that gigabit-capable access is in some sense discretionary? No individual and no family should be left behind.

Secondly, operators are part of the solution and certainly not the problem, in terms of where we are trying to reach. The discussion about Openreach and the desire of operators to co-operate if the circumstances arise are all part of this issue; to achieve what we want we must support operators in the limited time we have left. If they are in an area installing fibre and have the personnel and equipment there, it must be more cost-effective for them, beneficial for all and in the public interest for all premises in that area to be dealt with.

This amendment would not remove any control from owners of properties, but it would open up the whole process. It seems from the comments we have already heard that there is support for the amendment. We need an operator to be able independently to initiate the process, so that those who want this service can get it. I cannot see that this is, in any sense, against the public interest. I beg to move.

The Deputy Chairman of Committees (Lord McNicol of West Kilbride) (Lab): I call the noble Lord, Lord Adonis.

Lord Adonis: I do not intend to speak on this amendment.

The Deputy Chairman of Committees: The noble Lord, Lord Fox, is listed to speak, but I understand that he does not wish to contribute at this stage. Lord Liddle?

Lord Liddle (Lab): My Lords, I strongly support what my noble friend Lord Stevenson has said. I do not understand the Government's problem with giving operators this right. There is clearly a planning benefit, in terms of efficiency, in giving them the right to look at the problems area by area and to identify where additional provision needs to be made in order to promote a universal service. I just do not see why the Government want to deny us this amendment.

Lord Clement-Jones: My Lords, I have put my name to the amendment in the name of the noble Lord, Lord Stevenson, who is correct in saying that the purport of our amendment, Amendment 8, is very similar. I was struck by the Minister's implying that, if we are not careful, consumers will be forced to take a service. That is not the situation. What we want to do, as far as possible, is to facilitate the laying of fibre across 100% of the country. Consumers can well make up their own minds about whether to enter into a consumer contract. We need, as far as we can, to facilitate the operators in what they do. Just as with electricity—we have had several references to the utilities aspect—people should have access to this. I cannot understand why the Government are not making a distinction between laying the infrastructure and then entering into consumer contracts for the supply of internet services; the distinction is readily understood.

I accept that the Bill introduces a new process for operators to gain access in cases where a tenant has requested a service and the landlord is unresponsive. This will, of course, be helpful for deployment but it depends on a tenant requesting a service rather than supporting the proactive laying of cable ahead of individual customer requests. That means that operators' teams may not be able to access buildings in areas where operators are currently building, or plan to build, so they will be less effective in supporting rapid deployment. That is what the Bill is ostensibly about: facilitating the deployment of fibre. The most efficient building process is when operators can access all premises in a given area, rather than having to return to them when a building team may have moved many miles away.

Operators say that if they were able to trigger this process without relying on a tenant request for service, they would be able to plan and execute deployment much more efficiently—in effect, proactively building in these MDUs at the point where their engineering teams are in place, rather than waiting for a tenant to request a service. Both these amendments are pure common sense; I hope that the Minister will accept them.

Baroness Barran: My Lords, I thank the noble Lords for tabling these amendments, which would allow telecommunications operators to apply to the courts for a Part 4A order without requiring a "lessee in occupation" in the property making a request for a service. I appreciate the intention behind the amendments, but we are concerned that both have the potential to undermine the balance between the rights of the landowner, the rights of the operator and the public interest.

The noble Lord, Lord Stevenson, referred to our comments in the *Future Telecoms Infrastructure Review* but we then consulted publicly on the policy in this Bill. What is here in the Bill reflects the outcome of that consultation. The Bill, like the rest of the Electronic Communications Code, was designed to create a fair and balanced framework to underpin the relationships between telecoms operators and landowners. We believe that it works because it is balanced and gives the interests of all sides careful consideration. We believe the Bill continues that balance. Where a landowner is unresponsive, for whatever reason, it is important to ensure that an interest other than that of the operator is being considered by granting an order which potentially impinges on an individual's property rights.

This is the reason for the requirement that the lessee in occupation of the property actively requests that a telecommunications service be delivered. This is integral to the policy. This request is an unequivocal demonstration that the interests of parties other than the operator alone are reflected and goes to the heart of the Bill's carefully crafted work, taking into account and balancing the respective interests of tenants, landowners and operators. Some network operators may well welcome the freedom of being able to judge for themselves what is and is not in the public interest and the ability to gain access to a property simply by proposing to make a service available. That freedom is what these amendments would give them. However, I hope noble Lords will agree that without any accompanying constraint on such a freedom, such a system could be capable of being abused, and that is a risk the Government are not willing to accept.

I am also mindful that these amendments would mark a significant shift from the policy that was consulted on, and that is something to be particularly cautious of when dealing with issues around property rights. With that in mind, I beg the noble Lord to withdraw his amendment.

The Deputy Chairman of Committees: No other noble Lords wish to intervene on this amendment.

Lord Stevenson of Balmacara: This is a very interesting argument, which I do not really understand. It has come up on previous amendments and we need to bottom it out before we get to the end of today's debates. As a precursor to what I am about to say, I do not think we would be having these discussions were it not for two things. First, memories are very short. One reason that we have Openreach is the increasing frustration that we felt over the years—not just us but the Government—at the inability of BT, a slow-moving giant, to respond to the needs of the country in developing gigabit-capable broadband. Indeed, in those days we were talking about simply getting to a USO figure of 10 megabits per second. That was the rationale for forcing BT, which did not wish to do it, to split off Openreach. It may well be that that is a continuing story and we will have more to go on. The idea was that Openreach would be faster and less constrained by the bureaucracy of BT and the problems affecting it, and able to satisfy the need to get our country up to the standards we wanted. That was the moving force.

It has been mentioned but it is important to bear in mind that last year we were at the bottom of the 80 or countries that contributed to an overall survey about how fast broadband was being been brought into countries.

The good news is that we are no longer bottom; we are now third from bottom with 2.8% coverage. The top countries—Iceland, Belarus and Sweden—have more than 60% coverage of fibre to the home and the EU 28 average is 17.1%. We are miles away from getting anywhere near completing this in the time allotted. I do not get the idea that somehow we have to be balanced and fair and that there is a public interest in making sure that the rights of all concerned are equally balanced. The public interest is in getting fast broadband to as many people as possible as quickly as possible.

We will do that by making sure that the process is more like utility provision than a discretionary arrangement for getting something as a result of choice. The idea that somehow bringing operators to the point where they see that it makes good economic sense to implement a process in an area they happen to be working in is somehow unbalancing the public interest is just bonkers. It is in the public interest if we increase the quality of connections available to people to connect to the fast internet if they wish to do so, and it is not taking any rights away from owners. The whole point is that this is a process that has started; it is not a decision to go ahead. The process allows people to petition the courts or others to make sure that they can get access when they wish to do so. It is not about giving away any rights. I hope the Minister will take those points away and think about them. I am certain we will want to come back to this on Report. In the interim, I beg leave to withdraw the amendment.

Amendment 7 withdrawn.

Amendment 8 not moved.

4.15 pm

The Deputy Chairman of Committees: We now come to the group beginning with Amendment 9. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate. It would be helpful if anyone intending to say "not content" if the question is put made that clear in the debate. It takes unanimity to amend the Bill in this Committee. This Committee cannot divide.

Amendment 9

Moved by ***Baroness Falkner of Margravine***

9: Clause 1, page 2, line 14, at end insert—

"(f) the operator does not, after 31 December 2022, use vendors defined by the National Cyber Security Centre as high-risk vendors."

Member's explanatory statement

The amendment would establish a deadline for operators by which existing high risk vendors are not to be used if they are to be able to apply for an order under Part 4A.

Baroness Falkner of Margravine (Non-Afl): I shall beg noble Lords' indulgence for a few minutes. I did not have an opportunity to speak at Second Reading, as I was advised not to come to Parliament, but I was assured that this would be an opportunity for me to do so.

I welcome the Bill and its aims to improve access to faster broadband and provide greater choice for tenants and leaseholders. My interest in the Bill, as people will see from my amendment, is very specific; it is to do with what we as a country see as critical infrastructure and how we protect our strategic interests to keep our critical infrastructure safe as technology becomes more complex.

I served on the Joint Committee on the National Security Strategy from 2013 to 2016, when Huawei first came on to our radar, and two significant changes happened in that period. We saw the invasion of a sovereign state on the edge of Europe—the Russian annexation of Crimea—and the installation of President Xi Jinping as head of the Chinese Communist Party, bringing a more assertive, and perhaps what some would describe as more aggressive, tone into China's international relations. Both have had a profound impact on geopolitics and potentially on security.

China's companies have long been on our radar in the West for theft of intellectual property, from both business enterprises and research institutions. While I accept that there has always been a level of industrial espionage, with leakages from more advanced economies into those that are new challengers in particular sectors, the international community has attempted to deal openly with China on this. President Obama sought, and attained, an assurance from President Xi that the Chinese Government would clamp down on intellectual property theft, but there is little evidence that much has changed.

The difference is that China is now actively using its economic clout to advance its strategic and geopolitical interests, many of which run counter to our interests, and indeed our freedoms, here in the UK. Huawei is the world's largest telecommunications company, and there is no reason that it should not be a trusted partner if it were like any other global telecoms firm. The point is that it is not. It has a long history of transgressions, not only in the West but more broadly. Moreover, it is subject to Chinese state security and other intelligence-related laws. These were updated in 2017 and now require Huawei, like other Chinese companies, to hand over data flowing through it to the Chinese state. It is effectively an arm of the state for the purposes of data capture and exploitation. If that was not the intention of the law, as Huawei tells us, the Chinese Government have done nothing to repudiate or amend the law in the period since. In other words, it is the intention of the Chinese Government to control worldwide data that Huawei collects, if they wish to.

There are examples of how this works. The African Union built a new headquarters in Addis Ababa in 2012. An accountant noticed that there was a huge energy consumption surge between midnight and the early hours of the morning in the period between 2012 and 2017. It transpired that data on Huawei's servers was being transmitted back to Shenzhen covertly in those hours, hence the server activity.

There are many other examples of Huawei's cyber activities. The Equifax consumer credit hack recently resulted in millions of US consumers' data being stolen. Additionally, 12.3 million Britons had their credit card details stolen. That hack was linked to Huawei and the People's Liberation Army. I find it instructive that when BT involved Huawei in its 21st Century Network plan in 2005, information about Huawei's involvement was withheld from Ministers and came to

[Baroness Falkner of Margravine]
light some time later—in a 2013 report of the Intelligence and Security Committee, at the time chaired by Sir Malcolm Rifkind. If the Minister is not aware of its contents, I suggest she apprise herself of it, because it is fairly sobering.

I turn to my specific amendments. I know the UK Government's position is that we want to roll out increased speed and capacity in our networks to benefit our businesses and consumers. I agree with that. However, the internet of things is here and requires improved capacity. I also agree with that. But Huawei's involvement in this, even limited to 35% of the non-critical part of the infrastructure, is not something I feel comfortable with. It is incumbent on us to take our strategic national security vulnerabilities seriously, as we are planning not for the next five to seven years but for the next 20 to 30. There are several reasons for this. One is that we should not be so reliant on others for our sensitive and critical needs. One has only to look at the impact of the US-China trade war, and the impact on supply chains exacerbated now by Covid-19, to know that deglobalisation is starting. We in the UK are erecting barriers to our trade with the EU, yet think nothing of allowing companies that are more or less arms of other states into our systems, instead of developing our own capacities as France is attempting to do.

Another reason to be wary is that alternatives do exist. The US is proceeding with Ericsson, South Korea is using Samsung, but most importantly our Five Eyes allies have all rejected the Huawei option and are assessing alternatives. There is no burning imperative to take the decision now, and I fear it was rushed through. We will have to either repeal or regret this decision, unless we come up with safeguards that satisfy our concerns. The demonstration effect of letting Huawei into our system will lull other countries into the view that it is a safe alternative.

The Government tell us that the 35% of market share of Huawei infrastructure will be non-core and non-sensitive, but they do not acknowledge that the crucial difference between 4G and 5G is that, due to the internet of things, 5G networks are largely software-defined, so updates pushed to the network by the manufacturer can radically change how they operate. If a network is run by an untrusted vendor, that vendor can change what the network can do quite easily using software updates. The Australians have stressed this point over and over—namely, that you cannot safeguard against intent. If a provider is bound by its state's law to do something, it is not its capability that is relevant but its intent. It is a combination of capability, where 5G is more vulnerable, and the intent of a provider that has to do a state's bidding by law.

The Government also tell us that GCHQ has advised the National Security Council, and that they are acting on the advice of the NSC. However, it was pointed out in a Commons debate by Bob Seely MP on 10 March that the GCHQ Huawei oversight board has voiced deep concerns. According to him, the board found that it could

> "only provide limited assurance that all risks to UK national security from Huawei's involvement in the UK's critical networks can be sufficiently mitigated … The Oversight Board advises that it will be difficult to appropriately risk-manage future products in the context of UK deployments, until the underlying defects in Huawei's software engineering and … cyber security processes are remediated. At present, the Oversight Board has not yet seen anything to give it confidence in Huawei's capacity to successfully complete the elements of its transformation programme".—[*Official Report*, Commons, 10/3/20; col. 201.]

As recently as February 2020, the US Government have claimed in a report that backdoors intended for law enforcement officials in carriers' equipment, such as antennae and routers installed since 2009, can be accessed by certain vendors.

Amendments 9 and 14 are based very much on Labour and Conservative Party amendments as of 10 March in the other place, and are designed to remove high-risk vendors from the United Kingdom by 2022. Amendment 14 would require vendors who use Part 4A code rights to explain to the satisfaction of the regulator, which will probably be Ofcom, in a publicised plan how they will remove high-risk vendors should they form part of the network. BT has now extended the period that it will take to remove a high-risk vendor from its network to the end of 2022. It needs that period to disentangle itself from those partners. The amendments will ensure that even if high-risk vendors are allowed into the network in the early stages, as the Government propose, there is a clear plan for disentanglement from the outset.

I will conclude by explaining to the Committee why I have tabled these amendments. We all acknowledge that Virtual Proceedings are inadequate for proper scrutiny of legislation. My experience is that, even in normal proceedings, Ministers are sometimes not quite as well informed as they might be. On 27 January 2020, in response to the Statement on Huawei, I asked the noble Baroness, Lady Morgan of Cotes, for her assurances regarding Huawei's participation in terms of its market share. She replied:

> "I give her and the whole House the absolute assurance that high-risk vendors never have been and never will be involved in our most sensitive networks".—[*Official Report*, 27/1/20; col. 1300.]

She clearly did not know from the Intelligence and Security Committee's 2013 report that BT had involved Huawei from quite far back. Huawei is present on the ground in our networks. I am sure that she did not intend in any sense to mislead the House, but many of us who are concerned about these matters would be reassured by having these amendments in the Bill, although I accept that it is perhaps not the ideal vehicle for them—in fact, it is concerned with some things that I wholeheartedly support. If the Government accepted the amendment it would strengthen the Minister's hand in giving a clear plan to the telecommunications sector regarding its obligations. It will reassure many in the country who have a clearer view of our security risks.

I should have said that I do not intend to press the amendment.

Lord Adonis: The noble Baroness, Lady Falkner, has made an extremely powerful speech. She has also been extremely ingenious in finding a way to bring this big geostrategic issue into the consideration of a Bill that has a very limited scope. However, given that it is to do with telecoms infrastructure and that one of the single biggest issues in upgrading our telecoms infrastructure is the degree to which we will be reliant on partnerships with Chinese companies, she is perfectly entitled to do so.

I assume that the clerks have ruled that the noble Baroness's amendment is within the Bill's scope, otherwise she would not be proposing it. Perhaps when she concludes at the end of this group, she can tell us that it has indeed been ruled within the scope of the Bill. If that is the case, I urge her to bring it back on Report, because, beyond the crisis, there is no more important issue facing Parliament than our relations with China. Indeed, the issue is related to the Covid crisis because the origins of the disease in Wuhan and the way the Chinese regime has dealt with it are central to the Covid-19 crisis. A critical issue that we are having to grapple with is how we get to the facts and the reforms to the international world health architecture that will be necessary which relate to the facts of the outbreak of this disease.

4.30 pm

In turn, that relates to this issue because, if the Chinese state chooses to take retaliatory action in relation to our infrastructure pursuant to stances that we might take on health-related issues, it is absolutely relevant to a telecommunications Bill that we should seek to ensure that the Government do not expose the country to retaliatory action in that way.

The noble Baroness referred to the US-China trade war as pertinent, but noble Lords will have woken up this morning to the news that a US-Australia trade war is potentially about to start, with retaliatory tariffs being imposed on the Australians, apparently because Australia wants to see an independent international inquiry led by the United Nations into the outbreak of Covid-19. This retaliatory trade tariff situation is not arising in respect of telecoms in the case of Australia—but, notably, Australia excluded Huawei and Chinese state companies from the building of its most modern telecoms infrastructure. We are not doing so and, as the noble Baroness said, we are potentially very reliant on the Chinese.

Therefore we are looking to the Minister to explain to us how the latest crisis impacts on the Government's thinking in respect of allowing Huawei to participate in what the Government have termed non-critical infrastructure, but which many of us think is critical infrastructure if it relates to the rollout of 5G and superfast broadband.

Lord Alton of Liverpool (CB): My Lords, it is a pleasure to follow the noble Lord, Lord Adonis, and I am extremely happy to be able to support Amendments 9 and 14, standing in the name of my good friend, the noble Baroness, Lady Falkner of Margravine, and so ably moved by her this afternoon.

In tackling risks posed by high-risk vendors, she opens an extraordinarily important debate. Amendment 9 imposes a deadline on operators, and Amendment 14 puts in place a mechanism to ensure their removal should it be shown that they pose a national security concern. To pick up on a point the noble Lord, Lord Adonis, just made, I am delighted that the clerks have ruled the amendments to be within scope, and I hope that it will be possible, as I shall suggest in my later remarks, for us to build on them further on Report. However, in addition to supporting the amendments in the name of the noble Baroness, Lady Falkner, I too am grateful to the Government for facilitating Second Reading speeches this afternoon.

These proceedings take me back to 1981, when in the House of Commons I served on the Standing Committee which considered the British Telecommunications Act 1981. It was a steep learning curve for me. Plessey was based in my Liverpool constituency, and it was inspiring to see British technology and companies at the very cutting edge. It is lamentable to see how far we have fallen back in manufacturing capacity. If Covid-19 has taught us anything, it is surely that we must become more resilient and less dependent in our supply chains, especially when so many authoritarian countries mock our liberal values. Even worse, it cannot be in the United Kingdom's interests to have become so dependent on authoritarian regimes for the manufacture of technology which can be utilised by them for anti-democratic purposes, to undermine free societies, human rights and the rule of law.

That is why I hope to build on these two admirable amendments when we come to Report. I am grateful to have received through correspondence over the weekend the support of the noble Baroness, Lady Falkner, and the noble Lords, Lord Kennedy of Southwark and Lord Adonis.

We should all do more to ensure that high-risk vendors credibly accused of egregious abuses of human rights, such as complicity in the modern slavery of Turkic Muslims in the Xinjiang Uyghur Autonomous Region in China, will be excluded from being beneficiaries of the provisions of this legislation. In this context, I should mention that I am a vice-chairman of the APPG on Uighurs and human rights in Xinjiang and that, on 15 occasions since 2018, I have raised in your Lordships' House the plight of the Uighurs: their incarceration, forced re-education and use as slave labour in various ways.

In January, in relation to Huawei and 5G, I asked the Government

"what assessment they have made in relation to their decision to award contracts to Huawei and other companies of the implications of the government of China's National Intelligence Law requiring Chinese organisations and citizens to support, assist and cooperate with the state intelligence work."

I also asked the noble Baroness, Lady Williams of Trafford, and the Government about

"Huawei's compliance with the Modern Slavery Act"

and

"what consideration they have given to such compliance in regard to their decision to award contracts to Huawei".

She replied:

"The UK Government expressed its concerns about China's systematic human rights violations in Xinjiang, including credible and growing reports of forced labour, during the recent UN Human Rights Council."

That deftly dodged my question and the issue of what we are going to do about the use of slave labour in our supply chains. Profiteering on the broken backs of enslaved Uighurs is either a criminal offence under British law or it is not. Either it is a nice slogan and good public relations or we take it deadly seriously and refuse to profit from it.

Be in no doubt about what we know. As long ago as December 2018, I pointed to reports that

"suggest that up to 1 million Uighurs have been incarcerated without trial in a network of sinister re-education camps: these

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are bristling with barbed wire and watchtowers, with torture and brainwashing that demands renouncing god and embracing Communism."—[*Official Report*, 19/12/18; col. 1804.]

The Government do not disagree with these descriptions.

On 18 March 2020, I asked the noble Lord, Lord Ahmad of Wimbledon, about the use of Uighur forced labour and what assessment the Government had made

"of reports that the government of China transferred Uighurs from detention centres to work in factories where products are produced for global brands; and what plans they have to take action against such companies under the provisions of the Modern Slavery Act 2015."

He replied:

"Recent reports indicating that Uyghurs are being used as a source of forced labour add to the growing body of evidence about the disturbing situation that Uyghurs and other minorities are facing in Xinjiang. Section 54 of the Modern Slavery Act 2015 requires companies operating in the UK with a turnover of £36m or more to publish annual statements setting out what steps they have taken to prevent modern slavery in their organisation and supply chains. The Home Office keeps compliance under active review."

In a Westminster Hall debate on 11 March, Nigel Adams, the Minister for Asia, said:

"We have also seen credible evidence to suggest that Uighurs are being used as a source of forced labour in Xinjiang and across China, and that if individuals refuse to participate, they and their families are threatened with extra-judicial detention."

He went on to say:

"Our intelligence is that families are also obliged to host Chinese officials in their homes for extended periods, to demonstrate their loyalty to the Communist party. On the streets, Uighurs and other minorities are continuously watched by police, supported by extensive use of facial recognition technology and restrictions on movement."—[*Official Report*, Commons, 11/3/20; cols. 149-50WH.]

That was the Government, but in a report entitled *Uyghurs for sale*, the Australian Strategic Policy Institute outlined how Uighurs and other ethnic Muslim minorities are uprooted, wrenched from their villages, separated from their loved ones, and coercively transported under guard, across China, to work in factories. That report estimates that, between 2017 and 2019, around 80,000 Uighurs were transferred from detention centres in Xinjiang to factories throughout China. Far from their homes, devoid of family contact, incarcerated in segregated dormitories and subjected to propaganda and systematic attempts to destroy their culture, religion and identity, the labourers are kept under 24-hour surveillance. The report examines the direct and indirect supply chains of 83 leading global brands in the technology, clothing and automotive sectors, such as Apple, BMW, Huawei, Nike and others.

Are these companies directly complicit? One of the Australian institute's researchers, Vicky Xu, says that the idea that Huawei is not working directly with local governments in Xinjiang is "just straight-up nonsense". The 2018 announcement of one Huawei public security project in Xinjiang—as posted on a Chinese government website in Urumqi—quoted a Huawei director as saying:

"Together with the Public Security Bureau, Huawei will unlock a new era of smart policing and help build a safer, smarter society."

This is not speculation, or evidence extrapolated from big data. This is straight from the horse's mouth. We all know that safer, smarter policing is a euphemism that would make George Orwell roll in his grave. Huawei is making huge profits from Xinjiang's unique techno-totalitarianism.

In December, our Government were alerted to the Australian report in a joint letter from parliamentarians from across both Houses, but again they sidestepped the issue. Their reply to us ignored the need for the Government to conduct the same human rights due diligence that they now demand of corporations. Where is that due diligence in the Bill? The more dependent we become on firms whose ties with the Chinese state extend as far as the construction of Xinjiang's surveillance technology, the harder it will become to take a credible stance. The deeper our dependency becomes, the harder it is to stand up for our values. Huawei's activities in Xinjiang should alert us to its true allegiances and values: its willingness to create mass surveillance technology and its devotion to, and dependency on, the Chinese Communist Party.

The most striking thing in the Government's Statement to Parliament in January was the repeated admission of the risks involved, but where is that reflected in the Bill? And why take risks when alternatives are available? In January, like the noble Baroness, Lady Falkner, I asked the Government to consider whether, in former times, the United Kingdom would have been willing to put its technology into the hands of the Kremlin, knowing what crimes were being committed in the gulags of Siberia, as in *The Gulag Archipelago*. The human rights-focused Helsinki process helped to bring an end to the Cold War and liberated the people suffering under the yoke of communist ideology. Today we need Helsinki with Chinese characteristics. We do not need to betray our values.

To mark Holocaust Memorial Day this year, I read Corrie ten Boom's memoir, *The Hiding Place*. After sheltering Jews from the Nazi regime, Ms ten Boom was sent to Ravensbrück concentration camp. She describes her experience of doing forced labour for Siemens in the camps where her sister and many others died. The Holocaust saw state-sponsored mass enslavement on an appalling scale. Ironically, on the morning following Holocaust Memorial Day, the United Kingdom National Security Council committed to sign over up to 35% of our 5G infrastructure to Huawei, a company that the Government know actively partners with the Xinjiang Government to make the world's most dystopian system of governance possible. Is what happened at Ravensbrück, or in *The Gulag Archipelago*, so very different from the plight of these 1 million Uighur Muslims, incarcerated and forced to work for nothing? It is surely our duty to ensure that legislation such as this does not further entrench what academics have described as the world's worst incident of state-sanctioned slavery.

The United Kingdom Government have, admirably, expressed their ambition to lead the world in their anti-slavery commitment. When we come to Report, I hope that the Government will put flesh on the bones of that commitment and ensure that no deals are made with any company for which there are credible reports of slave labour. For now, I support the amendment standing in the noble Baroness's name.

4.45 pm

Baroness Morgan of Cotes (Con): I thank noble Lords for the opportunity to speak on this Bill. I will speak to Amendments 9 and 14, but, as I did not speak at Second Reading and before I get to Amendment 9, it is important to set out some context.

I am pleased to see that both Houses are now focusing on business other than the current virus crisis. We have already been reminded today that our democracy is dependent on fast and reliable broadband, and we have seen the struggles that some of us have had with that. Therefore, fast and reliable broadband connectivity has become a national utility and something that people should expect as a right.

It is right that we pay tribute to all those who have kept that national utility going in the past few weeks, as we rely more and more on wi-fi, broadband and mobile connectivity. Although the people who have kept such critical national services going are perhaps not often referred to as key workers, I think that they should be included as such. They have connected loved-ones in hospitals, often at the worst possible time in anyone's life, and provided online access to education—the subject of a wider debate. They have enabled online appointments for doctors working from home, which is a working pattern that is likely to continue, and family harmony—if anything is to be taken from the example of how much time my 12 year-old spends on his Xbox.

Therefore, the Prime Minister and the Government were right to make a clear commitment to gigabit connectivity nationwide by 2025, and it is important that Ministers stick with that target. I know from my time as Culture Secretary just how personally committed the Prime Minister is to this. Having that target of 2025 should concentrate minds both within government and outside in terms of those responsible for the rollout. I hope that there will be no let-up in making sure that the target is achieved.

Having better connectivity across the country is part of the Government's levelling-up agenda. It will also be part of necessary infrastructure spend, which will be very important in getting our economy moving after at least the first wave of the current crisis has passed and we can see how much work needs to be done to get our economy restarted.

This Bill is an important part of removing all barriers to faster broadband rollout. As we have heard, it is about accessing premises where leaseholders want better broadband. In a similar vein, I know that the department is working on removing other barriers to deployment. Another important step will be making sure that all new-build developments have broadband connectivity points installed right from the start so that people do not have to move into new homes or new business premises only to find that they cannot get better connectivity.

This is a short and focused Bill. That is why I argue today that Amendments 9 and 14, although very important—as we have heard, noble Lords feel very strongly about the issues under discussion—are not right for this Bill. I know that the Secretary of State made a commitment in the other place to bring forward a telecoms security Bill, but obviously he was speaking before the events of the last few weeks. The commitment was to bring forward such a Bill before the Summer Recess, although I think we all appreciate that the legislative timetable has been somewhat disrupted. However, we can see from the debates so far on these amendments that there is a real appetite both in this House and in the other place to have these discussions.

I have to say to the noble Baroness, Lady Falkner, that the decision to allow high-risk vendors to play a limited role in our national connectivity was not an easy one, and it certainly was not rushed through. It stemmed from years of looking at this situation, particularly the telecoms supply chain review conducted by my predecessor in the culture department, but I do think it was the right decision. I will talk about the Statement that I made in the House in January—not in March, as I think she said.

We need faster, better and resilient broadband. That is why having a number of key suppliers at this time is important, so that the infrastructure can be relied upon. It is also right, as I said in the Statement to the House on 28 January, that diversification of the suppliers' market is important. We must not, as a country, find ourselves in this position again when we have to make difficult decisions about high-risk vendors. I understand the noble Baroness's amendment but, as I say, the Government's approach and the decision made at the National Security Council are right, not easy. I therefore hope that we will return to this important subject at a future date on a future Bill. Putting a hard deadline of the end of 2022 on it, although again understandable, also risks the wrong decisions being made and potentially a less resilient broadband network being rolled out across the country. That really will help no one in the longer term.

A full technical and security analysis was undertaken by GCHQ's National Cyber Security Centre. Its view and advice were central to the conclusions of the telecoms supply chain review and the decisions taken off the back of that. Just as a reminder, the UK Government's approach is obviously to have a new telecoms security regime, which we will discuss in that future Bill, to diversify the supply chain. Although subject to the current crisis, of course, work should begin to start on that. It is very important that we work with our allies around the world on that supply chain to ensure that it is more diverse. However, we will put ourselves on the back foot if we ignore any key suppliers at the moment.

The third condition was the most important: we have to be clear about what makes a vendor high risk and have clear rules and guidance on how we mitigate the many cyber risks to our telecoms networks. We know that cyber risks come from a variety of sources. As I mentioned in that Statement, the most recent cybersecurity risks have come from Russia, and the Russians play no part in our telecoms infrastructure at all.

I said in the House back in January that

"high-risk vendors should be excluded from all safety-related and safety-critical networks in critical national infrastructure; excluded from security-critical network functions; limited to a minority presence in other network functions up to a cap of 35%; and be subjected to tight restrictions, including exclusions from sensitive geographic locations."

[Baroness Morgan of Cotes]

I noted what the noble Baroness said about the answer that I gave to her back in January. I will certainly check the 2013 report again, but I also ask her to check the words that I used about the most sensitive networks. It is clear, as I also said in the Statement, that

"nothing in the review affects this country's ability to share highly sensitive intelligence data over highly secure networks, both within the UK and with our partners, including the Five Eyes. GCHQ has categorically confirmed that how we construct our 5G and full-fibre public telecoms networks has nothing to do with how we share classified data. The UK's technical security experts have agreed that the new controls on high-risk vendors are completely consistent with the UK's security needs."—[*Official Report*, 28/1/20; col. 1340.]

Given the current crisis, there will be time for a full-scale evaluation of the relationship between the UK and China. I should make it clear that companies such as Huawei could help their cause if they encouraged the Chinese Government to participate fully in any global inquiries, particularly into how the current coronavirus crisis was started.

We also need to be clear about the motivations of some who are objecting to the use of high-risk vendors and want to set dates. As we have heard in this debate but also in the other place, there are many different motivations. The noble Lord, Lord Alton, has just set out a very powerful case in relation to human rights, and I hope that will be part of a future debate. There are of course issues of security and intelligence sharing, but there are also those who use this particular concern and debate to advance other geopolitical strategies: namely, the successful conclusion of a UK-US trade agreement. The US has strong feelings about Huawei's involvement, as we have seen in recent developments. We need to be very clear, and the Government were very clear in January, that we were making a decision about the involvement of high-risk vendors on the basis of what was right for the UK.

I hope that the House will not want to see this amendment in the Bill, but it is clear that we must return to this issue in the Bill. It is right that we hold the Government to account over the diversification strategy so that, as I say, that we are not in this position in any further future telecom supply chain decisions that we might have to make.

Lord Clement-Jones: My Lords, we have heard some passionate speeches today, but, truth be told, this infrastructure Bill is about much more mundane matters. It is all about rights for operators getting access to install fibre broadband in order to achieve faster broadband rollout, not vendors or their equipment, or indeed high-risk vendors or their equipment, so we on these Benches do not believe that this is the appropriate time or place to discuss these amendments. Quite apart from that, the amendment deals with 5G infrastructure content and leads to our strong view that this debate is not appropriate now but will be when the telecom security Bill comes forward.

I do not say this very often, but I agree with the Government's view on this, as expressed by the letter of the noble Baroness, Lady Barran. That will be the right peg for the noble Baroness's amendments, and we should debate the substance then. For that reason, I am not going to engage with the substance of many of the statements made by the noble Baroness, Lady Falkner, in moving these amendments or indeed those of the noble Lord, Lord Alton.

The background is that, despite earlier speculation, as the noble Baroness, Lady Morgan, said, after some considerable consideration the Government made their Statement in January 2020 and said that Huawei would continue to play a limited role in delivering the 5G rollout. As she said, that decision took into account analysis and insight from several security bodies and experts in the UK, including GCHQ and the National Cyber Security Centre, and she explained the reasoning very clearly.

On these amendments specifically, there is of course a problem in the operators being given the right to install equipment from high-risk vendors now but ahead of a deadline set in future. Will that fibre have to be removed? What level of use by a telecoms operator of Huawei is sufficient—that its network supports connections from Huawei phones, or that it uses Huawei equipment in its 5G network but not in its fibre installation? What about a company that installs fibre under this legislation but then sells the infrastructure to another company? Why should operators be forced to develop plans to remove high-risk vendors on the advice of the NCSC when that advice is that the risk can be accepted up to a 35% network cap? Do companies now have to submit plans to reach 0% but without any expectation of that actually being implemented?

All this adds up to enormous uncertainty just at the point when we need the maximum rollout of fibre and 5G. That is why the Government are right in their approach—as I said, I do not say that very often—when they say that the issue of wayleads in the Bill should be kept separate from security considerations that will be covered by the telecoms security Bill.

For the information of the House, I do not underestimate the substantive arguments. I considered these matters very carefully myself some 10 years ago. I was a member of Huawei's international advisory board, but I think that gives me a useful insight into these matters rather than any conflict in the current circumstances. I hope we can debate all these issues at a future date, but not in this Bill.

5 pm

Lord Livermore: My Lords, Amendments 9 and 14 were tabled in the House of Commons, leading to a commitment that we will shortly consider a further Bill on telecommunications infrastructure security. Given the urgency with which the department claimed to be dealing with this matter, the retabling of these amendments provides us with an opportunity to see what, if any, progress has been made.

Let me be clear that the Labour Party supports the swift but safe rollout of 5G technology. Fully embracing this technology could fundamentally change how we live and work, creating countless opportunities for new forms of communication, entertainment, and so on.

Operators are very keen to get on with the job of rolling out 5G. As we have heard on a number of occasions, the previous lack of clarity over the role of high-risk vendors led to different companies taking different approaches. Some decided to press ahead, gambling on their mix of equipment, whereas

others awaited more detailed guidance. The result is that, much like fixed broadband, we are not where any economy of our size should be. This has been compounded by the extraordinary conspiracy theories over the safety of 5G, which saw hardware targeted in the early stages of the Covid-19 pandemic. I know the Minister strongly criticised these myths at Second Reading and I hope she will do so again today.

As I mentioned previously, we have been promised an additional Bill to deal with the issue of security and high-risk vendors. We welcome this announcement but would like more detail on the timescales involved and the proposed scope of the legislation. As my Commons colleagues pointed out during their consideration of this Bill, concerns around Huawei have arisen because the Government have failed to nurture this sector here in the UK. Our lack of expertise and capacity in this country has left operators reliant on know-how and technology from overseas, including from high-risk vendors.

We have been told that there is a plan in place to reduce the market share enjoyed by these vendors. However, this will not happen overnight, and it certainly cannot happen without a proper, robust strategy, coupled with meaningful investment. I hope, therefore, that the upcoming Bill will not be about only security, as vital as that is. It needs to give us opportunities to debate the bigger picture. If, when the Bill is published, the direction of travel is still not entirely clear, we will need to use that process to shed more light on how the Government intend to get to their end destination.

We want to work with the Government to make 5G happen both quickly and safely, and to improve other forms of digital connectivity. We want to work with operators to ensure users right across the UK can enjoy the very best services. I hope that these amendments, coupled with the others we are discussing this afternoon, can be the start of a productive dialogue about how we make that happen.

Baroness Barran: My Lords, I have listened carefully to the debate on this amendment and thank all noble Lords for their extraordinarily high-quality contributions. I particularly thank the noble Baroness, Lady Falkner of Margravine, for her speech introducing the amendment.

As my noble friend Lady Morgan of Cotes explained, this is a matter of huge importance, in relation to both the security and resilience of our telecoms networks and the important and troubling human rights issues that the noble Lord, Lord Alton, covered in relation to the Uighurs. I fear that my comments now will not do justice to this issue, but I would like to put on record my recognition of his work in this area.

On the point that the noble Lord, Lord Livermore, just raised, I can reiterate that the Government continue to condemn those spreading myths about the links between 5G and Covid-19. There is no basis for those assertions.

Turning to the substance of this amendment, it is clearly an issue that the Government consider to be of paramount importance, as this House knows. The Government conducted a comprehensive review into the telecoms supply chain to ensure the security of our networks. The review set out that we will introduce one of the toughest regimes for telecoms security in the world, and I reiterate that high-risk vendors never have been and never will be in the most sensitive parts of our networks.

As my noble friend Lady Morgan said, this decision was taken with enormous care, given its importance. As my right honourable friend the Secretary of State said recently in the other place in relation to a similar amendment to the Bill, the Government will introduce legislation to establish this new regulatory framework as soon as possible.

This legislation will establish stronger national security powers to allow the Government to impose stringent controls on the presence of high-risk vendor equipment in the UK's 5G and full-fibre networks. It will be a crucial step forward in implementing the conclusions of the Government's review into the telecoms supply chain, which was underpinned by careful security analysis by our world-leading cybersecurity experts. It will implement a new and robust security framework that ensures the UK's telecoms critical national infrastructure remains secure now and in the future, which I know is what is behind the amendment of the noble Baroness. Officials are working to develop that legislation as quickly as possible.

I am grateful to the noble Lord, Lord Clement-Jones, for agreeing with the Government that that piece of legislation will be the right opportunity to debate telecom security and high-risk vendors in detail. I hope that this gives your Lordships some reassurance that the Government remain absolutely committed to working with Parliament to ensure the security of our networks.

I understand that the intention of Amendment 9 is to impose a timetable for an effective ban on the use of equipment from high-risk vendors. However, our reflection is that, in practice, this amendment would not necessarily result in the removal of high-risk vendors from the network. Rather than incentivising operators to remove high-risk vendor equipment from their networks, operators could simply not make use of the powers in this Bill, thereby creating a barrier to many families living in blocks of flats who cannot access the benefits unlocked by new broadband services while having no practical impact on the presence of high-risk vendors in the UK's telecom networks. That is clearly not something, listening to your Lordships today, that this House would like to see happen.

This Bill, in terms of its practical operation, is about access for fixed-line providers and not 5G services. Therefore, the impact of this amendment would not only be more limited in its practical implications than I believe the noble Baroness intends but could slow down the rollout of full-fibre networks and prevent the UK economy seeing the benefits that nationwide access to faster broadband networks could bring.

Amendment 14 is aimed at obliging telecoms operators who exercise Part 4A code rights to set out publicly plans to remove high-risk vendors from their networks to the satisfaction of a regulator. The Government have consistently made it clear that the security of our telecoms infrastructure is paramount. I know that the House shares this view. The amendment touches on details which will need clarification when we come to the telecoms security Bill, such as details around the

[Baroness Barran]
information that plans should contain, any sanctions and what would constitute satisfaction to a designated regulator. That is work to be done in the telecoms security Bill.

We have made evidence-based decisions in relation to high-risk vendors based on the world-class expertise of the National Cyber Security Centre. It has always been the Government's position that operators should pay due regard to the NCSC's advice on reducing their Huawei equipment to the recommended level as quickly as practicable. However, the Bill is neither the right place to put an obligation on operators to set out detailed plans, nor to designate an appropriate regulator to assess those plans. As I have made clear, the Government are committed to implementing a framework for telecoms security that is right for the UK's specific security needs and takes into account the advice we have received from our cybersecurity experts.

This is an important debate which needs full consideration by Members in both Houses and the forthcoming legislation to implement the new telecoms security framework is the right vehicle to do that. The Government are committed to ensuring full consideration by Members in both Houses. On a personal note, I find it a real privilege to take part in a Committee with Members who have such expertise in the technology, security and human rights aspects. I know that my colleagues in the department will be keen to work with noble Lords as we progress with the security Bill and our ambitions to achieve faster broadband rollout. With that, I hope that the noble Baroness will feel able to withdraw her amendment.

The Deputy Chairman of Committees: My Lords, the noble Lords, Lord Adonis and Lord Alton of Liverpool, have expressed a wish to speak again, so I will call them in order and the Minister will answer after each noble Lord has spoken.

Lord Adonis: My Lords, I shall make a brief comment and ask a question in response to what the noble Baroness has just said. She and the noble Baroness, Lady Morgan, both talked about assessments of telecoms and infrastructure security that have been made historically. Does she accept that relations with China are dynamic and appear to be particularly so at the moment, in dealing with the Covid epidemic and its fallout, which could have a significant bearing on future relations, not only with us but with the West. Are the Government cognisant of that?

Because I have not been following these things very closely, my question is this. Have the Government given a categorical undertaking to introduce a telecoms security Bill before the summer?

Baroness Barran: I think the noble Lord knows that the Government are absolutely cognisant of how international relations with multiple partners, including China, evolve. The current situation is obviously unprecedented. Forgive me, but I must ask the noble Lord to repeat his second question.

Lord Adonis: My question was: have the Government given a categoric undertaking to introduce a telecommunications security Bill before the summer?

Baroness Barran: I apologise to the noble Lord. We have said that we will introduce the Bill as soon as possible, but the Covid situation has caused some disruption to the parliamentary timetable. The commitment to do it as quickly as possible stands, however.

Lord Alton of Liverpool: My Lords, first, I thank the Minister for the way she has responded to the debate, particularly her remarks about how important this question is. What she just said to the noble Lord, Lord Adonis, is particularly interesting. If there has been slippage in the legislative timetable, and I recognise the reasons for it, surely that makes it even more important that this paving Bill—that is what this is, effectively—is the right place to address these questions. If it is not, they will go off into the future and we know that the future can be the long grass.

It is the age-old argument about the right place and the right time but, given the Minister's welcome remarks about the importance of this issue, may I ask her to do one thing between now and Report? I would be very grateful if she could assure the Committee that she will liaise with the noble Lord, Lord Ahmad of Wimbledon, at the Foreign Office and the noble Baroness, Lady Williams of Trafford, at the Home Office about our obligations, referred to in my remarks, under Section 54 of the Modern Slavery Act 2015. These require any company with a turnover of more than £36 million to publish details of what steps they are taking to prevent modern slavery. Perhaps in that period there could also be a meeting with me, my noble friend Lady Falkner and the Independent Anti-slavery Commissioner, who was appointed by the Government. He could come in and talk further to the Minister about our obligations and why we really need to act now, rather than push the matter off into the future.

5.15 pm

Baroness Barran: I shall answer that in two ways, if I may. Of course, I would be delighted to meet the noble Lord in conjunction with my noble friends Lord Ahmad and Lady Williams, and with the noble Baroness, Lady Falkner, if she wishes to join. We can pick that up after the Committee. I assure the Committee that there is no loss of will or momentum on the Government's side about the telecoms security Bill. Purely practical issues prevent me giving a firm date for its introduction.

Baroness Falkner of Margravine: My Lords, I start by thanking the Minister for the manner in which she has dealt with this Bill. I will take up that offer of further conversations on it. In the meantime, I shall briefly address some of the issues raised by noble Lords.

I was grateful to the noble Lord, Lord Adonis, for his support. Yes, these amendments are very close to those tabled in the House of Commons. They are certainly in scope of the Bill, and he will be reassured to know that Chi Onwurah supported them in the House of Commons in February and March, and in fact moved one of them.

I think the noble Lord, Lord Adonis, mentioned the new US-Australia trade war when he meant, I think, the China-Australia trade war. I say that just for the *Hansard* record. I think that is what he meant. I will leave it at that.

I was enormously grateful to the noble Lord, Lord Alton, for his speech. He has great knowledge of human rights around the world. He is right to say that we have collaborated over a very long period on the situation of the Chinese Uighurs. It saddens me that that seems to have dropped off the agenda completely in the light of the Covid story. From what I read on the internet, those people have higher rates of infection and they were infected in their internment camps and so on. It is something we must continue to watch.

I come specifically to the comments made by the noble Baroness, Lady Morgan of Cotes. I accept that the Bill is a less than ideal vehicle for the passage of these amendments, but I reiterate that they are not wrecking amendments of any sort. They are to strengthen the Government's hand and to give predictability to providers about the necessary risks that face them as we go forward. She said that the manifesto target was part of the levelling-up agenda to improve connectivity, but I do not believe that United Kingdom citizens who have their personal details stolen or their financial details sold on the dark web and suffer losses would be grateful to the Government for having rolled out 5G perhaps 24 months sooner than if they had used an alternative provider. She and the Government may find themselves on the defensive when such things happen.

The noble Baroness also said that she believes that the decision is right in its assessment of risk, but future risk is always best approached tentatively, after careful evaluation. The most important thing is that the best way to evaluate risks is to have conversations with others who have been victims of the malpractice, particularly when the others are your trusted friends.

That brings me to the remark I find almost patronising on her part, when she warned us that those supporting the Bill in the House of Commons were perhaps part of an agenda to do a trade deal with the US—in other words, she was implying that those of us supporting the Bill here, particularly me, are being naive in our support for the discussions that took place in the Commons. I have pointed out that I do not think that one could accuse Mr Jeremy Corbyn, who added his signature to the Bill, of being desperately keen to do a trade deal with the US, or of being one of the usual suspects in terms of the European Union research group. I can reassure her that not only have I served on the National Security Council, but I first went to China 42 years ago, and I know it fairly well. So I am not walking into this with my eyes closed.

Let me also say, as I am looking at the noble Lord, Lord Clement-Jones, on the screen and having been reminded of his Huawei connection, that perhaps I needed to have declared that I serve as a vice president of the APPG on China, along with the noble Lord, Lord Clement-Jones, who is the vice chairman, if I recall correctly. So I have been engaged in Parliament in a very positive way with China as well.

It is almost trivialising to suggest that the motivation of lawmakers trying to improve legislation in the House of Lords is somehow guided by groupthink, or by a desire to fall into a certain line. All lawmakers across the House are motivated by the desire to do the best by the country, and there is nothing more important when trying to do the best by a country than caring for its national security.

I come to the noble Lord, Lord Livermore, and his questioning of the telecoms security Bill that the Minister has reassured the House will come to us shortly. In response to the question from the noble Lord, Lord Adonis, Mr Oliver Dowden gave repeated reassurances in the House, but only after some considerable pressure, that the Bill would be brought back before the summer.

I would actually be entirely content to deal with the context of the telecoms security Bill only when the House returns in full form, so that we can have the appropriate scrutiny of the Bill that we need in the proper manner. That Bill is of such critical importance to our national security that this virtual proceeding, and allowing Bills to go through on the basis of their being possibly uncontroversial, simply will not do. I say to the Minister that I would rather the Bill came back somewhat later than when the House is not ready to receive it in full, in the normal way.

Let me conclude by thanking the Minister for her very positive tone. I accept that she is eager to engage with those of us who have concerns and reservations, and I will go away and read her comments on these amendments more carefully, and will then consider my response and whether I will bring the amendments back on Report or not. On that basis, I beg leave to withdraw the amendment.

Amendment 9 withdrawn.

Lord Parkinson of Whitley Bay (Con): My Lords, I think this might be a convenient moment to take a short break, so I propose that we now adjourn until 5.45 pm.

5.25 pm

Virtual proceeding suspended.

5.47 pm

The Deputy Chairman of Committees: My Lords, the Virtual Committee will now resume. We come to Amendment 10. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate. It would be helpful if anyone intending to say "Not content" if the Question is put made that clear in the debate. It takes unanimity to amend the Bill in this Committee, which cannot divide.

Amendment 10

Moved by ***Lord Clement-Jones***

10: Clause 1, page 2, line 17, at end insert—

"(aa) form part of a building used as the premises for one or multiple businesses or organisations,

(ab) form part of a purpose-built retirement development,

(ac) form part of a new building completed after the period of one year after the passing of this Act, or"

Member's explanatory statement

This amendment would include office blocks, retirement developments and new builds in the scope of the bill.

Lord Clement-Jones: My Lords, I will be extremely brief, because I believe Amendment 10 is fairly self-explanatory. It includes many of the other premises that operators would like to see included in the Bill. For instance, legislation on gigabit broadband infrastructure for new-build properties was promised in the December 2019 Queen's Speech, yet we have seen no evidence of it.

What is the difference between blocks and, say, a purpose-built retirement development that needs access to full-fibre broadband? This has been brought home to us more than ever in the past few weeks. Take business premises, such as business parks. Those kinds of development are absolutely crying out for the kind of operator access provided for by this Bill.

The purpose of this—clearly a probing—amendment is to see how far the Government's ambition stretches. I have criticised this Bill on the grounds of lack of ambition to date, but it would be nice to hear from the Minister that the Government's ambitions stretch rather further. I beg to move.

Lord Fox (LD): I support my noble friend Lord Clement-Jones. This is a simple amendment, but if the Government are sincere in their ambition to roll out broadband to the widest possible number of people —in fact to everyone—it has to be grasped. It is all very well taking about a limited set of multi-occupancy buildings, but without this amendment that set is very limited. In brief, I support this amendment and look forward to hearing the Minister's explanation of why this was not in the Bill in the first place and perhaps an undertaking to solve that in time for Report.

Lord Haselhurst: I should say—by the way, my internet connection is unstable—that I did not mean to make a speech on this amendment nor indeed on the other one that bears my name. I was able to cover the issue in my earlier speech, which was more broad-ranging than on just that particular amendment. All I will add now that you have been good enough to call me, Deputy Chairman, is that the Secretary of State has been left with very wide regulatory powers. This was considered by the Delegated Powers Committee and quite deliberately left in a wide form. I therefore hope that this addition can be made in the fairly near future.

The Deputy Chairman of Committees: Lord Adonis.

Lord Adonis: I do not wish to speak on this group.

Lord Stevenson of Balmacara: I will be brief as well—the Committee has heard enough from us already. As the noble Lord, Lord Clement-Jones, said, this is a probing amendment to see where the Government's ambitions point. There does not seem to be any logic in the current drafting and the amendment is a good way to try to extend it, but there are other ways. If the Government, either now or at later stages, accept amendments that mean that all legal occupiers of a property and the operators themselves can also initiate Part 4A orders, we will not need this amendment.

I will use this time to ask a question that was raised in the discussion on an earlier amendment, as I did not get the answer from the Minister at the time it was raised. She may not have that information to hand and, if she does not, I will be happy for her to write. I think that we are all conscious that not everything in this Bill will achieve the promised land of the gigabit-compliant internet that we are all looking for, so other things need to happen, but they will not be addressed in other places. Perhaps the Minister could give us a tour d'horizon of them, if necessary in writing. How and when will we get the legislation for all new homes to have open-access fibre connections? Will there be a harmonised UK-wide regime for permitting street works to lay fibre? How will we ensure that fibre-builders can make use of the utilities infrastructure—for gas, water and electricity—to facilitate access? We need to know that these things are happening if we are to be confident that the Bill will achieve what it aims to do, so can the Minister write to me about them?

Lord Parkinson of Whitley Bay: I thank noble Lords for their brevity in outlining the purpose of this probing amendment. I shall try to be similarly brief in response.

I certainly welcome the intention behind this amendment—namely, to clarify which premises other than multiple-dwelling buildings such as blocks of flats might be in scope of the Bill and why. The decision initially to include only multiple-dwelling buildings is deliberate. It was informed by careful consideration of the evidence that was made available to us, not least through the consultation that was held before the Bill was drawn up and introduced. That evidence indicated that specifically this type of premises—multiple-dwelling buildings—most needed the sort of targeted intervention that is proposed in the Bill. We were not, by contrast, presented with compelling evidence for other types of property at this stage and certainly not enough to justify legislating at this point. However, we recognise that such evidence might emerge in time and we are mindful that office blocks or business parks, which the noble Lord, Lord Clement Jones, mentioned, could face similar issues. We continue to engage with providers and others about this.

The noble Lord, Lord Clement-Jones, asked how far our ambition stretches: as far as the evidence suggests. This is why we have included a clear power in the Bill for the Secretary of State to make regulations, should they be needed, to widen the scope of the Bill and make it apply to other premises of a specified description. That will allow the Secretary of State to legislate in a flexible and proportionate way, led by the evidence. This approach will allow the Government to continue to engage with interested parties, as well as to consider and balance the evidence that becomes available to us. Crucially, it will also help to guard against any unintended consequences that could arise from widening the scope of the Bill too quickly, before there is sufficient evidence to support doing so.

The noble Lord raised a point about new-build developments. The Government have set out plans to ensure that new-build homes in England are built with gigabit broadband by amending the 2010 building regulations to require developers of new-builds to install the infrastructure necessary to make them gigabit-capable. As we set out in our consultation response published on 17 March this year, the Building Act 1984 contains the necessary primary powers that would

mandate the installation of gigabit broadband in new build developments. To include the new-build developments in the Bill in the way proposed by this amendment is therefore unnecessary, and could hamper the simple and proportionate approach we have set out in the consultation response.

I should add that, as housing is a devolved matter, the Government are also working closely with the devolved Administrations on this. I hope that I have been able to demonstrate that we have firm proposals in place to address the issues raised, and that the noble Lord will feel able to withdraw his amendment.

Lord Fox: I thank the Minister for his response. I shall be brief. The Minister talked about the absence of overwhelming evidence and said that, if this evidence were to come to light, we would be treated to a statutory instrument in order to implement or extend this Bill. What in the Government's view is overwhelming evidence? What actually constitutes evidence that people require this? It is quite clear that people living in the wider group of residences as set out by my noble friend Lord Clement-Jones want access, so what do they have to do to overwhelm the Government in order to bring forth one of their statutory instruments?

Lord Parkinson of Whitley Bay: My Lords, we have tried to strike a balance in the Bill so far between the requirements and the desires of providers and of course the rights of those owning property. At the moment, the evidence suggests that there is a distinction between multiple residential dwellings—where the owner of the building is perhaps not as easily contactable or is not responding—and business parks, for instance, whose owners seem to be more alert to requests from providers and are therefore responding in a more timely fashion to requests. However, if the evidence suggests that they are not, then the secondary power proposed in the Bill will allow the Secretary of State to make provisions and bring forward some statutory instrument to extend the Bill in this way, as the noble Lord, Lord Fox, says.

Lord Clement-Jones: My Lords, I thank the Minister for his response to my noble friend Lord Fox, for which I am grateful. The fact is that the Government have actually got the wrong mindset on this. This is not some precious commodity to be supplicated for by a group of property tenants or lessees. This is absolutely a utility, as we have debated and discussed throughout the relatively short period of this Committee.

That shows the poverty of ambition behind the Bill and, in a sense, behind the 1-gigabit strategy put forward by the Government. We should allow 1 gigabit to be laid by operators in all those places. Small businesses, almost more than ordinary consumers, are in desperate need of good connectivity. As we have seen, online business is now absolutely crucial, yet many business parks do not have proper connectivity.

6 pm

It really is a bit of a myth that evidence is needed of landlords being awkward or whatever. The Government should say, "Right, this is our ambition. This is where we need to make sure that fibre is laid. We need to treat it as a utility and give powers of entry similar to those under the Electricity Act." I love the way that the words are phrased: "unintended consequences" appears to emerge from the mists in this Bill at every possible stage. We should not be cautious about this; we should be ambitious, and we need to get on with it.

I am going to ask the Minister a question and I hope that he will be able to answer it before I withdraw the amendment. He mentioned the 2010 building regulations under the Building Act 1984 and said that they had been passed. From what date? When will there be an obligation on landlords to engage with operators and so on? What is the effective date, and what properties are involved in this change in the building regulations? I entirely accept—I am delighted—that primary legislation is not needed in this request but a few further particulars would go quite a long way.

Lord Parkinson of Whitley Bay: The Government are certainly very ambitious regarding the provision of sufficiently fast broadband for everybody. As mooted earlier in the proceedings, the current situation, with so many people working from home and relying on the internet to communicate with their loved ones, underlines its vital importance. We aim to lay the regulations as soon as possible, but I will be happy to write to noble Lords with further details of when they will come into effect.

Lord Clement-Jones: I thank the Minister for that clarification. Therefore, as yet the regulations are not in place and, as yet, there is no new-build obligation. We very much look forward to the Minister's letter setting that out. I hope that there will be a sense of urgency, because the regulations were promised last year in the Conservative Party manifesto, and of course there is a great expectation that the manifesto will be fulfilled.

I thank the Minister for some of his clarifications. I keep urging the Government to be more ambitious but, in the meantime, I beg leave to withdraw the amendment.

Amendment 10 withdrawn.

The Deputy Chairman of Committees (Baroness Pitkeathley) (Lab): My Lords, we now come to the group consisting of Amendment 11. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate. It would be helpful if anyone intending to say "Not content" when the Question is put made that clear in debate. It takes unanimity to amend the Bill in this Committee; the Committee cannot divide.

Amendment 11

Moved by ***Lord Clement-Jones***

11: Clause 1, page 2, leave out lines 22 and 23

Member's explanatory statement

This amendment would remove the requirement for land to be held in common ownership with the target premises.

Lord Clement-Jones: My Lords, again, I shall be extremely brief in the hope of eliciting a positive and ambitious reply from the Minister. This measure will inevitably be frustrating for operators because the current changes to the ECC allow access only where

[Lord Clement-Jones]
land is held in common ownership with the target premises. If we are not careful, in many cases that will be a barrier to the proper laying of cable.

To refer back to the Minister's previous reply, I do not know what the evidence is but operators who have approached us on this question think that it is an important aspect. They may well need to access third-party land across multiple fields, for example, and it will help deployment, particularly in rural areas. That is where we are most mindful of the difficulties—where you cannot get a direct connection and you have to cross a field or other property which belongs to a third party and not the owner of the premises involved.

I would be very grateful to hear from the Minister just what the Government's evidence has been and what the response to the consultation was, and why they have not managed to include this very sensible provision in the Bill. I beg to move.

Lord Adonis: I have nothing to add.

Lord Livermore: My Lords, I am grateful to the noble Lord, Lord Clement-Jones, for tabling and introducing this amendment. It is relatively straightforward, but it could have far-reaching consequences for operators.

As the noble Lord outlined, the Bill currently defines "connected land" as being in common ownership with the target premises. Operators who have contacted us have expressed concern that this will limit their ability to roll out new technology, particularly in rural areas, where infrastructure may have to cross multiple fields to reach the desired building. They believe that removing the common ownership provision will also help accelerate their deployment of high-speed services to small businesses and other commercial properties.

Given our previous debates on the economic benefits of improving connection speeds, we should ensure that this Bill facilitates such work. There was clearly a rationale for including this provision in the Bill, so I hope that the Minister will be able to clarify the position and its practical impact on the provision of new connections. Should she accept that the requirement may have unintended consequences on the ability of operators to roll out new infrastructure, I hope that officials can look again at the detail and engage with the sector to address its concerns.

Baroness Barran: I thank the noble Lords, Lord Clement-Jones and Lord Fox, for tabling this amendment. The noble Lord, Lord Clement-Jones, asked for a positive and ambitious response—I think those were his words. I hope to give him a positive response, but I fear that it will be a practical one.

This amendment seeks to understand our thinking on the key concepts of connected land and common ownership, and the impact of this link on the speed and ease of the rollout of gigabit-capable broadband. As the noble Lord, Lord Livermore, outlined, the concepts of connected land and common ownership form a vital underpinning of the Bill.

It may be helpful to noble Lords if I give a slightly more technical explanation of the concept of connected land. In technical terms, let us consider land in respect of which an operator wishes to have code rights, which we will call Land A. In order for Land A to be "connected land", it must satisfy both limbs of the definition set out in paragraph 27B(3) of the code. It is not enough that it is used for access to, or otherwise in connection with, the target premises—limb (b). Land A must also be in common ownership with the target premises—limb (a).

The concept of common ownership as drafted in the Bill therefore stands and falls with the need for Land A to be held or used for access to, or otherwise in connection with, the target premises, as contained in limb (b).The definition of "common ownership"—as set out in paragraph 27I(2) of the code, towards the end of Clause 1—will catch two pieces of land which have the same freeholder, or which are held under a lease of any sort by the same person. It will also catch two pieces of land where the same person owns an interest in each but at a different level; for example, where a person owns the freehold of one but is the lessee of the other. I am happy to give practical examples of that point if that would be useful to your Lordships.

The connection set out in paragraph 27B(3) of the code is a conjunctive test, so both limbs (a) and (b) are needed for the concept of "connected land" to work. Without that, the essence of the concept of connected land is removed, and it is completely integral. The amendment would remove the requirement for the land to be in common ownership, thus allowing operators to use this policy on any land that exists between their exchange and the target premises. In practice—this is the key reason why the Government do not support the amendment—it would give operators code rights to access land where a landlord was not responsive. A landlord who has no connection to the properties where the operator is going to make their installation could be opened up to potential Part 4A orders, which we believe is disproportionate.

There are other, technical points which could affect the powers in the Bill with the amendment as currently drafted. Paragraphs 27I(2) and (3) seek to define "common ownership" and "relevant interest". This was designed to ensure that the Bill worked within the different ideas of land ownership in Scotland. The amendment would render those paragraphs ineffective and affect the efficacy of the Bill, particularly in Scotland.

While I recognise that operators are encountering significant problems gaining access rights in situations other than multiple dwelling buildings, this Bill is not the right vehicle for a change as profound as this. My officials have engaged with them, and representatives of landowners, on these points and we are considering what, if any, action could be taken to support delivery if evidence emerges that further interventions are necessary. With that reassurance, I hope that the noble Lord will agree to withdraw the amendment.

The Deputy Chairman of Committees: I understand that the noble Lord, Lord Fox, has indicated that he wishes to speak after the Minister.

Lord Fox: I thank the Minister for her anatomical explanation of the situation. Large lumps of Victorian and Georgian cityscapes have been converted into a multiplicity of dwellings and flats, many of which are

going to find themselves unable, within the definitions of limbs (a) and (b) and the rules set out in the Bill, to request access. Is that correct? There is obviously complicated ownership in all such places: perhaps the need to go through one flat to get to another; there may be leaseholds and freeholds muddled up. However, the point of the Bill should be to get gigabit broadband capacity to as many people as possible, rather than rule out everybody except a very pure clay of candidates. Perhaps the Minister is grasping—albeit eloquently—at the wrong end of this stick.

Baroness Barran: I thank the noble Lord for pressing this point. I cannot comment on the specifics of different layouts. As he noted, this is a very complicated area. We have tried to listen to operators on the issue of unresponsive landowners more widely and they have highlighted difficulties where there are owners of third-party land which the operator needs to cross in order to deploy their equipment.

As I said, we are very concerned that the risk of a non-responsive landlord and the operator then getting code rights would be disproportionate and would unbalance the Bill. However, the noble Lord makes a fair point about the spirit of the Bill being to open up access. We certainly share that goal and I will take his points back and consider them further.

6.15 pm

Lord Clement-Jones: My Lords, I thank the Minister for her reply. For one nightmarish moment, when she started talking about connected land, limb A, limb B and so on, I thought that I was returning to a land law viva circa 1971, but this was all in aid of explaining that it is not possible to do anything as far as 27B(3) is concerned. For one delirious moment, I thought she was going to say that the definition meant that my objections had been covered, but of course that was not to be. I understand where she is coming from, but I suspect we are again back into the language of unintended consequences which has been so freely bandied about. I congratulate the Minister on her restraint in not using that phrase in response to this, because this is about landowners' rights.

Given the extensive compensation rights set out in the ECC, which are amended as part of today's Bill, it seems to me that the boot is on the wrong foot. If we are really talking about opening up, which the Minister mentioned was a function of this Bill, then surely it is important that we get this right. What I will take as an invitation from the Minister, and I think the operators should too, is that evidence may emerge. If operators can actually demonstrate that there are issues with this kind of connected land, which is not in common ownership and therefore does not fall within 27B(3), they should try to demonstrate that beyond peradventure at the earliest possible opportunity. The representations that my noble friend Lord Fox and I—and clearly, the noble Lord, Lord Livermore—have received suggest that this is a major issue which will slow down deployment.

Whatever the solution—again, the Minister seemed to give some encouragement that thought is being given to this—I very much hope that the Government will continue to think about this and come up with a satisfactory solution. In the meantime, I beg leave to withdraw the amendment.

Amendment 11 withdrawn.

The Deputy Chairman of Committees: We now come to the group beginning with Amendment 12. I remind noble Lords that anyone wishing to speak after the Minister should email the Clerk during the debate. It would be helpful if anyone intending to say "not content" if the question is put made that clear in the debate. It takes unanimity to amend the Bill in this Committee; this Committee cannot divide.

Amendment 12

Moved by ***Lord Stevenson of Balmacara***

12: Clause 1, page 2, leave out line 31

Member's explanatory statement

This amendment removes the ability of a landlord to exclude themselves from the scope of these provisions by acknowledging an access request in writing without addressing the substantive point.

Lord Stevenson of Balmacara: My Lords, I move Amendment 12 and will speak to Amendment 13. Taken together, these amendments probe in a little more detail the way in which operators and property owners will be able to come to some sort of deal. While the Bill sets out to provide a mechanism under which, if necessary, the courts can supervise an arrangement so that access can be provided, the truth is that most operators would wish to have a voluntary arrangement through which they can deal face to face with the person responsible, in order to satisfy the potential user of the new equipment about what they are trying to do. In a sense, it is a slightly strange mixture.

The Bill seems incredibly one-sided in the way it approaches the rights of the owner of the property. We had this debate when considering previous amendments, and I am still a little uncertain as to why this should be. Throughout the discussion, the Minister has tried to make it clear that it is a balance between three competing interests: the rights of the owner of the property, those of the user and those of the operator. But I do wonder whether the balance is right in this respect.

The bar set by the Bill for a landlord to be engaging with the network builder—this is the dialogue that we are talking about—seems to be set a bit low. As I read it, the only requirement of the landlord is that they acknowledge the request notice in writing. That does not give any confirmation that the landlord will negotiate the terms of access to the property in good faith. Can the Minister say in more detail what the Government have in mind here? Could the landlord simply say, "Thank you for your letter—I will get back to you", and the whole process stops at that point because there is no way of unlocking the arrangement?

In responding to the original consultation, the Government said that a substantive response from the landlord would be enough to take them out of the scope of the Bill, but the Bill as drafted does not require a substantive response. I agree that this might be a definitional issue but if so, why is no definition

[Lord Stevenson of Balmacara]
included in the Bill? This issue was discussed during the Commons stages of the Bill. Amendments that could have addressed it were discussed extensively but the Government rejected them, confirming their view that, by definition, in responding, a landlord ceases to be unresponsive. While I absolutely agree that there is an element of truth in that, it does not solve the problem, which is that if landlords want to play this long and get out of it without committing, it looks as though they can do so. It would sensible either to have no recommendation at all, as per the amendment, or some form of time-limited arrangement under which further action could be taken to resolve the issue. I beg to move.

The Deputy Chairman of Committees: Lord Clement-Jones?

Lord Clement-Jones: I will not be speaking to this amendment.

The Deputy Chairman of Committees: Lord Adonis?

Lord Adonis: I will not be speaking to this amendment either.

Lord Kennedy of Southwark: My noble friend Lord Stevenson of Balmacara has tabled both the amendments in this group. I support my noble friend in his efforts to tease out information from the Government through these probing amendments, and I look forward to the Minister's response. For my part, I want to be clear that, in both points under discussion here, by acknowledging the communication but not saying whether they agree or refuse, the granter has not stopped the process moving forward; my noble friend made that exact point in his contribution. All I am looking for is confirmation that that is not the case—that the process cannot be stopped by this becoming the default.

When speaking on an earlier group of amendments, the noble Lord, Lord Clement-Jones, made the point that broadband should be treated as an essential service—an essential utility just like water, gas and electricity, and that we have to be ambitious. I agree that this is a good Bill and that we are having a good discussion with some good amendments, but I am not sure whether we are meeting the challenge. I look forward to the response to this group from the Minister—whether the noble Baroness or the noble Lord. I remember that the noble Baroness, Lady Barran, when she was responding on the second group of amendments, made the point that we must not let the perfect become the enemy of the good. I agree with that quote from Voltaire in this context; it is spot on. But the point is that we have to be good. My fear is that is that we are being timid with some of this legislation, not good. I want to see the fire in the Government's belly. I have not seen much fire today.

So, we are not pursuing perfection, but we have to be doing good. If we do not get this right, we will not do this issue justice and we will be back here again in a year or two's time to take things further. I am looking for reassurance from the Government that there is fire in their belly, that they are getting on with things, and that this cannot stop the proposals in their tracks.

Lord Fox: I agree with the two previous speakers. The Bill would mean that a landlord could be considered responsive simply by acknowledging the request notice in writing without taking the engagement further. In fact, it is pure territory for what I would call passive-aggressive obfuscation—a serious of meaningless letters going back and forth but leading, in the end, to absolutely nothing. It would mean, in the end, the operator being unable to meet the needs of the potential customer. Frankly, the operators have so many other options at the moment that they would simply walk away and go where it is easier to install, leaving yet another person disfranchised from the digital economy. We have heard from operators that they are identifying landlords who will potentially act in this way.

Again, this is a proving amendment; I thank the noble Lord for moving it. What constitutes a meaningful response that moves this forward? Put simply, a passive-aggressive, obfuscatory approach will mean that, in the end, a bad landlord or a landlord who really does not want to enfranchise their tenants will win.

Baroness Barran: My Lords, I thank noble Lords for tabling the amendments, which would require a landlord to respond to the substantive point of the notice—that is, providing access. The amendments seek to examine our thinking on allowing a landlord to remove themselves from the scope of Part 4A simply by responding to the operator's notice. The Government understand and appreciate the intention behind the amendments, but there is the potential for unintended consequences, if the noble Lord, Lord Clement-Jones, will forgive me for saying so.

The Bill was created to address the specific problem of the repeatedly unresponsive landlord. That is what telecoms operators have told us is one of the biggest issues they face when it comes to rolling out networks. The Bill was not intended to offer a solution to instances where a landlord may take longer than the operator would like to agree to the terms proposed in their request notices. The noble Lord, Lord Fox, gave the example of the passive-aggressive landlord, but there could be absolutely fair instances where a landlord sends a holding response because they are seeking legal advice. The Bill gives flexibility for that, but its real focus is on incentivising landlords and operators to engage with each other in the first place. We believe that the Bill, as drafted, reflects that crucial distinction.

As was discussed in the debate on previous amendments, we are aware of the challenges that some operators face in reaching agreements with landlords. We have held numerous discussions with a wide range of stakeholders since the implementation of the reforms to the Electronic Communications Code in December 2017, and we continue to do so, but we do not think that this Bill is the appropriate vehicle for addressing the wider range of ongoing access issues. Any broader changes to the code would need to be carefully considered and consulted on, but if we saw sufficient evidence that there is a problem, we would of course consider what intervention to take.

6.30 pm

I remind noble Lords that operators already have routes via the code to make an application to the court—for example, in England and Wales, to the Upper Tribunal—to have rights imposed in situations where they fail to reach a consensual agreement with the landowner.

The Bill, like the code itself, aims to provide a balance between the rights of the landowner and of the operator. I believe that the amendment would have the opposite effect of what it hopes to achieve. Rather than encouraging landowners to enter into negotiations, I suspect that it risks leading to landowners responding with a knee-jerk refusal. The Bill as drafted incentivises the landowner to respond to an operator by either agreeing to or refusing access, or otherwise acknowledging the notice in writing. Only if they fail to do so will the requirements for the operator to apply to the court crystallise. We hope that this strikes a balance, providing time for the landowner to consider the operator's proposals carefully, while providing the operator with the certainty that, while they might not receive a simple yes or no, their request for access is nevertheless being considered. With that, I hope noble Lords are content, and I beg that this amendment be withdrawn.

The Deputy Chairman of Committees: I have received no notification that anyone wishes to speak after the Minister, so I return to the noble Lord, Lord Stevenson.

Lord Stevenson of Balmacara: My Lords, I will read carefully in *Hansard* what has been said and reflect on it. I am bound to say that, as the noble Lord, Lord Clement-Jones, pointed out, we are back in the land of unintended consequences, which is not really an appropriate argument to use against what is essentially a probing amendment. We do not intend it to go forward into the Bill as it stands. Simply raising the spectre that it might have unintended consequences has not advanced the discussion.

The Minister's main point was that the Bill's intention, which I recognise, is to incentivise a situation in which discussions with the operators and others are brought up when people do not reply to requests for information. In a sense, what is in the Bill is an answer to people who have gone AWOL or died and are not able to answer their letters, rather than encouraging dialogue and leading to a conclusion, which is what we are all trying to get to if we are ever to get to the full gigabit-ready internet that we all look for. I do not think that is the answer, but having said that I will reflect on what has been said. I beg leave to withdraw the amendment.

Amendment 12 withdrawn.

Amendments 13 and 14 not moved.

The Deputy Chairman of Committees: We now come to the group beginning with Amendment 15. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate. It would be helpful if anyone intending to say "not content" when the question is put made that clear in debate. It takes unanimity to amend the Bill in Committee. This Committee cannot divide.

Amendment 15

Moved by ***Lord Adonis***

15: Clause 1, page 5, line 26, at end insert—

"(3) Any operator exercising Part 4A code rights is obliged to ensure that alternative operators can easily install the hardware needed to provide their own electronic communications service.

(4) The definition of "easily" in sub-paragraph (3) is to be provided by Ofcom."

Lord Adonis: The purpose of the amendment is to probe the Government's thinking and provoke some debate on the issue of competition and open access in the provision of services on the back of the new infrastructure which the Bill makes possible. It is the same amendment that my colleague Chi Onwurah moved in the Standing Committee in the House of Commons. I draw colleagues' attention to the very interesting debate in that Committee on 11 February 2020 at cols. 20-23. The interesting point about it is that the amendment itself is almost motherhood and apple pie. It is very weak. It is a declaration of what those of us with a history of engagement in telecoms competition issues think is the state of play anyway. The amendment says:

"Any operator exercising … code rights is obliged to ensure that alternative operators can easily install the hardware needed to provide their own electronic communications service … The definition of 'easily' … to be provided by Ofcom",

the regulator.

The significant thing about that debate is that the Government opposed the amendment. Indeed, it was pushed to a Division in the House of Commons Standing Committee and there was a straight vote on it. Highly peculiarly, given the usual position of the parties on these issues, all the Conservatives voted against having any requirement for open access and competition in the Bill, even though Chi Onwurah's amendment, as I read it, was a statement of existing government and Ofcom policy.

Reading the Minister's response—this is Matt Warman, the Under-Secretary in the department of the noble Baroness, Lady Barran—left me more concerned than before. I would like to probe the noble Baroness further on two particular points that came out in his response. First, he made a straightforward anti-competition declaration about the policy intended to result from the Bill. In col. 22, he said:

"Far from improving competition in access to gigabit services, the amendment"—

this amendment I am now moving before your Lordships—

"may actually have the unintended consequence of doing the opposite. As the hon. Member knows, much of the cost of connecting premises is in the initial installation. The amendment could therefore seriously undermine the case for operators to make that initial installation, as they risk being undercut by second or third movers who would not have to bear the same costs."—[*Official Report*, Commons, Telecommunications Infrastructure (Leasehold Property) Bill Committee, 11/2/20; col. 22.]

That is a classic statement of the reason that operators, including Openreach, always give for not allowing others to be able to access their wayleaves and technology, but it is not one that the Government have supported

[Lord Adonis]

in the past. Do the Government believe that allowing operators to ban competition and introduce anti-competitive requirements in contracts is justified as a means of getting this investment? That is a direct question for the Minister. I would like to know what the Government's policy is. Do they support anti-competitive practices?

On the operation of the existing law, in col. 21 Matt Warman said:

"The Bill aims to support leaseholders to access the services they request from the providers they want"—

a straightforward statement of pro-competition policy.

"It already ensures that leaseholders are not per se locked in to services provided by a single provider; nothing in the Bill prevents a leaseholder with an existing gigabit-capable connection from one service requesting an alternative network to come in and request code rights as well."—[*Official Report*, Commons, Telecommunications Infrastructure (Leasehold Property) Bill Committee, 11/2/20; col. 21.]

Can the Minister point me to the provisions ensuring that

"leaseholders are not per se locked in to services provided by a single provider"?

How does that provision square with the Government's resistance in the House of Commons to this amendment, on the grounds that anti-competitive practices were justified to support operators making investments in extending fibre to the home? I beg to move.

The Deputy Chairman of Committees: I call the noble Lord, Lord Haselhurst. He is not there. We will move to the noble Lord, Lord Liddle. I beg your pardon; I call the noble Lord, Lord Stevenson of Balmacara.

Lord Stevenson of Balmacara: The case has been so well made by my noble friend Lord Adonis that I have very little to add. I thought, as he did, that the exchanges in the Commons were extraordinary. We need some better explanation of what has been going on there. This is an area where there may be some case for a bit of guidance being issued by the Minister, and not necessarily in regulatory form.

I have recently moved house and have had exactly the same problem of trying to take over an existing line from the previous owner and being told that I could not switch operators and had to stick with the same equipment, even though it is clearly not right for our type of use. I am sure that this a pro-competition and pro-choice amendment which the Minister will want to support—there is a bit of a get-out here which she may want to think about.

The Deputy Chairman of Committees: Apologies for skipping over you, Lord Stevenson. We will try the noble Lord, Lord Haselhurst, again. He is not there. Lord Liddle? We go then to the noble Lord, Lord Fox.

Lord Fox: I am grateful to the noble Lord, Lord Adonis, for introducing this, because it throws up a sort of paradox—although the noble Lord did not mention it—and I am interested to know the Government's view on it. In certain categories of installation government money is going across either directly or through local authorities into investment in installation and hardware. Are the Government suggesting that state-subsidised and state-supported hardware would not be mandatorily interchangeable?

Baroness Barran: My Lords, I thank the noble Lords, Lord Adonis, Lord Griffiths and Lord Stevenson of Balmacara, for tabling Amendments 15 and 16. As I have said several times in Committee, the aim of the Bill is to support lessees in occupation to access the services they request from the providers they want. As drafted, we believe the Bill already ensures that they are not locked into services provided by a single provider. Nothing in this Bill prevents a person with an existing gigabit-capable—or indeed any—connection from requesting another service from another network provider. Nothing in the Bill prevents such a provider from requesting code rights from a landlord. If the landlord repeatedly refuses to engage with that provider, then, as we discussed earlier, that provider could apply for a Part 4A order of their own to deliver the service.

I understand that operators may be concerned that certain of their competitors may install their digital infrastructure in such a way as to physically prevent others installing their own. However, we consider that this issue could be better dealt with through the terms of an agreement imposed by a Part 4A order. Those terms are to be specified in regulations made subject to the affirmative resolution procedure. Noble Lords will be aware that the Delegated Powers and Regulatory Reform Committee recently considered the Bill and concluded that there was nothing in it to which it wished to draw the House's attention. Noble Lords may also be aware that that particular regulation-making power is subject to a consultation requirement that is expressly set out in the Bill. This reflects our concern and commitment to get this crucial aspect of the Bill's practical operation right. The Bill therefore already envisages that the views of interested parties will be invited before the regulations are made.

With each operator undertaking works in a slightly different manner and there being a number of differences between network infrastructures, it is exceptionally difficult to place into primary legislation a requirement for operators to undertake works in a specific way or in a way that cannot easily be circumvented, for example by an operator stating that it was not "reasonably practicable" to select and install apparatus. Furthermore, far from improving competition and access to gigabit services, the amendment may have the unintended consequence of doing the opposite.

The noble Lord, Lord Adonis, referred to the words of my honourable friend the Minister for Digital Infrastructure in the other place, when he said that much of the cost to operators of connecting premises is in the initial installation. The noble Lord challenged whether this was an anti-competitive statement, if I followed his comments accurately.

6.45 pm

Perhaps I can give an example of where one of our concerns lies. A small operator could install at significant cost, and then a much larger operator have the financial muscle to undercut it. This could clearly have anti-competitive consequences, particularly as that larger operator would not then carry those initial costs.

We are concerned that if we force network builders to deploy in a way that allows competitors easy access, it will benefit only the largest players in the market, whose size allows them to bear those costs. Part 3 of the code already clearly provides for operators to upgrade electronic communications apparatus, and to share the use of such apparatus with another operator.

We also have technical concerns about the drafting of the amendment, which I can cover if noble Lords would like or write to them about. The Government sympathise with some of the intention behind the amendment—namely, to allow operators to compete on comparable terms as the best course of action. However, I ask that the noble Lord withdraws his amendment.

The Deputy Chairman of Committees: I have received no notification that anyone wishes to speak after the Minister, so we return to the noble Lord, Lord Adonis.

Lord Adonis: I am extremely grateful to the Minister. As she says, there are drafting issues, but I am sure that if they were the only concern we would all be happy for the Government to do the drafting for us. There seems to be a contradiction in the Government's position. May I ask the Minister to clarify it? Is she saying that under the Bill as drafted, and the terms of the agreement with the proposed Part 4A order, alternative operators will or will not have easy access to new infrastructure? To prevent people unfairly undercutting initial investors, it is important that they should not. It is not clear to me and that point seems to go to the heart of the Government's argument. Are they arguing that operators will have easy access, so that what is proposed here is irrelevant; or that operators will not have easy access, which is intentional because if they did, there would be undercutting? Which of those is the Government's position?

Baroness Barran: The Government's position is that there is fair access, in that any provider can apply for a Part 4A order of their own to deliver a service. Alternative operators have equal access to the existing operator or other alternatives.

Lord Adonis: That is a very helpful response because it seems to indicate a possible way forward in a redrafted amendment that underpins fair access. In my proposed new sub-paragraph (3) to new paragraph 27F, instead of saying

"that alternative operators can easily install the hardware"

it should say that they can install their hardware on a fair basis. My sub-paragraph (4) would then be the definition of fair, to be provided by Ofcom. I do not want to press the Minister too far, but can she at least undertake at this stage to look at such an amendment, without making any commitments to come back on Report, and write to me about it?

Baroness Barran: What I am saying is that we believe that we already have a fair system and that this could best be explored in the accompanying regulations. However, I will be happy to write to the noble Lord on the point.

Lord Adonis: I am very grateful to the noble Baroness but she opens herself to the argument that I am seeking simply to insert into the Bill what the Government have said they intend to do anyway, and I may come back to this point on Report. However, on that basis, accepting what the noble Baroness has just said about writing to me and acknowledging the contributions made by my noble friend Lord Stevenson and the noble Lord, Lord Fox, I beg leave to withdraw the amendment.

Amendment 15 withdrawn.

Amendment 16 not moved.

The Deputy Chairman of Committees: We now come to the group beginning with Amendment 17. I remind noble Lords that anyone who wishes to speak after the Minister should email the clerk during the debate. It would be helpful if anyone intending to say "not content" when the question is put makes that clear in the debate. It takes unanimity to amend the Bill in this Committee. The Committee cannot divide.

Amendment 17

Moved by ***Lord Stevenson of Balmacara***

17: Clause 1, page 6, line 1, leave out ", of no more than 18 months,"

Member's explanatory statement

This amendment removes the 18-month time limit for the expiry of a Part 4A code right.

Lord Stevenson of Balmacara: My Lords, I shall speak also to Amendment 18. The noble Lord, Lord Clement-Jones, will come in on Amendment 19, which has a similar bent but a slightly different way of moving forward on the same issue.

These are probing amendments to ask why there is a need for a statutory limit on the expiry of Part 4A code rights. It has reached the stage where Part 4A code rights are clearly necessary, now and in the future, and not limited to 18 months, which might well be interrupted by all sorts of things, not necessarily excluding matters such as those we are currently experiencing. We are saying here that this stems from our having had representations from operators about the imposition of the 18-month time limit. While there may be one, no explanation has been given for why that period has been chosen and I look forward to hearing from the Minister what it was. The proposal has been included in the Bill without any consultation, which causes us concern. That is why we have tabled Amendment 18, which suggests that before any final decision is taken, there should be a wider consultation on this.

What we surely want to see is no roadblocks, uncertainties or hindrances, real or apparent, for those who might, wilfully or otherwise, wish to frustrate progress on getting access to above-ground fibre broadband for the home. If there is to be a sensible time limit, it ought to be practical and should not create costs. If there has not been consultation, there should be, so the amendment suggests that, instead of putting into primary legislation a figure that seems to

[Lord Stevenson of Balmacara]
have been plucked from the air, we should have a proper process that would arrive at something that people would understand and might support better. I beg to move.

Lord Adonis: I do not wish to speak on this group.

The Deputy Chairman of Committees: In that case, we will move on to the noble Lord, Lord Fox.

Lord Fox: Amendment 17 seeks to remove the 18-month time limit, while Amendment 19 seeks a mechanism that would extend it. Both amendments are guided by the same curiosity. In a sense, what was driving the Government's objective in including the limit of 18 months? As the noble Lord, Lord Stevenson, asked, why was the period of 18 months chosen? Why not 20, 16 or 28? What was the economic analysis that arrived at 18 months? In consulting with operators, what was it that any operator said that encouraged the Government to put this clause in? I cannot imagine it was anything, so I can conclude only that it was about what grant is set. We are back on the same balance of the equation in terms of where the Bill balances itself between the granters and the operators, who are essentially the champions of the consumer in this process.

Can the Minister explain what it was that the granters, landlords and owners put to the Government that pushed them into putting in this 18-month time limit? As the noble Lord, Lord Stevenson, said, it will seriously compromise the investment prospects for operators, particularly in difficult or harder-to-reach areas—possibly places like where I come from in Herefordshire. Why would an operator invest huge sums of money without any security, knowing that in 18 months' time that investment could be written down to zero? These amendments together are all part of the same spirit of inquiry. What was the Government's thinking when this was included in the Bill?

Baroness Barran: I thank noble Lords for tabling Amendments 17 and 18. I will do my best to address the very valid points raised.

I will clarify the intention of the amendments. Amendment 17 seeks to examine the rationale for placing a maximum time period of 18 months for the interim code rights granted under a Part 4A order in the Bill. Amendment 18 would require the Government to consult on the maximum time period for which the interim code rights should last. I want to highlight, in response particularly to the point made by the noble Lord, Lord Stevenson of Balmacara, that the Government have already consulted on the principle that there should be a period during which code rights arising from this Bill should last.

In the original consultation for this policy in October 2018, we proposed that these rights should be enjoyed until an agreement was reached with a landowner. A number of responses to that consultation made compelling arguments that we should consider imposing a maximum time limit. This was to ensure that operators continued to engage with landowners to try to reach a permanent agreement, and to ensure that the important balance of rights was maintained. I hope noble Lords agree that an indefinite time period could risk being open to abuse, deliberate or otherwise, and importantly potentially leave both landowners and operators with great uncertainty.

It was never the intention that this process should replace the existing process under the code, by which an operator can apply to the court to have permanent code rights imposed. That process requires the judiciary to carefully consider the merits of the case before it, and to make a judgment on which rights should be imposed, and potentially any compensation or consideration to be paid. The process envisaged under a Part 4A order requires the judiciary—in this case, the First-tier Tribunal—to be satisfied that the evidential requirements laid out in the Bill have been met.

This leads us to the maximum 18-month time limit that we have settled on. Following consultation and subsequent stakeholder engagement with representatives of operators and landowners, they informed us that, in practice, when a landowner does not respond to requests for access, if an operator continues to make attempts to engage, the majority of landowners will eventually respond within approximately 12 months. Setting a slightly longer time period gives the operator a degree of flexibility. Another reason for the decision to set the time limit for the Part 4A interim code rights at 18 months was to provide certainty to consumers. Most consumer broadband contracts last for either 12, 18 or 24 months. Placing the time limit at 18 months, depending on the speed with which the operator can enter the property after a successful application, will allow consumers to enter into a standard contract for either 12 or 18 months, enjoy the special discounts offered by retail broadband providers for those taking out such fixed-term deals, and be confident that their service will be uninterrupted for its full duration.

I ask your Lordships to note that the Bill contains a clear power to make regulations to specify the period for which code rights arising from the making of a Part 4A order are to last. New paragraph 27G(3) of the code, as inserted by Clause 1 of this Bill, makes clear that the specified period is to be no more than 18 months, and it will be for the regulations made under that power to specify the period itself.

7 pm

If operators, landowners or others are interested in letting us know their views on the duration of the period, they will be able to do so. In the meantime, the regulation-making power provides a clear limit—a backstop, if you will—on the exercise of that power, and it enables the Government to legislate in a proportionate way based on the evidence.

Amendment 19 seeks to introduce a process by which the interim rights conferred by a Part 4A order can be extended beyond the proposed maximum of 18 months if a landowner does not offer meaningful engagement. While I understand that noble Lords are trying to give more certainty for operators, our concern is that this could introduce confusion into the process.

As drafted, the Bill would grant operators a maximum of 18 months under which to exercise the interim rights conferred by the courts, which means that both

operators and landowners have certainty. However, by seeking to introduce a process by which these rights could be extended, in the case of a lack of meaningful engagement from a landowner, that certainty is removed. It cuts across new paragraph 27G(1) and (3) of the code which, as drafted, sets out unequivocally under what circumstances the rights conferred will end, and how long these rights are for.

This effect of the amendment could result in the specified period being extended indefinitely, and risk disrupting the balance between the rights of landowners and operators that the code, and in turn the Bill, seeks to maintain. We are also unclear as to what is meant by a "process". This would need careful thought, and almost certainly a period of consultation, potentially impacting the implementation of these provisions, which are much needed.

I hope this demonstrates that we have thought carefully and listened hard to all stakeholders about how long interim code rights should be imposed for, and that it was our consultation in the first place that informed our current position. With that reassurance, I hope that the noble Lord will agree to withdraw the amendment.

Lord Fox: I thank the Minister for her answer; I felt the language was revealing. Perhaps I am confused and the legislation has confused me, but the way in which she described the process was as if she was trying to calm down someone who did not want this to happen, rather than encourage someone who did. "No more than", "a maximum of"—this is language that I would use if I were trying to pacify someone who did not want this to happen, which perhaps is what is happening. She mentioned that there had been a number of responses that led to the 18-month period being adopted. Perhaps she could indicate, without revealing exactly who those responses were from, which sector they came from—was it the operators, or was it landowners and potential granters of this technology?

I think that to use legislative nit-picking, if the Minister will excuse the phrase, to unseat probing amendments such as Amendment 19 is a little below the belt. The idea is not to complete a work of drafting genius; it is to get the Government to commit time to produce something that instils some flexibility into the Bill and provides an opportunity to extend things when they need to be extended and puts the courts and due process, if noble Lords will excuse the phrase, in place in order for that to happen.

Baroness Barran: I thank the noble Lord for his remarks. Just to clarify, I am sorry if the language sounded pacifying. The noble Lord will remember that in an earlier amendment I talked about the spirit of the Bill being about incentivising communication between landowners and operators. The aim of this is to bring clarity and certainty to all involved, including consumers.

In the consultation we had responses from landowners and local authorities. The noble Lord will not be surprised to know that some who responded thought this was too short a period and some that it was too long, so this feels like a bit of a Goldilocks moment. There is a balance to be struck between the flexibility that the noble Lord rightly points to and clarity and certainty. Based on the consultation responses that we received, we hope that we have achieved that balance.

Lord Stevenson of Balmacara: I am very grateful to all those who have contributed, particularly the Minister, whose detailed explanation deserves further consideration and I will read it very carefully in *Hansard*. I am also delighted to have escaped at least one amendment that did not get criticised for having unexpected consequences, so I must have got something right on that one.

This is very difficult to get right and I appreciate the difficult issues that have been raised. I will reflect on what has been said. In the meantime, I beg leave to withdraw the amendment.

Amendment 17 withdrawn.

Amendments 18 and 19 not moved.

7.06 pm

Virtual Proceeding suspended.

Arrangement of Business

Announcement

7.16 pm

The announcement was made in a Virtual Proceeding via video call.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, Virtual Proceedings in the House of Lords will now resume. I remind Members that these proceedings are subject to parliamentary privilege, and that what we say is available to the public, both in *Hansard* and to those listening and watching. Members' microphones will initially be set to mute; the broadcasting team will unmute them shortly before we reach their place in the speakers' list. When Members have finished speaking, their microphones will again be set to mute. Please ensure that questions and answers are short.

We now come to the Virtual Proceedings on the Statement. Please note that it has been agreed in the usual channels to dispense with the reading of the Statement itself. We will proceed immediately to questions from the Opposition Front Bench.

Covid-19: Response

Statement

7.17 pm

The following Statement was made on Monday 18 May in the House of Commons.

"With permission, Mr Speaker, I will make a Statement on coronavirus. This is the most serious public health emergency in 100 years, but through the combined efforts of the whole nation, we have got through the peak. Let us not forget what, together, has been achieved. We flattened the curve, and now the number of people in hospital with coronavirus is half what it was at the peak. We protected the NHS, and the number of patients in critical care is down by two-thirds. Mercifully, the number of deaths across all settings is falling.

[Lord Faulkner of Worcester]

This Mental Health Awareness Week is an important reminder that we need to look after ourselves, as well as each other. If someone needs support with their mental health, the NHS is there for them. This is particularly important for front-line staff, and we have supported all NHS trusts to develop 24/7 mental health helplines.

Our plan throughout this crisis has been to slow the spread and protect the NHS. Thanks to the resolve of the British people, the plan is working, and we are now in the second phase of this fight. I will update the House on the next steps that we are taking as part of that plan. First, we are protecting the nation's care homes, with a further £600 million available directly to care homes in England. We have prioritised testing for care homes throughout, we made sure that every care home has a named NHS clinical lead and we are requiring local authorities to conduct daily reviews of the situation on the ground, so that every care home gets the support it needs each and every day. All this amounts to an unprecedented level of scrutiny and support for the social care system, and a level of integration with the NHS that is long overdue.

Secondly, the four UK chief medical officers have today updated the case definition to include a new symptom. Throughout this pandemic, we have said that someone who develops a new continuous cough or fever should immediately self-isolate. From today, we are including anosmia—losing one's sense of smell or experiencing a change in the normal sense of smell or taste—which can be a symptom of coronavirus, even where the other symptoms are not present. So, from today, anyone who develops a continuous cough or fever or anosmia should immediately self-isolate for at least seven days, in line with the guidelines. Members of their household should self-isolate for 14 days. By updating the case definition in line with the latest science, we can more easily recognise the presence of the virus and more effectively fight it.

Thirdly, we are expanding eligibility for testing further than ever before. Over the past six weeks, this country has taken a small, specialised diagnostics industry and scaled it at breathtaking pace into a global champion. Yesterday, we conducted 100,678 tests. Every day, we create more capacity, which means that more people can be tested and the virus has fewer places to hide.

Today, I can announce to the House that everyone aged five and over with symptoms is now eligible for a test. That applies right across the UK, in all four nations, from now. Anyone with a new continuous cough, a high temperature or a loss of, or change in, their sense of taste or smell can book a test by visiting nhs.uk/coronavirus. Anyone who is eligible for a test but does not have internet access can call 119 in England and Wales or, in Scotland and Northern Ireland, 0300 303 2713. We will continue to prioritise access to tests for NHS and social care, patients, residents and staff, and as testing ramps up towards our new goal of a total capacity of 200,000 tests a day, ever more people will have the confidence and certainty that comes with an accurate test result.

Fourthly, I want to update the House on building our army of contact tracers. I can confirm that we have recruited more than 21,000 contact tracers in England. That includes 7,500 healthcare professionals who will provide our call handlers with expert clinical advice. They will help to manually trace the contacts of anyone who has had a positive test, and advise them on whether they need to isolate. They have rigorous training, with detailed procedures designed by our experts at Public Health England. They have stepped up to serve their country in its hour of need and I thank them in advance for the life-saving work that they are about to do.

The work of those 21,000 people will be supported by the NHS Covid-19 app, which we are piloting on the Isle of Wight at the moment and will then roll out across the rest of the country. Taken together, that means that we now have the elements that we need to roll out our national test and trace service: the testing capacity, the tracing capability and the technology.

Building that system is incredibly important, but so too are the basics. We need everyone to self-isolate if they or someone in their household has symptoms. We need everyone to keep washing their hands and follow the social distancing rules. We need everyone to stay alert, because this is a national effort and everyone has a part to play. The goal is to protect life and allow us, carefully and cautiously, to get back to doing more of the things that make life worth living. That is our goal and we are making progress towards it. I commend this Statement to the House."

The Statement was considered in a Virtual Proceeding via video call.

Baroness Thornton (Lab): My Lords, I thank the Minister for not repeating the Statement, which I have read.

First, I want to ask about these Covid-19 symptoms: lack of taste and smell. The Minister will know that many healthcare specialists and the World Health Organization were making these warnings eight weeks ago, so can he explain why there has been a time lag in updating the definition?

I start by referring back to the question, on testing and tracing and the NHSX app, which I posed to the Minister yesterday and which he did not answer. I asked him whether it was true that in a Downing Street briefing that morning it was announced that the rollout of the app has been delayed until June. Is that true? When can we expect the rollout? Indeed, will we see the rollout of this app at all? If the Government will not use the app any time soon, does that mean that testing, tracking and isolating have to work smoothly and effectively at local level? That raises many questions.

We on these Benches welcome the wider rollout of testing, of course. Can the Minister update the House on whether the screening of all healthcare workers, whether they are symptomatic or not, has been successfully rolled out? What proportion of healthcare workers have been tested so far? Will they be tested every week? If not, how often? This is important, because it has been reported that 20% of hospital patients got Covid-19 while in hospital for another illness or treatment. So if routine NHS work is to be restarted, patients must be confident that they are in a Covid-free environment.

Can the Minister inform the House of the progress on antibody testing? Are these tests now widely available? If so, for whom? If they are not yet available, when will they be available? I gather from a widely available advertisement that I could have what is said to be a PHE-approved antibody test right now for about 100 quid. Would the results of that test be acceptable if I wished to use it to prove to an employer that I could got to work, go to school or teach at school?

On tracing, we on these Benches have long argued that the safe way to transition out of the lockdown is by having a test, trace and isolation strategy in place. Can the Minister tell us the current median time for test results to be received by someone when the test is carried out by Deloitte and other private sector testing facilities? More crucially, how soon do directors of public health and GPs receive the results of those tests?

Is that how it works: that the test is nationally organised and carried out, and the results are fed back locally? Who are they fed back to, and are those people responsible for tracking and tracing? Are those people the experienced local public health tracers or are they some of the 21,000 tracers who, we are informed, have been recruited? To whom are any or all of them accountable for tracking down people who are infected? As the Minister knows, we on these Benches believe that the Government should have made better use of local public health services. Who will inform people who have been in touch with a person with Covid-19 to isolate? Who is responsible for what happens to those people who must isolate, and for whether their families are supported in doing so? Where does the national call centre delivered by Serco fit in to this system? Can the Minister tell us by what date tracing and tracking services will be operational? Will they be operational by 1 June? I have raised with the Minister the issue of isolation. Why is that not mentioned as one of the key elements of the test-and-trace strategy?

Turning to care homes, I note what the Secretary of State said about social care last week: that he had thrown a "protective ring" around care homes. What constitutes a protective ring? The spread of coronavirus in care homes has become a crisis within a crisis. It was reported by the *Guardian* on 13 May that during the period coronavirus has been spreading in the UK, there have been as many as 19,938 excess deaths in care homes, well above the figure attributed to coronavirus by the ONS, leaving an urgent question about the causes of these deaths. None of this suggests anything remotely protective.

The reality is that there was no early lockdown of care homes, which was needed, and no early testing of people transferring from hospitals to care homes until mid-April. Prior to 15 April, the Government's care home advice said:

> "Negative tests are not required prior to transfers/admissions into the care home".

That was not rescinded until mid-April, when the Government eventually issued their care homes strategy. Today, the CQC report says that 36% of care homes have Covid-19. That seems to be a greater proportion than that being admitted by the Government. Weeks later, do we yet have full testing of all residents and care home staff? No wonder Age UK say that this is "too little, too late". When will they all be routinely tested? What is the date for that?

Turning to the R number, can the Minister guarantee that every easing of restrictions—such as asking children to return to school—is accompanied by a government statement on the expected impact on the R number and the underlying prevalence of the infection? If the R number rises to be greater than one in a region or local area, how will the Government deal with that?

Finally, I want to be clear that we on these Benches are desperate for the Government to succeed in beating this virus. We will support and have supported the Government. In return, we expect transparency, as everyone does. Let us see the science. Give us clarity about what people are expected to do, truthfulness when things go wrong, as they inevitably will, accurate communication on all occasions and regular accountability to Parliament. We deserve no less.

Baroness Brinton (LD): My Lords, I thank the Minister for the Statement. The ONS statistics this morning showed that over 44,000 people have lost their lives, with the *Financial Times* estimating that the total figure is now well over 60,000 when a percentage of excess deaths is taken into account. From these Benches, we send our sympathies to all bereaved families and friends, and our thanks and support to the amazing front-line staff in the NHS, social care and community sector, and to others in key roles working to save lives and keep people safe.

The Secretary of State began his Statement by talking about flattening the curve, but yesterday an article in the *British Medical Journal* said:

> "What is clear is that the UK's response so far has neither been well prepared nor remotely adequate … Above all, the response to covid-19 is not about flattening epidemic curves, modelling, or epidemiology. It is about protecting lives and communities most obviously at risk in our unequal society."

We agree.

I echo the points made by the noble Baroness, Lady Thornton, about the acceptance, at last, by the Government of a third symptom, anosmia, but many other countries have more symptoms. France says that you should self-isolate if you have any symptom on a list of 10. Why do our Government still refuse to increase that list?

The Secretary of State has repeated his claim that he has prioritised testing in care homes, yet he still repeats that testing for everyone in care homes, whether staff or residents, will be only "offered" by 6 June. The Adult Social Care APPG is still hearing of care homes waiting for that "offer" of tests, and of others that have had tests but results still going astray or taking 10 to 14 days to be returned. On that basis, if Ministers are really prioritising care homes, why does the Statement announce testing for members of the public over the age of five now while people at the heart of the firestorm of Covid in care homes still have to wait up to two weeks before being offered a test?

Still on testing, can the Minister tell us the percentage breakdown of PCR testing results versus antibody testing results? If not, can he tell the House when this information will be publicly available? We need as many PCR tests as possible as part of an effective test, trace

[Baroness Brinton]
and isolate programme. How many of those carrying out testing are paid roles versus volunteers? A couple of weeks ago, the Minister told your Lordships' House that testing would be extended through, among other things, a deal with Boots. Five days ago, Boots had an advertisement seeking volunteer testers taken down after public outrage that a company that had been given a commercial contract with the Government was relying on volunteers to carry out the work. Was using volunteers part of its tender to government? If so, does the Minister approve of companies using volunteers while pocketing public money in a contract?

On tracing, it is encouraging to hear that more than 21,000 tracers have been recruited, but today there are reports of people recruited receiving multiple emails congratulating them on being successful or attending online training that has completely fallen over and failed technically. Can the Minister say what percentage of those 21,000 have received full training and are now working as tracers? Last week, the Secretary of State said that local tracers would be used, whether local health or environmental health tracers, as well as central ones. Can the Minister say how many local tracers—that is, not Serco call-centre tracers or central NHS tracers—there will be from the 21,000?

The Statement asserts that the Government now have all the elements to roll out their scheme of test, track and trace, but I repeat that there is no focus on isolation for those who have to quarantine. Test, trace and isolate is used not just by the WHO but by many countries. What plans are in place to support people isolating, whether at home or in a quarantine unit, once lockdown is lifted? They will feel much more vulnerable at that point, when everyone else is moving back into their normal lives. Experience from Taiwan, Germany and South Korea shows that community health support for those in quarantine is more likely to make it successful. Again, countries that have been successful in containing the virus all had fully operational test, trace and isolate programmes up and running from day one. Given that each new venture the Government have undertaken during this crisis, as outlined in the *BMJ* article—from expanding PCR tests from a low base to manufacturing ventilators, supplying PPE and now the tracer app—has had a very problematic start, to put it kindly, are the Government starting to run full contact tracing now, using new staff in an area that has sufficient cases of coronavirus, before lockdown starts to be lifted but particularly by 1 June? It would be inappropriate for schools to return and people further to return to work without such a system in place.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, I thank the noble Baronesses for their penetrating and searching questions. I will go through them systematically.

First, I want to say a few words, partly in response to the appeal for transparency from the noble Baroness, Lady Thornton, and partly in response to some of the suggestions about the performance of the Government in their response to Covid. I assure the House that the Government approach this epidemic in a spirit of openness and transparency, and we would like to work in partnership with other parties. I simply reject the suggestion, consistent in some of the questions, that the projects undertaken by the Government have in any way been characterised by failure or disappointment.

I bear testimony to the huge achievements of those who have worked extremely hard to throw up remarkable schemes which have been enormously successful and massively mitigated the effect of this disease. The testing network, the ventilators, the Lighthouse labs and the Nightingale hospitals were all hugely ambitious ventures, greeted with scepticism when launched and accompanied by complaints while being thrown up. But their achievements have been enormous: they have had a huge impact.

I would therefore like to turn around the tone of this debate, to be a little more positive, and celebrate the huge achievements of those who have thrown their heart and soul into the response to coronavirus. I pay tribute to their achievements and to the personal sacrifices many of them have made by giving up their time, and even putting their lives at risk, to conduct these important roles.

Quite reasonably, both noble Baronesses asked whether the Government regard isolation as part of the programme. I can reassure them that isolation is absolutely the key point. The way to stop transmission is for those who have symptoms, and especially those who have tested positive, to shield themselves from the rest of society in order to prevent the spread of the disease. Everything that we do in the test and trace programme is ultimately to promote good behaviours by the British public, so that people who have symptoms will distance themselves from the rest of society, putting a brake on the disease. It is absolutely imperative, and at the heart of all our communications.

I pay tribute to the British public, who have made huge personal sacrifices during this lockdown. The culture of isolation will be an essential part of keeping a lid on the disease. The Government are committed to providing mental health support, and practical and cultural support, for those who are in a state of isolation. I thank both noble Baronesses for throwing a spotlight on that.

I want to convey to the House the enormous complexity of identifying the key symptoms of this disease. By any common sense, it would seem incredibly obvious how to spot Covid, but I have sat in numerous meetings running through the data and know how difficult it is to have a consistent set of symptoms that can be understood clearly and communicated simply to the public. The data on this disease is extremely complex. As I have said to the House before, this disease is a very difficult adversary, as characterised by the way in which symptom checking is so difficult. We have moved to a new and upgraded set of symptoms, and we may well have to move again. However, we are seeking to encourage absolutely anyone who has any symptoms to declare them and seek a test.

Perhaps I may move quickly through the questions put by the noble Baroness, Lady Thornton. I reassure her that the NHSX app is very much part of our plans. The Isle of Wight programme has been enormously successful and take-up rates have been huge. But it did teach us one important lesson: that people wanted to

engage with human contact tracing first, and quite reasonably regarded the app as a supplementary and additional automated means of contact tracing. We have therefore changed the emphasis of our communications and plans to put human contact tracing at the beginning of our plans and to regard the app as something that will come later in support.

I reassure the noble Baroness that the testing of NHS and care staff is an absolute priority. Testing by the NHS of both groups is well under way. As announced by the Secretary of State, we are looking carefully at bringing in antibody testing to answer the question from staff who may query whether they have had the disease in the past, and to understand better what the role of immunity might be. The science is not firm; the lessons are not clear; but we need to understand the role of antibody testing and find out how it can help us combat this disease.

I advise the noble Baroness, Lady Thornton, to be very wary of private tests. They vary enormously in quality, as I know through my own experience. The time after having the disease when you take the test impacts enormously on the test and the assumptions one can make about a positive test are not proven. You cannot currently share with an employer any impression that you might have immunity, on the basis of a test.

I reassure both the noble Baronesses that our involvement with local groups in the tracing operation is being energetically promoted. We have appointed Tom Riordan, the chief executive of Leeds City Council, to lead this part of the programme. He is running an excellent programme to work with local authorities, directors of public health, environmental health officers and local resilience forums to ensure that our tracing system is as local as it possibly can be. It cannot all be done locally: some of it is better done digitally, and the highly automated routines of the app are very good. Some of it must be done at scale on a national basis by the massive call centres that we are throwing up, but some of it is best done by local groups. Those processes are being put in place energetically and I thank GPs, local directors of public health and all those who are engaged in them. We will be putting together local Covid plans that will be implemented by the relevant local authorities. These will form an important part of keeping a lid on this contagion.

I also pay tribute to those who are helping to organise the major test centres, including Serco, and those who have stepped up to take roles as contact tracers. They are going through complex training at the moment; it is a challenging task. No one wants to hit the phone and tell someone that they have to isolate; it is a tough message to have to deliver. I have no doubt that there will be problems with this complex and difficult task, but I pay tribute to those involved and express my gratitude to those running the programme.

On care homes, as the noble Baroness, Lady Thornton, rightly described, every death is a source of great sadness. However, I pay tribute to all those who have put their safety on the line by delivering tests in care homes. I reassure the noble Baroness, Lady Brinton, that there is a website where any care home that wants a test can register their interest and get a response promptly. Any care home worker who wants an individual test can access a site where, as a key worker, their test will be prioritised. There should be no reason why any care home or care home worker should wait two weeks, as suggested in the question.

I put my hand up and explained that mistakes were made 10 days ago when, due to problems with our Northern Irish test laboratory, some care home tests were either delayed or voided. That was an enormously regrettable situation, but, when you put together an operation of this scale at such pace, some mistakes will be made. We have done an enormous amount to rectify those mistakes. Bringing in the noble Baroness, Lady Harding, to run the operational side of our testing regime is a great step forward.

I will also say a word in defence of the volunteers who are working at our drive-in test centres. These are often furloughed workers who do not need paid employment, but they are spending their time usefully and are often committed and have a sense of public service. I bridle at the thought that they would be sneered at or in any way insulted. The role of Boots in recruiting them is entirely honourable, legal and appropriate for the times we are in, and I very much thank those volunteers who have dedicated their time and risked their personal safety to do this difficult and possibly risky job. It is not appropriate to suggest that there has been public outrage at this arrangement—quite the opposite. The British public support this kind of individual public service.

The recruitment of tracers is going extremely well indeed: 21,000 have been put in place, which is way beyond our initial expectations, and the training is going well.

This programme is developing very quickly. We will seek to make announcements about it later this week and there will be a further rollout next week. I am extremely proud of the achievements that we have made, and I thank everyone who is involved very much indeed.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, we now come to the 30 minutes allocated for Back-Bench questions. I ask that questions and answers be brief so that I can call the maximum number of speakers.

7.41 pm

Lord Woolley of Woodford (CB): My Lords, I thank the Minister for the Statement, which I read. I also listened with great interest to the discussion this morning about the devastating impact that Covid-19 is having on members of black, Asian and minority ethnic communities, particularly those who work in hospitals and care homes. From that discussion, I reiterate the ask from the noble Baroness, Lady Hussein-Ece, to the Minister to meet with black and minority ethnic leaders to discuss a government Covid-19 race equality strategy. It is not just the immediacy of the life and death matters that we are confronting; we face an economic downturn the likes of which we have not seen for 300 years. Unless we have an action plan and acknowledge the challenges, those communities, which are already at a disadvantage, could face a further penalty and devastation, and that must not happen.

Lord Bethell: My Lords, as I stated this morning, I would be glad to meet with community leaders. However, I emphasise, as I said this morning, that it is the disease that is racist, and the Government and the NHS are doing an enormous amount to try to protect BAME workers, to whom we owe a huge debt of gratitude. I will do everything I can to help protect them.

Lord Balfe (Con): My Lords, this morning, the ONS revealed that some 50,000 UK citizens are cross-border workers—in other words, English people who work part of the time outside the UK. Roughly 25,000 appear to be businessmen. There is no evidence that they are carriers; there is every evidence that when they fly back or come back on the Eurostar, they would be happy to be tested. The government proposals to suddenly clamp down on this and basically stop international business happening are not welcome and will do enormous damage to the British economy. Can the Minister try to influence his colleagues in transport to the effect that this development is not needed?

Lord Bethell: My Lords, I pay tribute to my noble friend's commitment to freedom of travel—and he will remember my father's own commitment to it. The sad truth, however, is that it is very difficult to prove a negative: to prove that someone does not have the disease or that they have not recently become infected and have the disease in a latent way or that they are young, fit and well. The restrictions are in place for those reasons. I advise my noble friend that we are working on finding a solution, but none is immediately available.

Baroness Jolly (LD): My Lords, with many GP appointments now held online, the public are going to their local pharmacies for advice as never before. Pharmacies have received from the department little or no support with reconfiguring their premises, many have had no support sourcing PPE and staff are not automatically considered for routine testing. Have the Government forgotten the pharmacy profession? Will additional support be made available to our high street pharmacies as they continue to serve patients throughout the Covid-19 pandemic?

Lord Bethell: The noble Baroness is entirely right: this epidemic has demonstrated, if it needed to be demonstrated at all, the key role that pharmacists play in the health of the nation. I pay tribute to the role of pharmacists in providing support and filling the gap after GPs' surgeries have closed. I reject, however, the idea that they have had no support. PPE has been provided, any pharmacist is prioritised as a key worker, and we will continue to offer support and to help grow this valuable sector.

Lord Hope of Craighead (CB): My Lords, is there not a danger of sending out mixed messages? The Statement begins by celebrating what has been achieved together by flattening the curve, but the devolved nations in the UK are still behind the flattening of the curve achieved in London. It then says that, thanks to the resolve and shared sacrifice of the British people,

"we are now in the second phase of this fight."

This is not so in Scotland, where I live. We are still firmly in lockdown and likely to remain so until June. Should those who prepare these Statements not be a bit more careful in their choice of language? Is there not a risk to those who live in Wales and Scotland if people who live in England are misled into believing that those other parts of Great Britain are in the second phase of the fight too?

Lord Bethell: I first pay tribute to the devolved nations for working so closely together, as characterised by the very close work of the four CMOs. The noble and learned Lord is entirely right that different parts of the country move at different paces—the disease does not respect national boundaries in any way—but public health messages have to be clear to be effective. It is difficult to speak in terms of one region or another being in different phases of the disease, but I completely accept his point that local variations may well be necessary. When they are, and if it is possible, we will have to shape our communications to that cause.

Baroness Crawley (Lab): My Lords, if, as the Statement says, we in England are now in the second phase of the fight against coronavirus, and given the need to turn our attention to the huge backlog of operations and procedures for those non-Covid NHS patients on waiting lists, will the Minister inform the House if and when NHS England will renew its current important contract for capacity and diagnostics with independent hospitals? I understand that the contract is coming to a close at the end of June.

Lord Bethell: The noble Baroness is entirely right: the backlog of operations and procedures will be a daunting task for the NHS to tackle. We have prioritised it. Simon Stevens has told the NHS to throw the doors open to try to get through this backlog. As a result, we will live with the effects of Covid for months to come. I am not fully aware of the contract of which she speaks, but I will try to find out its status and will write to her with additional information.

Baroness Meacher (CB): My Lords, I thank the Minister for his helpful responses so far. The UK had just under 50,000 excess deaths in less than six weeks from 20 March. Does the Minister agree that the NHS was overrun at that time and had the unbearable choice either to let Covid-19 patients die or to deny treatment to patients with life-threatening illnesses such as cancer and kidney failure? Were we unable to make extensive use of the Nightingale hospitals to save lives due to staff shortages or for some other reason? I would be grateful for the Minister's response.

Lord Bethell: I am extremely grateful for the noble Baroness's comments. Since she asks for my personal opinion, I would say that, no, the NHS was not overrun. It has been a huge achievement that the NHS has stood firm on its feet. Operationally, it has been extremely sound. It was never overwhelmed, either by Covid-19 or by other operations. The Nightingale hospitals were not needed in the end because the lockdown was adopted by the British public and the infection rate was reduced. That is a huge testimony both to the British people and to the NHS.

Baroness Ludford (LD): When the Health Secretary told the other place yesterday that he was preparing to roll out his contact-tracing app, he rejected the plea from my colleague, Daisy Cooper MP, for a law providing for specific, rigorous safeguards. When does the Minister expect to get the response from the Information Commissioner on the data protection impact assessment for the app, which has been judged by privacy experts to be confusing and misleading?

Lord Bethell: The noble Baroness raised the data protection impact statement, which I have read. I did not find it confusing; I thought it was extremely straightforward and it has been welcomed by a large number of the privacy groups I have spoken to.

Baroness Bennett of Manor Castle (GP): A few minutes ago, responding to the Front-Bench questions the Minister said that the heart of the Government's message was that

"people who have symptoms must isolate themselves".

How does the Minister square this with what he said to me last Thursday? He said:

"No one working in the NHS should go to work if they feel ill or have a temperature"

but that this

"is not necessarily true for people who work in normal workplaces."—[*Official Report*, 14/5/20; col. 806.]

We were of course at that point talking about care homes. If we look at the Government's launch last Tuesday for the document *Our Plan to Rebuild*, this says:

"If a negative test is returned, then isolation is no longer required."

If the Government's position has changed, should this not be made clear to the public?

Lord Bethell: The noble Baroness undoubtedly knows that anyone who is ill with anything whatever should not go to a hospital. Being ill is not the same as having the symptoms of Covid-19. Anyone who has the symptoms of Covid-19 should isolate immediately.

The Earl of Clancarty (CB): My Lords, what support is the Department for Health and Social Care giving schools in the provision of the PPE needed before schools open?

Lord Bethell: It is the responsibility of the Department for Education to provide schools with PPE.

Lord Truscott (Ind Lab): My Lords, I find the Government's Statement very complacent. Sadly, for many in care homes, these initiatives have come too late. I have three questions for the Minister. Given the increasing disquiet over Her Majesty's Government's response to Covid-19, will the Minister commit to a public inquiry on the part of the Government?

I return to two other questions asked earlier, which the Minister did not answer. When will the proposed testing, tracking and tracing system go live? Lastly, are the 21,000 contact tracers sufficiently trained in his view?

Lord Bethell: It will be for others to decide whether an inquiry is necessary. For my part, I am enormously proud of the Government's response and the NHS's response to Covid-19, and I stand full square behind the decisions and actions we have taken.

Lord McConnell of Glenscorrodale (Lab): My Lords, I welcome the fact that in the Statement it is clear that the chief medical officers of the four nations of the United Kingdom agreed jointly to amend the identifiable symptoms for Covid-19. That stands in stark contrast to the mixed messaging of the weekend of 10 May and the days thereafter. What action have the Government taken since 10 May to ensure that the next round of announcements by the Prime Minister and the three First Ministers are more coherent and better co-ordinated in the interests of not only a clear public health message across the United Kingdom but the economic recovery that we will need in all four nations afterwards?

Lord Bethell: My Lords, we work extremely closely with the devolved Assemblies, the four CMOs and the four nations to have a consistent four-nations approach to Covid. We very much welcome Nicola Sturgeon's support for this consistent approach.

The Earl of Erroll (CB): How are vaccines going to work if, as the Government say, the presence of Covid-19 antibodies in a test do not mean that a person is immune? I think that quite a few people are confused.

Lord Bethell: My Lords, the noble Earl is stretching my scientific knowledge with his question. All I can say is that different vaccines work in different ways. Anyone with antibodies who has beaten the disease has the capability of beating the disease, but vaccines ensure that that capability lasts longer, hopefully for life.

Lord Rennard (LD): My Lords, does the Minister listen to the excellent BBC Radio 4 programme "More or Less"? If so, he may have heard the total demolition of the claim that 100,000 tests were being conducted each day by the end of April. Much doubt has also been cast on claims that care homes were always included in government figures. Trust in government is vital at the moment, so does the Minister think that a body such as the Office for National Statistics should be given the role of vetting figures that are quoted in the daily Downing Street press conferences?

Lord Bethell: My Lords, I do listen to "More or Less". I absolutely love it, and it is a shame that I did not hear the episode to which the noble Lord refers because I would have reprimanded them greatly. The 100,000 tests a day are done very clearly. I would be glad to take the noble Lord, Lord Rennard, to visit our Lighthouse labs to see the remarkable automation and robotics that achieve that remarkable effect. On the care home figures, we work hard in order to create prompt, immediate, daily figures. Those are then verified and put into the official national figures that are curated by the ONS. Having operational figures that are delivered quickly is important for decision-making. Having figures officially verified by the ONS to audit

[LORD BETHELL]
those results is an entirely appropriate way of doing things. It is a system that works, and we currently have no intention to change it.

Baroness Ritchie of Downpatrick (Non-Afl): Is the Minister confident that the public health surveillance system in the UK is able to detect and manage cases and their contacts and identify at-risk cases—that is, test, track and trace?

Lord Bethell: I am afraid I did not hear the full question from the noble Baroness, but if I understood her correctly, she referred to track and trace. I reassure her that we are putting a huge amount of resources into that surveillance. It is true that surveillance does not currently exist. We do not have the facilities that some Asian countries, such as Taiwan and South Korea, had following SARS, about which we now know so much. We are putting the correct resources in place, and we hope very much to have a detailed local and demographic understanding of where and how the disease is progressing. That information is essential to beating it.

Baroness Bull (CB): My Lords, many people in learning disability care services have very complex care needs that make them vulnerable to Covid-19. Indeed, recent numbers from the CQC showed that the provisional number of deaths reported across all settings where autistic people and/or people with learning disabilities may live was 175% greater than expected over the month from 10 April. When will the welcome extension of testing to all care settings announced today roll out? Can he confirm that regular testing will be available, given the potential of the virus to be spread between care homes by so-called bank staff filling temporary vacancies?

Lord Bethell: The noble Baroness is entirely right that the deaths of those with learning difficulties have been one of the most disturbing and sad aspects of this disease. We are focused very much on ensuring that we protect those with learning difficulties, such as those with autism, in whatever way we can. With regard to recurrent testing, the tests that we have are not a limitless resource and we have to prioritise them. Although we have massively increased the number of tests that we have, it is not possible to test millions of people on a very regular basis with hundreds of thousands of tests. However, we are using them intelligently and prioritising areas where there are infection control problems. We believe that that is the most effective way of using our resources.

Lord Campbell-Savours (Lab): I want to return to the issue of face masks, which I have been raising with the Minister since early March. Are Ministers following the intense debate going on among a worldwide line-up of international experts, particularly virologists, who forcefully argue the need for their use? If Ministers are not, will they now ask their civil servants to dig out the hundreds if not thousands of articles and research papers written by those experts, which have convinced over 50 countries worldwide to introduce face masks on a mandatory basis? The position that we are taking looks increasingly ludicrous.

Lord Bethell: I reassure the noble Lord that we look at this issue constantly. It is a subject that the British public are deeply concerned about. There is an instinctive human belief that face masks make a difference, but the scientific proof that they do so is not crystal clear. Although some countries have committed to them, we are still in the process of reviewing them. We have a positive attitude towards implementation but we are guided by the CMO and by scientists. As the evidence builds up, and the noble Lord is quite right that in many places it is indeed building up, we will make the right decision on face masks.

The Deputy Speaker: I call the noble Lord, Lord Low of Dalston. I do not think he is on the call, so I call the noble Baroness, Lady Randerson.

Baroness Randerson (LD): I have listened carefully to this debate, and the Minister seems to say in every answer how well the Government have done throughout this whole pandemic. If that is the case, how have we come to the point where well over 35,000 people have died? I invite the Minister to tell us now where the Government went wrong.

Lord Bethell: The noble Baroness is entirely reasonable. I apologise if I give the impression that I am in any way complacent or if I am unapologetic about what we have done. She is entirely right: this is an awful disease that has hit this country extremely hard and not everything we have done has worked as well as we had hoped. Undoubtedly, when we look back, it will be judged that the Government have made mistakes; of that I am absolutely sure. I approach this question with humility. I completely take on board her point that answers that resist the idea that we have made mistakes are quite wrong.

However, I want to try to convey the enormous commitment and focus that the Government, the NHS and the people who are involved in the greater project have thrown into this project. It is not a massive shambolic mess littered with political stupidity and corruption, as is implied by some of the critics of the Government. Actually it has been a venture that has had a huge amount of innovation, collaboration and good will behind it. I am afraid I cannot help but seek to salute and pay tribute to those who are involved.

Baroness Jones of Moulsecoomb (GP): My colleague on the Isle of Wight, Vix Lowthion, tells me that the public there are not clear about the aims and objectives of the trial they are taking part in. Can the Minister tell me now what are the criteria for success of the Isle of Wight trial?

Lord Bethell: One of the criteria of success is to learn from the pilot, which takes an early version of the app and hopes to develop learnings from it; we now have two or three. One of them, which I have mentioned, is that it is probably a mistake to launch an app before you have got the public used to the idea of tracing. As I mentioned in an earlier answer, that is something we have taken on board. When it comes to launching the test and tracing programme, we will begin with the tracing, not with the app.

The Deputy Speaker: I do not think that the noble Lord, Lord Hunt of Kings Heath, is with us this evening, so I call the noble Lord, Lord Bilimoria.

Lord Bilimoria (CB): My Lords, the Minister said that isolation is essential for those who have symptoms. It was only yesterday that the Government finally included the loss of the senses of smell and taste as a symptom. I fell ill with coronavirus on 15 March and lost my senses of taste and smell. At the time, it was not an official symptom. I could not even get tested then—indeed, not even doctors and nurses could—yet the WHO has been saying since the middle of March that we should "Test, test, test". Eventually we have come around to doing it and now we are ramping it up. As the noble Baroness, Lady Thornton, pointed out, the WHO said eight weeks ago that the loss of taste and smell should be considered a symptom. How many hundreds of thousands of people have now been infected and have infected others because this was not an official symptom? The WHO has also said that social distancing should be one metre, but we say two metres. Why are we not listening to the WHO, or only eventually listening to it? Why are there these inconsistencies?

Lord Bethell: I am very sorry that the noble Lord had coronavirus, and it is good to see him on such fine form and in characteristically enthusiastic shape. The bottom line is that lots of people do not lose their sense of smell or taste, and the addition of this symptom was delayed because we did not want to put off those who had not lost their sense of smell and taste from declaring their symptoms. The WHO is right about many things but not about everything.

Lord Liddle (Lab): I thank the noble Lord, Lord Bethell, for the directness and frankness of his answers tonight, and I agree with his praise for the NHS workers and many others who have played such a valiant role in fighting this virus. However, does he not agree that, as time goes on, it is becoming clear that we have the highest number of deaths in Europe and that this gives a new and very tragic meaning to the concept of British exceptionalism? Does he not agree that there will have to be some kind of independent inquiry into where this all went wrong?

Lord Bethell: My Lords, the noble Lord is right. As a nation, we have been hit really hard by this disease and it is heart-breaking. I would have loved this country to have somehow dodged the bullet and not been the one that was hit so hard. We all feel it: we feel a great sense of responsibility and a great sense of sadness that so many lives have been lost, and that there are so many for whom the result of having had the disease and survived will be life changing. One thing that we have learned is that this disease hits you really hard and some people will never fully recover from it. However, I cannot help but pay tribute to those involved.

I do not know why we have been hit so hard. I do not know whether it is due to British behaviours and the fact that we have obesity in this country. I do not know whether it is because we are such an international country with such a large number of people coming to and fro, particularly from China. I do not know whether the Government made massive and colossal mistakes, as their critics suggest, and whether we got it all completely wrong. All I know is that the response to this disease by the British public, the NHS and the Government has not lacked energy, innovation and enthusiasm, and I stand here at this virtual Dispatch Box extremely proud of our country and of the people who have played a role in the response to this disease.

Baroness Wheatcroft (Non-Afl): My Lords, the public might find it easier to stick within the rules now governing our life with coronavirus if they understood the logic. Therefore, can the Minister explain the logic or the science behind the fact that a household consisting of my son, his wife and their daughter can meet with only one member of a household consisting of his father and his mother at any one time?

Lord Bethell: It is very simple. If you have one person from another household meeting your household, the chances are that you will all respect the two-metre social distancing recommendation. The moment a second person is present, the proximity gauges and the way in which you all relate to each other become confused. You all start standing nearer to, and breathing all over, each other, and it becomes easier to catch the disease. That is just a simple human observation and is based on human nature and on the physical science of proximity. The example that the noble Baroness gives is a really good one, and I completely feel her frustration that her two families cannot spend time together. However, the behavioural scientists are absolutely adamant on this point, and to me at least it is common sense.

The Deputy Speaker: My Lords, I apologise to the noble Baroness, Lady Coussins, who is the only speaker whom we were not able to call within the 30 minutes. The time allotted for the Statement is now up. The day's Virtual Proceedings are now complete and are adjourned.

Virtual Proceeding adjourned at 8.12 pm.

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